



**CITY OF OAKLAND
OAKLAND POLICE COMMISSION**

Meeting Minutes

Thursday, July 12, 2018

6:30 PM

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

I. Call to Order

Thomas Lloyd Smith

The meeting started at 6:30 p.m.

II. Roll Call and Determination of Quorum

Thomas Lloyd Smith

Commissioners present: José Dorado, Ginale Harris, Regina Jackson, Mike Nisperos, Edwin Prather, and Thomas Smith. Quorum was met.

Alternate Commissioner Present: Andrea Dooley.

Alternate Commissioner Excused: Maureen Benson.

Commissioner excused: Mubarak Ahmad.

Counsel Meredith Brown.

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

Thomas Lloyd Smith will welcome and call public speakers.

John Jones, III thanked everyone that attended the Meet and Greet meeting. In addition to those who attended, there were many folks who reached out and they regrettably wished they could have attended. In his opinion, some issues that were laid to officers in Oakland is associated with overtime. Someone took a picture of a police officer asleep in a patrol car in Oakland. What is the human impact of officers doing overtime? What is the risk, not only to the officer who is tasked with making snap judgement decisions that take place not in a matter of hours but in a matter of seconds? In working overtime, someone could mistake a cell phone for a gun if you are tired and overworked. He mentioned that AC transit has contracted with OPD in their using police officers to work overtime to guard the construction company's equipment. Not a good use. OPD is a community resource. We have people in our community who need those jobs. It is important that we look at why overtime is so high – which right now I s projected 17 million above what was initially allocated. We are talking about fiscal responsibility, human impact, and if we are talking about keeping the police accountable, we must look at some of these factors that contribute. He said there was recently a racial evaluation in which the City of Oakland scored a dismal score 33.4 with 100 being the highest; the City also received the lowest score possible in 12 categories. Six of them were related to public safety. For years, the community has been saying these are the problems but decision makers have always told us they need to see data. The data is now available and the next time he attends he will provide members with a condensed copy of that report but also some indicators of overtime

spent.

Assata Olugbala reported that today was the Rules Committee meeting. A part of the agenda was a settlement agreement that will be brought to Council on July 24. The settlement is a case of S. Watkins; settling this case for \$50,000; issue is the Oakland Police Department has been charged with false arrest. She did some investigation as to what this case is about. The reason for doing it is because to deal with OPD you are not going to always get totality of facts and they give you what they want you to have. In this case, this gentleman charged the police department with not only false arrest, violation of the right to be free from an unreasonable search and seizure, excessive force, false imprisonment, intentional infliction of emotional distress, and negligence. Deeper than that, this individual was a 65-year old man who was on his way to bible study – never been in any trouble, had stopped at a grocery store to have a cigarette and asked someone for some matches. The police department assumed that he was engaged in possession of selling narcotics. He was taken to jail, he was strip searched, and all of this to say that this is something serious. More detailed than just a false arrest. She wants us to be able to as a community to know everything in totality what is going on with the police department and not to have them selectively give us what they feel they want to share with us. Along with that, there was an article in the Bayview Express that the Oakland Police Department, City of Oakland has spent 3.3 million dollars in civil rights settlements since 2015 – 2017. We would like to look at that. Alameda has spent over 15 million dollars in civil rights violations. The need to have all the information is very difficult when you are talking about what is going on with the police department. That should be pursued until we get 100% of what is necessary to get to the truth.

Bruce Schmiechen expressed his appreciation for everybody who made sure that the ordinance was passed the way it needed to be passed. We need to remain vigilant during the hiring process so that there isn't any further obstruction looking ahead. He spoke about what John Jones brought up - overtime. There are numerous stories of officers making well over \$100,000 yearly just in overtime. Overtime expenses are going up radically. This is a chart from the City auditor, payroll department, and it shows not only that the budget has remained ecstatic, the overtime has gone up crazy but the most interesting about this was that there was a time, dates to 2010, when those statistics weren't as out of whack as they are now. This needs to be investigated. This is not only the case and it is a problem - not just financial, but as John mentioned, what is the impact on officer effectiveness. There is also a question about police moonlighting. I don't think this is appropriate especially given these overtime numbers. John observed police officers moonlighting in a police car. When they are doing private security work, if allowed to do that at all, that is not appropriate. We need to do a report (deep analysis) not just the numbers but some consideration and analysis of what has gone wrong with overtime, there must be some cap and it must stop.

Mary Vail agreed with the above speakers regarding overtime, control, etc. The budget needs to be watched because if not, the police department management will do what they want (overtime) which is not good for the officers, community, and certainly not good for the City's budget. Ms. Vail spoke about a micro issue. It is the problem with OPD's spending practices. The Chief created a horse and pony program on her own and explained to the media that it is great for community relations. No one was consulted; it needs to stop and the Commission is the body to do it. Ms. Vail mentioned that the City by ordinance took the Oakland Animal Shelter out of OPD. The Chief at the time did not resist. We have a public safety job, NSA compliance job, this will allow OAS to focus on animal welfare, control issues, allow us to concentrate on our primary mission. Nonetheless, a portion of OAS's budget was kept by OPD (animal control part). Again, conduct by OPD (fiscally) needs to be curbed by the Commission; members of the Council are also reviewing the matter – moving money back to OAS needs to happen.

Nino Parker regarding police officer overtime during homeless evictions); homeless dollars are being spent. He is an advocate of the homeless (Green Team) and a homeless person. The issue is evictions when 12-15 officers on overtime (Northgate) come out after an 8-hour shift and get another 4-hours overtime. Black persons moving out of the way with grouchy officers (overtime) and it is a volatile situation. Mr. Parker suggested utilizing Sgt. Perrodin and a smaller squad (he has worked with him consistently for months and he knows how to do evictions in a dignified way).

Rashidah Grinage applauded those able to make that extra effort to attend either the first reading of the enabling legislation or the second reading, commended the Chair for an outstanding presentation, and the importance of Commissioner Jackson getting to the podium. It made a difference. Ms. Grinage spoke about an item on the Public Safety Agenda on Tuesday – proposed extension of Dr. Eberhard’s contract with the City to continue the collection analysis of the stop data (we are still not in compliance with the racial profiling problem). There are serious questions about continuing to pay for this service (a million for the Monitor, another couple hundred thousand for Ms. Eberhardt). She suggested to start building our own capacity within the City to do this work; Commission is about to hire an Inspector General; stop data can continue to be collected by OPD. Give consideration on how long to engage her services (when there hasn’t been any appreciable improvements in the outcomes). She suggested watching/attending the meeting – Public Safety is usually at 5:30 p.m. on Tuesday or read the Report.

IV. Oakland Police Department Report (30 minutes)

Chief Anne Kirkpatrick and Sergeant Perrodin will report on the Oakland Police Department’s policies, procedures and activities concerning homeless people in Oakland. Chief Kirkpatrick will also discuss cooperative opportunities for OPD to work with the Community Police Review Agency in marketing CPRA’s new police accountability app that enables members of the public to provide direct feedback concerning issues with OPD.

a. Discussion

T. Smith welcomed Sgt. Perrodin and mentioned/welcome Deputy Chief Armstrong is also attending tonight.

Acting Assistant Chief Leronne Armstrong introduced himself (will be presenting on behalf of the department/review today’s report) and introduced Sgt. John Perrodin (Supervisor in charge of the Homeless Outreach Team) and extremely happy with the work he and his team are doing in engaging the homeless population in a respectful way. We appreciate his efforts and your acknowledging his efforts. T. Smith welcomed Sgt. Perrodin.

AC Armstrong asked to try to be more specific in considering what the request is because the OPD is not the actual lead on the City’s homeless efforts. It is a Citywide strategy and OPD is simply one of the City agencies that is a part of the overall strategy. It is incomplete for the department to give a report on sort of the overall City’s homeless strategy. T. Smith said that was not our request – we asked for the Department’s policies, procedures and activities concerning homeless people in Oakland.

AC Armstrong said that we have a policy that is in draft form – last policy was updated in 1996 (in draft form and updating that policy in the efforts we are currently doing). That involves working with the City; getting feedback from other

departments in how we approach the homeless issue. We weren't prepared to talk extensively about it because we do not have a policy/process in line with our current method that we are using. T. Smith asked if there is anyone working at this point in updating your homeless policy? AC Armstrong reported that Captain Lewis (Commander in Charge of our Special Operations Division); Sergeant Perrodin reports directly to him – he is the lead for the development of the policy; Tim Burch is the actual writer of the policy and he is the Manager of our Research and Planning Division; Chief Kirkpatrick will sign off when complete. T. Smith said the policy is from 1996 – is it fair to say that the policy is on the back burner and not prioritized as one of the policies that has been a focus for the department? AC Armstrong said, “No, I would not say the back burner”; it has been brought to light that the policy is outdated. We have established this Homeless Outreach Unit; understood that the policy is not up to date – it needs to be more consistent with the efforts we are doing every day, given a clear understanding of what the unit's direction is, what the unit is required to do, etc. T. Smith asked who will present a report on the activities of the Homeless Outreach Unit? AC Armstrong stated that Captain Lewis will provide the report.

T. Smith stated that questions for AC Armstrong regarding the homeless issue be addressed now.

R. Jackson stated that several weeks ago through Facebook, etc. we remembered that there was an incident of one of our homeless whose clothes were thrown into Lake Merritt and as I understood it, the police department could take a complaint and with that arrest the suspect. AC Armstrong said yes. R. Jackson asked how were you able to make that happen given the fact that it could be intimidating for anyone to walk into the police department? AC Armstrong said that when he was provided the info of the incident, the Criminal Investigation Division send investigators out in the field to contact the individuals who were in the video. The officers contacted those individuals and then took statements, police reports which initiated the investigation which obviously led to the arrest. R. Jackson said outstanding. I am hoping that you will all be able to make those kinds of adjustment to make it easier for people to file their complaints and thanked him.

A. Dooley said that it sounds like the 1996 policy is not the practice now, but we don't have a new policy that has been formalized at this point. She is wondering if he could talk about without getting into specific promises around the new policy, what are the most significant changes that have been put in place for practical purposes to address police interaction with our homeless citizens? AC Armstrong said that the most dramatic change is the creation of the Homeless Outreach Unit, putting a supervisor and two officers that are dedicated to working solely with other City agencies around this issue. We have seen some testimony to the impact – people get to develop a relationship with that community, begin to have respectful dialogue and understand how to follow these processes in a respectful manner. We need to codify that in policy; make sure that is clear department wide that we all understand what that unit is expected to do.

G. Harris mentioned that we are hearing that Sergeant Perrodin's human kindnesses are glowing. Has he been consulted on the policy that is being written currently? AC Armstrong said he has and he plays an instrumental/vital role in the development of the policy; working directly with Captain Lewis.

J. Dorado said that many times OPD doesn't recognize, not sure why, all the resources and expertise and compassion of folks in the community that would be willing and able to partner with OPD. Overall he would like to see that improve, specifically around the homeless. He is hoping that the outreach unit is engaged

with different individuals and organizations that are focused on this issue and working collaboratively with them. Are they? AC Armstrong said that they are. J. Dorado asked if there are any organizations that he could name? AC Armstrong said that he will not go into detail because it is appropriate for those organizations to speak directly as to what they do. We do partner with other organizations like Project Dignity, Alameda County Health, etc. What we don't try to do is be experts in everything; we understand what our role is and that is the role that we are expected to do is deal with the population in a respectful manner and get the outcomes and be least intrusive as we can. Sgt. Perrodin and his team have gained a lot of experience and knowledge and they do an effective job. J. Dorado mentioned The East Oakland Collective. AC Armstrong said that will be a resource that Sgt. Perrodin can write down since he is here.

T, Smith thanked AC Armstrong. He said there is a second topic. He would like to continue the homeless. He would like at the very end if AC Armstrong could come back regarding this CPRA App and figuring out a few things – how we can make sure that this App is publicized and that people know about it and can use it as an accountability mechanism. The second thing is that Commissioner Nisperos raised and is important and that we need to think about how we can create a framework so that people whether they want to give positive feedback or whether they want to give feedback that is related to a complaint – people can do both of those. We have not arrived at a solution for that yet. It could be the Commission's website be the face and you click on something and if you have a complaint, you end up going to the complaint App (CPRA), or if you have praise you end up going to the OPD site and they collect the praise. I don't know exactly how we are going to do this but need to figure out a way that it can happen with positive feedback and accountability related feedback for complaints can get collected and figure out a way that in terms of getting the work out that OPD can be a partner with the community police review Agency in making sure and with the Commission that the maximum number of people know that they can go to whatever the destination is that we select to give feedback – positive or negative. He will circle back to that conversation but for now we will move on and continue to talk about the homeless initiatives.

AC Armstrong said that no other OPD officer will present. We want to hear from Sergeant Perrodin. Specifically, that you want Sgt. Perrodin speak on. T. Smith said that it is in the agenda. From the notice that we got on Sunday, there is a policy and we don't have a current policy.

R. Jackson said that you can delineate more clearly procedures and activities. Sgt Perrodin can say I get a report, I go out, and here is how I approach the situation, the engagement I do and how I do it. We would like an overview but it sounds like his approach has been critically responsive and lauded as several people have said and she would like us to hear what's going through his mind as he gets ready to engage and how is he doing that in a way that arguably models for everyone.

T. Smith added that one of the things that we are doing here as a Commission is we are looking for things that work and don't work. We had the Barbershop Forum (an example that we think is working, shine a light on it, and how you scale it). We hear from the community that it works and people are responsive – we want to know what Sgt. Perrodin is doing. We want to learn everything we can to see what he is doing, a model at what he is doing. We are trying to make sure that we get that information and that is why we invited him here tonight.

AC Armstrong said that he completely understands from an organization standpoint,

Sgt. Perrodin is great at what he does. What we haven't done as an organization is formalize that in a way that everybody can follow that model. T. Smith said that we can ask Sgt. Perrodin questions. R. Jackson said that it is the approach and that is not something that you can put in writing that everyone dictates to the same way. He has got a way about it and we want to hear about it. AC Armstrong said he is fine with Sgt. Perrodin speaking about his approach in how he deals with people. I would not like Sgt. Perrodin to get into strategy that we don't have in writing. T. Smith said that is fine.

T. Smith welcomed Sergeant Perrodin. With that introduction, we would appreciate very much hearing about your activities and let Commissioners jump in with questions so we can hear more about in what you are doing. We respond to different locations, we meet with the folks who are at the locations and have an opportunity to get some dialogue, some discourse and it kind of puts people at ease understanding what we are doing/why we are there. We give people time to physically react. We have time and have a conversation with folks; instead of being patrol officers going to a call. Once people understand that we have a better outcome.

R. Jackson asked when it comes to the situations of evictions and the people are traumatized and don't know what it is/what their next moves are, how are you engaging them, supporting them, activating or stimulating their ability in a focused manner to move forward? Sgt. Perrodin understands that it is a hard thing to move everything and tries to relay that compassion and he does understand and gives people time and let them understand that it is not a quick thing but I let them understand that this is a process that he will give them the time needed to get their things and go to a different location.

M. Nisperos congratulated Sgt. Perrodin on his success. How is your Unit initially mobilized? Does another agency call you that we want to evict this area or does dispatch contact you, do you have a calendar of evictions that are upcoming or are you just reacting at the moment? Sgt. Perrodin said that he has been advised not to speak on the policy on what we do. M. Nisperos said he is not speaking about policy - How do you get started? AC Armstrong said that he does not want to answer. There is no formalized process for doing that. We work with all city agencies. I am asking him to speak to things we have codified. M. Nisperos asked who it is that makes the selection of where the evictions are going to take place. AC Armstrong said what we have a homeless engagement team/city agencies. Sgt. Perrodin is on that team. M. Nisperos asked if they have a calendar of places to be evicted? AC Armstrong said that we are part of that process and it is not in policy yet that he can tell you specifically how that process works.

A. Dooley said it would be helpful to the Commission and the public if you could help us understand the sensitivity around this discussion because we are crystal clear on the lack of policy and the need to follow the formal steps of creating a policy and in that has not happened yet. I think there is some frustration that we are trying to find a connection to the police department where you guys are doing something that is successful and you are doing it in concert with other city agencies in a way that is cutting across old relationships and bureaucracy and because that is working, we want to understand why and how it is working and how we can bring that to other problems. It feels like we are not in a positive dialogue around that, we are not trying to put your feet to the fire here - we are trying to understand how you are being successful and can you help us understand that sensitivity. AC Armstrong said that sensitivity is in the idea the police department is not the decision maker per se. The police department is part of an overall city strategy so the decision of what an encampment is closed or what encampment is going to be addressed is not the

police department's issue. How those decisions are made does not rest with the police department. A. Dooley asked that you then are the foot soldiers of a larger leadership body and you want to be respectful of that? AC Armstrong said yes we want to be respectful of our city strategy. R. Jackson asked what is the city strategy? AC Armstrong said that it is a strategy that the police department would not be responsible for. R. Jackson asked Sgt. Perrodin when you are activating your group and engaging compassionately with homeless people who are having to make shifts in their living circumstances, do you work with any community agencies like The East Oakland Collective that provides services and support while you are giving time to get their programs together? Sgt. Perrodin said yes. R. Jackson said that hopefully there will be an opportunity offline to get our hands on it. We could have a best practice in homeless engagement but we don't know what it is. AC Armstrong said if you allow us to come and come back with the policy and the things that you asked for, specifically laying out what we do, we are willing to do that and that's why I have assigned this team to create that process, to work with other city agencies so we can have a more comprehensive report. I am not trying to be evasive. You deserve to have a true policy when it becomes available.

Further discussion followed on the same issue with comments/questions from Commissioners and responses from AC Armstrong and Sgt. Perrodin. G. Harris,

R. Jackson asked when are you coming back – 1 month, 2 months, etc. AC Armstrong said that we can provide you with updates on the policy. You will know when we come back because you will have a draft of the policy. Captain Lewis has this assigned to him. T. Smith said we are looking for best practice and expand and replicate things that work. One of our new duties is evaluating the Chief. We are going to start focusing on some of these initiatives, and for my money and one that I am concerned about is homelessness. What is happening with that policy? If the policy is not turned around in an amount of time that we can get a look at it, etc. then that is something I am going to see as inadequate progress. The Commission wants more specificity – when will we see this since the old policy is 1996. There is one person in this room that is doing a good job and you know who that person is and is not allowed to speak right now. I know that he has all the energy and passion to push this thing forward because he is out there doing. Public testimony is received in that he is doing it right. If not more specificity we will just keep putting OPD, etc. on the agenda. AC Armstrong – let us know when you want us to come back. We will continue to work diligently on the policy. If it is ready for the time you ask us to come back, we will have it in front of you. If it is not right, we will talk to you about what progress we made and why we haven't made it to that point. We are not trying to delay this process. It is important to us as well that we put that in writing. T. Smith said – let us plan for September and AC Armstrong said great.

T. Smith circled back to former question that we have an App for CPRA who collects these complaints, there needs to be positive feedback and well as complaint feedback. Your initial thoughts on how you might be able to work with the CPRA and the Commission in getting a system for that worked out and publicizing the App? AC Armstrong said that we agreed that are willing to work with you to make sure that the App is publicized. We offer what we think is appropriate to put it on our website and appropriate for us to put it on literature that we push out as well. We also recognize the statement that you made earlier around maybe the positive and the negative feedback coming to your web page (level of independence that we want to maintain) make sure that when we contact citizens and they want to make a complaint that they have both options and don't feel like those two options are interrelated. We are open to some of your suggestions of putting it on the page and we would take in positive or negative feedback that you have – sent directly to our

webpage as well. We are willing to work with you. Virginia has been coming up with some ideas to do that.

Discussion followed regarding this matter.

b. Public Comment

Bruce Schmiechen regarding pushing this out – you need to consider some creative ways of getting the App out to younger people; engaging people involved in entertainment (Boots Riley, etc.). Push it out on social media.

Lorelai Bosserman regarding having the Chief attend the meetings regarding answers to questions raised.

T. Smith said generally the Chief attends the meetings.

Assata Olugbala said it is difficult to engage in the probability of a policy being developed that says implementation is going to occur when you have a court mandated document that makes it mandatory for you to stop racially profiling and stop excessive force and for 15 years you have not been able to implement it. You are talking about being respectful to people where 70% of those people are African Americans. Why in this incident of homelessness it's going to be happening. I don't see it. Along with a policy - it can't be by itself; you must have the interconnections about what is going to be there to make it happen.

V. **Police Commission Review of OPD Policy 611 entitled, "Criminal Investigation of Department Members and Outside Sworn Law Enforcement Personnel" and Training Bulletin V-T.1 on Internal Investigation Procedures**

The Commission will review and consider approval or rejection of OPD's proposed policies, which have been revised in response to court investigator Edward Swanson's report on OPD's handling of allegations concerning sexual misconduct.

a. Discussion

T. Smith said several members are present this evening to give reports. AC Armstrong stated that we will not be reporting but we have staff here to answer questions: DC Cunningham (Criminal Investigations Division), Captain Millington (Commander of IA), and Lt. Mork (Commander in Charge of IA Investigations Section).

T. Smith said we should discuss OPD Policy 611 first. DC Cunningham gave an overview of policy draft (Lexipol 611).

E. Harris said she requested the report for the Commission to see it. She stated that in reading the report there are a lot of things wrong with it. It addresses two kinds of reporting – sexual misconduct and the other for criminal investigations/acts. She said it would be a question for Tim Birch because he wrote it? DC Cunningham said the rewriting of the policy was a collaborative effort. M. Nisperos referenced Page 2-3, last paragraph, (e.g., the planting of evidence), etc. Is planting of evidence a felony or serious misdemeanor? DC Cunningham said the intent of that is that these are mere allegations, etc. Notifying the DA, City Attorney, etc. is part of the process. This could also apply to use of force.

A. Dooley was drawn to that section. Does the phrase serious misdemeanor has a legal definition or someone's judgement is being used? DC Cunningham said that

is an excellent question. In the beginning draft, it said serious misdemeanor but if you notice throughout the entire policy it says felony or misdemeanor with the exception for that little piece there. He explained this in full. He will need to recheck on this matter.

M. Ahmad asked this year has any officers been charged or investigated fully? DC Cunningham said yes.

G. Harris referenced Page 3, 611.8.1 – I know when this was written and we were not a body yet but we are. I would think that we would be on the notification list within those 24 hours that something is being considered? DC Cunningham said that it seems logical to him and he will speak to the Chief.

M. Brown asked about the summary of allegations in terms of the nature and scope because when these issues are reported to the DA's office that could trigger different reporting requirements and agency requirements – if the person that is the subject of the wrong doing is a minor or there is any circumstances that create an escalation of the issue, when it is reported to these other agencies it could trigger not just the investigation but other interventions. When that trickles down, the level of information that is known in the beginning in the summary of allegations would trigger different MOR's. My question is when you have the vetting, did you talk about what the summary would include or how to articulate the amount of detail that would be in the summary that triggers this expedited notification. DC Cunningham responded and said there is a lot of confidentiality, etc.

Captain Millington introduced Lt. Mork. T. Smith asked for a brief overview about Training Bulletin V-T.1. Lt. Mork spoke about Training Bulletin and it is in Draft form. Commissioners (M. Nisperos, G. Harris) asked questions and Lt. Mork responded. T. Smith thanked the officers for coming and making a presentation and hearing our comments and integrating them. We may have further dialogue on this and we may have the policy committee look at it also.

b. Public Comment

H. Gage thanked G. Harris for recognizing that the Commission is not currently in the reporting structure. He spoke about Section 2.45070 (Enabling Ordinance).

Rashidah Grinage regarding concerns: When the NSA was first implemented, IA was unable to meet the standards of investigation that were set out in the agreement because of their resource limitation. They had to add additional IAD investigators to comply with the standards. In this situation now, I am wondering if we can be assured that the CPRA will be adequately resourced to do the same high level and intensive investigations as IAD according to the description that we have been given in the proposed policy. When and if the findings of CPRA disagree with IAD (e.g. Use of Force) and the matter is referred to the Discipline Committee for a resolution, it will be important that CPRA investigation be at the same level with the same degree of thoroughness as the IAD investigation. It will be difficult for the Discipline Committee to adjudicate on the merits as opposed to the different levels of the quality of the investigation. Also, concerned about whether in fact CPRA will be required to maintain the same standards that are currently in the NSA related to IA so as part of you being a successor to the oversight mechanism of the Monitor.

Assata Olugbala said that whenever you read something it says – the Chief Police shall – which means the Chief is mandated. Anything that the Police Chief is mandated to do, that is part of your responsibility to hold that person accountable. How are you going to manage all those responsibilities of the Chief that you must

weigh in on? Other concern, within this document, it references when incidents occur in another jurisdiction but I don't see anything where it says when we have offices in our City, like Alameda Sheriff's Department, CHP, etc. We have no jurisdiction over those officers. The CPRA in the past has tried to come up with something to hold them accountable and unable to do it. I don't know how it is going to happen – some way to hold officers who come into our City and not under our jurisdiction, to be accountable. Lastly, this document says that according to 604 – The Police Commission has 120 days to ... You are going to have to approve or reject what just has been presented to you. If you reject it, what happens after that; it is not made clear in any documentation tonight.

Mary Vail regarding concerns with this Policy which she is still delving in: There were two major aspects to the situation that the Court and Swanson investigated. The Court wasn't able to figure out the motives, the players, etc. As the earlier speakers suggested, CPRA investigative capacity needs the same access to information and staffing level.

Pamela Price gave comments on the process/two policies. She suggested that you reject the first policy and rewrite it. Has fundamental flaws and does not reflect any feedback or contribution from the community, etc.

c. Action, if any

MOTION that we send this back to the police department to be revised and include the Commission as one of the parties for mandatory notice and include the points made by Mr. Gage, Ms. Grinage, and Ms. Price and the police department come back with the revisions; then send to the Policy Committee for their review and recommendation to the body as a whole. (M. Nisperos) and seconded (R. Jackson). The vote was Aye 5 (Harris, Jackson, Nisperos, Prather, and Smith). The motion passed unanimously.

VI. Recess (6 minutes)

VII. Oakland Police Commission Enabling Ordinance

The Commission will debrief the Tuesday, July 10, 2018 City Council meeting, which included a second reading of the Oakland Police Commission's enabling ordinance. The Commission will discuss the status of the enabling ordinance, its provisions, and next steps.

a. Discussion

T. Smith reported that the recommendations were passed in the second reading by the City Council. This is going to be new responsibility but new opportunity to make change and something that we should be excited about. I heard at the end of the commentary by the City Council, Councilmember Kalb was going to support a cleanup in the actual Charter (not going to happen in the upcoming ballot but the one after that). In the long term, the outlook looks good also. He thanked everyone who showed up, the Coalition was out there in numbers, and the NAACP.

R. Jackson said she was called up. We must continue to uncheck every box until the Commission is consistently and thoroughly aligned with everything – police procedure, etc.

M. Nisperos regarding the two attorney positions – they were not selected by the Ordinance. He is extremely happy with those positions and T. Smith agrees. A motion is to follow later.

A. Dooley said that I think it is a personnel issue that does not relate to this agenda issue and may need to be separately noticed. Counsel Brown said that we could have a separate agenda item and how that would be phrased. M. Nisperos said that does it have to be in closed session? Counsel Brown said that the same principle of not talking about the sensitive performance things – for an issue regarding the legalities of how you do a review or evaluation or hiring in the future, we could schedule that as a closed session matter because that would be a personnel issue.

b. Public Comment

Mary Vail regarding the presentations, unity among everyone, and recommendations made. She gave comments regarding the two attorney positions. Rashidah Grinage concerns regarding the pace at which you acquire staff. You are still awaiting your Administrative Analyst even though there is a budget allocation for the position. This also includes the Inspector General, and your two attorneys.

Henry Gage echoed Ms. Grinage’s comments. You now have an Enabling Ordinance and he urged the Commission to put the pieces on the board as quickly as possible. He said that even though the Ordinance passed, it is not over. The City Administrator’s position – he is not in agreement with it. It is a viable argument that he does not agree with. Measure LL needs to be amended and be explicit and the Charter needs to be amended to be explicit about what the City Council did last Tuesday.

Assata Olugbala is a happy camper with this Police Commission initiative. Her personal pursuit is holding OPD officers who are involved in misconduct to be held accountable and as it stands, the two forces that do that is the Agency and OPD. The Agency is hired by the City Administrator. You come into the picture only when the Agency and OPD do not mutually agree – you cannot pursue that until you get trained. When you do it, you cannot conduct additional proceedings, investigations, etc. from sources other than the Chief and the Agency. Where is your power? It is not independent as it relates to the disciplining of these officers. People are going to be victims, until we get it right.

c. Action, if any

M. Nisperos withdrew his Motion and T. Smith withdrew is second to the motion. M. Nisperos would like to agendize a report – two attorneys under contract. How do we transition over and what are our options? He is interested in keeping the two attorneys. T. Smith will have legal counsel review the matter

VIII. Community Police Review Agency Revised Reporting Template

Interim Director Finnell will provide an overview of proposed revisions to CPRA’s procedures and reporting template for non-confidential case investigation information for the Commission’s consideration. The Commission will also discuss a following-up approach for discovering the progress of the City’s meet and confer process with the Oakland Police Officer’s Association regarding the proposed revisions to the CPRA procedures and reporting template.

a. Discussion

T. Smith asked the Interim Director to speak on the Item. Interim Director Finnell referenced Item 8 in the Agenda Packet. He gave a report relating to this Item.

G. Harris said it is like the one we had at the last meeting. I need to know how you came to that conclusion, how many witnesses were interviewed, etc.? (e.g. Allegation did happen however it was found that it was legal and no law broken. E. Harris said I need specifics – how. Mr. Finnell said that information would be included in the Analysis.

A. Dooley referenced pages 4 and 5 and said that this is more information than what we received in the last meeting. We won't know until we use this template to determine if it is adequate for our purposes. Do you know what the status is of this document? T. Smith asked was it an incident where too much information was in a report and it went to meet and confer. Mr. Finnell said that it never went to meet and confer, etc. A. Dooley asked can the Commission at this point move to direct the Agency to begin using this template or should we request that the City Attorney go to meet and confer and put a deadline on it? T. Smith thinks that we can use the template but we need to make sure the information that goes into the template that would trigger meet and confer. We need some guidelines set up by legal counsel so we know exactly we can put in or not put in the template. Counsel Brown reported that the template itself is benign. What T. Smith has said that we can develop guidelines. There is counsel for CPRA and the Commission and counsel can work together to provide information that doesn't include personnel information so more substantive information can be given to the Commissioners regarding the administrative reports that the Commissioners are going to have to look at regarding use of force and particularly those that the Commissioners asked to be reviewed. That is part of the Enabling Ordinance. What Mr. Finnell is saying is that he can provide more information without providing personnel information. T. Smith said that we can use the template.

E. Harris said that in the event, she has been trying to get this information since we first started these meetings and was told something totally different. She will not tolerate disrespect by whoever is giving information not to give to us or withholding information from us. It is not okay. It is not confidential information we are looking for; information that is pertinent to closing a case to make sure that everything is done thoroughly and correctly. In the event someone gives you an instruction to not give us something, I would ask that you let us know.

M. Nisperos said that Mr. Gage may need to pull out his Roberts Rules of Order. He referenced Page 5, Reason Case is Proposed for Closure, language states "After the appropriate investigation, and upon the recommendation of staff, the Board may render a disposition on a complaint without a hearing if it concludes that a hearing would not facilitate the fact-finding process and that good cause has not been shown for further actions." This was obviously written for CPRB because we do not do hearings. Amend your motion to strike the clause.

b. Public Comment

Rashidah Grinage said that is why you need separate legal counsel – template.

Assata Olugbala regarding the decision that was made by the City Attorney. I think the City Administrator directed the City Attorney to go forward with this thing.

I remember when we were going to the CPRB meetings, at the end was all the complaint ever got was sustained, exonerated, not sustained, etc. I asked can we come up with something that the Complainant can get at the end of the process that gives them an explanation and clarity of what the final decision encompasses. Can we come up with something that the Complainant can get of what the final decision encompasses? Asked that you work on some advocacy program that will allow the Complainant assistance in whatever procedures they need, they can get it.

Mr. Finnell spoke to Ms. Olugbala's comments. I understand that you made the motion to use this document to provide information to the Commission but could it also be something that we provide and send out to the Complainant. Now we send a letter to the Complainant and it still just contains the outcome of the investigation without any identifying information. T. Smith said that is a good suggestion and he agrees.

M. Nisperos said that he wants to note for the record should there be anyone trying to establish standing to challenge the legal advice we just received that this attorney was picked in conformity with the Charter so the advice is clean and they have no standing on that. He also thinks that this document, we may expand it to the greatest extent possible, so that we can meet the concerns of Ms. Grinage and ourselves that our investigations are going to measure up against IAD investigations for that situation for which there is a conflict and our Discipline Committee must resolve it.

E. Harris said that she has never seen an IAD report. Do they provide them to you or send you information via email or computer? Mr. Finnell stated that he gets full access to their reports and documentation. E. Harris asked if there a way you can provide us a redacted form or blank template that they can use - what their outcomes look like? I can't provide that outside my office but that would be something to discuss with Commander Millington or Lt. Mork.

Commissioner Dooley gave comments relating to IAD reports. We should start working with this as soon as possible and update to reflect the Agency and not the Board.

c. Action, if any

Counsel Brown said an easy way is a motion with no second dies and if someone withdraws a second you can just go to the collective motion which would have Mr. Finnell's suggestion in it and then repeat the motion with all three.

T. Smith asked M. Nisperos if he wanted to withdraw his second. M. Nisperos said yes.

MOTION (1) that we use the model form that Interim Director Finnell has provided to us which is the revised version of the Report but that we also have legal counsel develop some guidelines so that we do not run into issues around meet and confer (2) that we remove the portion that deals with the hearing that the CPRB which formerly engaged in both that we are not engaged in (3) that we use the same template to provide notice to the Complainants so they have more complete information (T. Smith) and seconded (M. Nisperos). The vote was Aye 6 (Dorado, Harris, Jackson, Nisperos, Prather, and Smith). Commissioner Ahmad is not present. The motion passes.

IX. Notice to the Commission of Community Police Review Agency Cases Proposed for Discipline Committee Review or Case Closure

Interim Director Finnell will provide notice to the Commission of cases he plans to refer to the discipline committee and/or propose for case closure as well as other issues relevant to case closure.

a. Discussion

Mr. Finnell discussed the one case closed during the time period of June 22, 2018 through July 6, 2018. Discussion by Commissioners followed regarding findings and discipline imposed.

b. Public Comment

Rashidah Grinage spoke regarding the Commission's ability to not accept the findings as presented.

Assata Olugbala spoke about the process the Commission and the Agency must follow when determining findings and consulting with the Chief of Police. This was followed by additional discussion from Commissioners with clarification from Attorney Brown.

c. Action, if any

No action taken.

X. Oakland Police Commission Retreat II

Thomas Lloyd Smith and Regina Jackson will lead a discussion on the Commission's second retreat including the proposed agenda, training sessions, facilitators, and location.

a. Discussion

Commissioner Jackson led a discussion regarding a Commission Retreat for training as well as to develop the performance matrix for the Chief of Police. Several Commissioners spoke on this matter. R. Jackson made a motion to commit to a certain date weeks in advance for a retreat. M. Nisperos seconded the motion. Motion passed unanimously (M. Ahmad and E. Prather were not present for the vote.) Discussion followed regarding the development of the process for evaluating the Chief's performance, community objectives, and Commissioner's roles.

b. Public Comment

No public comment

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

Interim Director Finnell will report to the Commission on information he obtained from the NACOLE Conference in Seattle, WA, on June 28, 2018.

a. Discussion

Mr. Finnell provided brief highlights of the NACOLE conference held in Seattle, WA.

b. Public Comment

R. Grinage spoke about the letter the Commission drafted to address ICE which was presented to the City Council. T. Smith advised that the letter was hand delivered to City Council President Larry Reid's office, but no further action was taken.

XII. Adjournment

The meeting was adjourned at 10:05 pm.