



**CITY OF OAKLAND
OAKLAND POLICE COMMISSION**

Meeting Minutes

Thursday, June 28, 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: Mubarak Ahmad; José Dorado, Ginale Harris, Regina Jackson, and Thomas Smith. Quorum was met using the Alternate Commissioners Maureen Benson and Andrea Dooley.

Commissioners excused: Mike Nisperos, Edwin Prather.

Counsel Meredith Brown.

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

Thomas Lloyd Smith will welcome and call public speakers.

Mary Vail regarding two items not on the agenda. (1) City Council and the Oakland Animal Shelter budget, etc. The Council's agreed that when the shelter was made independent of the police department, certain animal control related budgetary items were supposed to follow and go into the OAS budget and it has not happened and has a fiscal impact on the City. Hopefully, you will chime in and make sure that the financial transfer going into the new fiscal year happens. (2) You are the overall policy advisors for the police department. The NSCs are very important in working with the Advisory Board, BNCPCs and implementing community policing consistently throughout Oakland. You don't have those critical positions; the Chief has her horse and pony boutique project. It needs to stop; need to work with the folks on the Council who have said it has got to stop.

Elise Bernstein, Act for Racial Justice and the Coalition for Police Accountability, said it was nice seeing a different aspect of the individual Commissioners at the Meet and Greet that CPRA sponsored for the community. Your first Commission meeting in the community was a wonderful way for the community getting to know who you are, getting to know what your role is, and hopefully those things will lead to a greater use of the Commission and CPRA. Chairperson Smith did a great job explaining the priorities at the City Council meeting this week.

Bruce Schmiechen, OCO and Coalition for Police Accountability, thanked Commissioner Jackson for hosting the Meet and Greet meeting at the Youth Center. It is a good practice to trade off periodically doing these meetings. He thanked the

Commissioners for uniting behind their asking for independence for their staff and legal counsel. He thanked Chairperson Smith for his showing at the City Council, that with a combined large impressive community turn out in support, what happened at the meeting was that it happened because of the pressure and the Commissioners made it clear that they needed certain things. The matter will come up again for the second reading in several weeks. It would be great if more people and Commissioners show-up– keep the message clear and don't allow anything to go wrong – stick with it.

IV. Approval of Draft Commission Meeting Minutes for June 14, 2018

Thomas Lloyd Smith will offer the draft minutes for approval by the Commission.

a. Discussion

None.

b. Public Comment

No public comment.

c. Action

MOTION to approve the Minutes (R. Jackson) and seconded (J. Dorado). The vote was Aye: 7 (Ahmad, Dorado, Harris, Jackson, Smith, Benson, and Dooley.). The motion passed unanimously. Commissioners M. Nisperos and E. Prather were excused.

V. Oakland Police Department Report (10 minutes)

Chief Anne Kirkpatrick will provide a follow-up report on demographics for OPD's 180th Basic Academy, beginning May 21, 2018, residency for sworn personnel, and information about OPD Youth Outreach visit to Patton Academy.

a. Discussion

TOPIC 1 – Chief Kirkpatrick gave some percentages as a foundation for OPD's hiring practices and the demographics they are shooting for in the academy classes in our City. Our goal is to match our City. She pulled the stats from suburbanstats.org. According to the website, she is giving 2017 and 2018 numbers although our true census numbers are back to 2010. She tried to get something more current. The estimated population of Oakland is 412,000 and of that the demographic breakdown is Caucasian 34%, African American 28%, Latino 25%, Asian 16%, and the balance is for all other categories. This is what we strive to mirror for our community. She requested that her staff pull what are our demographics for our sworn police officers in the aggregate as of today (not only the academy class but where we are today as a police department) – this is for our sworn staff. We have Caucasian 38%, African American 17.2%, Latino 25.4%, Asian 13.4%, and the balance is for all other categories.

Chief Kirkpatrick reviewed Item 5 in the Agenda Packet (OPD's 180th Basic Academy). She reported that demographics for our City is that we have more women than men – 51% women vs. 49% of men.

J. Dorado mentioned that it is wonderful to have 50% of the academy bilingual and

it's commendable that the percentage of Oakland residents has risen. He doesn't have the stats of the class before, it was very small, and the stats in comparison to these criteria were far different. He asked what was the difference between the recruitment, methods, people involved, etc.? What made such a dramatic improvement in the two classes? Chief Kirkpatrick stated that we run quite a few with high vacancies. The City allows us to hire as many as 45 new recruits per academy class. We have been operating and filling out 25-30 of those seats out of the 45. My commitment to the City was that we would hire the right person and not just anybody that wanted to be a police officer. We started with that foundation. The one before this one started with fewer numbers in that class and it ended up with the attrition of those who voluntarily decided that policing was not for them and a combination of who started and who left, we ended up with only a handful of POTs to go through the program. Because we have known that we are having trouble with our hiring process, we have changed our hiring application reaching a broader group of people – San Jose is doing a lot of hiring. She sent a team to San Jose – we came back with much of what their practices were and again thanks to the City and HR Department, they have been willing for us to change our hiring process. Because of that we are getting a larger pool of applicants to reach out into. We are beginning that process – have about 75 new people that have applied that we are processing now.

M. Ahmad asked in hiring, how many of the police officers are from other police departments that apply? Chief Kirkpatrick said that when she came to Oakland, they were not hiring from other agencies. We call those lateral police officers. Oakland has in the past hired the lateral officers but when they had some of our larger misconduct events and looking back what happened, there was an audit that basically individuated that there were some challenges in hiring people from other agencies. OPD now does not hire laterals. She comes from a background where she has hired a considerable number of laterals but hiring a lateral is a challenge. We do indeed have in our department some laterals that make exceptional officers. M. Ahmad asked of the 6 that reside in Oakland, one was born in Oakland. What race are the six that were hired in Oakland and the one that was born in Oakland? Chief Kirkpatrick apologized and was not able to answer that question.

J. Dorado asked about Merritt College – there is only two out of the 34 that came out of that program. Is that low and why? Chief Kirkpatrick said that is more than what we had. We tried to change our practice, before the class graduates, we were invited to go up with a panel (Chief Armstrong, Capt. Lindsey, etc.) and engaged in a panel and specifically made a call to please come and join us. We are trying to be more intentional about reaching out to Merritt and partnering more with them. Sgt. Dickson runs that program – a former Sgt.-OPD officer; former Chief Howard Jordan teaches in that program.

R. Jackson congratulated Chief Kirkpatrick for the stats going in the right direction. Based upon your learnings in San Jose, are there any other observations you have that are going well in San Jose that you would also like to look at? Chief Kirkpatrick said that they are doing a great job in getting people coming to test for them. We are old school in how we advertise – ad on the side of a bus that we did this year. The digital age – we should move and work in that direction; we also know that turnaround time – our younger generation will not wait six months to be processed. Those are lessons that we are learning and are taking from anyone that is doing right. We are working on that now.

M. Ahmad mentioned that the age group is 21 – 41. Does OPD have an age cut off? Chief Kirkpatrick said they don't have an age cutoff. We encourage people of any age. In federal bureaus, the age cut off is 37. We are going to have a recruiting

booth at the upcoming Pride, celebration in September we want to recruit members of the LGBTQ community. Let everyone know that they are welcome to serve their community. M. Ahmad said that if he applies, would he have to cut his dreadlocks. Chief Kirkpatrick said that is possible – if you were in patrol. We would have to negotiate.

G. Harris suggested (Pride event) to incorporate/invite Commissioners or Agency staff in recruiting/informational sessions. Chief Kirkpatrick said you are all invited. They will have their booth. Anytime you have a function as Commissioners, and you want OPD to participate, we would like to partner with you.

M. Benson heard that your goal is to reflect the population of this City. Education – in OUSD the African American population has decreased by 50% in the last fourteen years. Have you given much thought to the devastating impact of gentrification in communities of color and if we follow the numbers, that it will mean a predominately white police force in the next ten years? Chief Kirkpatrick said she hasn't and thanked her for bringing that to her attention of thinking. She wants an equitable police department.

TOPIC 2 – Chief Kirkpatrick addressed an event that occurred at the Patton Academy. It was a youth outreach; OPD officers partnered with the teachers of the Patton academy. She was not personally knowledgeable with it; has an understanding/vision of what occurred. When the fire trucks go out to schools, the kids love to crawl over everything, climb up on the trucks, etc. When the police department was invited, we took a police car. We allowed the kids to crawl over the police car, get in the back and front seats. An officer was in a playful mode and put handcuffs on a child, not thinking about consequences – Not okay. That is not going to happen again. Going forward, when we take a patrol car, we will have the back seats of the patrol car locked and will not allow for the playfulness because it is not play. It is a raising of our consciousness and she as the Chief apologizes. We are putting that safety measure in the future; there is a clear directive from me/my office - no more in the back seat and no handcuffs on children. R. Jackson asked if we could receive a list of those protocols when you do external engagements? Chief Kirkpatrick said yes. We are not cognitively thinking through our impacts. She told R. Jackson that we can talk offline on how you want those protocols to you.

M. Benson mentioned that she was livid when she found out that happened to a young person in Oakland. She appreciates the Chief's apology and the putting of protocols in place. One of the things I am mindful about in work, particularly towards cultural competency, is sometimes we put a technical solution in place but there is an adaptive issue. It is evident that we see it in the school system, in the police department, people who are not from here who do not look like these students are not culturally competent to understand that it is a traumatic occurrence for young people, they have seen it happen around them particularly our black and brown youth. I am wondering what is going to happen, not only in a one-time training and development, but what is going to happen ongoing for professional development of police officers to enhance and deepen and show competency in their cultural relevancy in this community? Chief Kirkpatrick said that we are trying to bring cultural competency into our academies, to all of us including myself. Hopefully, the proof will be that you will never see it happening again. The goal is to change the thinking and the way to get to change the thinking is through training and when events like this occur, then people go "oh" and that is what she wants. That is the transformation of thinking – I get it. We start thinking differently. That is her goal. She will put the technical safeguards in play.

Chairperson Smith thanked Chief Kirkpatrick for her report. He mentioned that we have an upcoming training on implicit bias and that may be some training for the police department.

b. Public Comment

No public comment.

VI. Training: Cultural Conditioning, Implicit Bias, and Racial Profiling (45-60 minutes)

Title: Creating Safer and More Welcoming Neighborhoods

Presenters: Debra Israel and Joan Lohman, Neighbors for Racial Justice

The presentation will discuss assumptions about race, bias, fear of crime, and the impact on people. It will also include strategies for communities to avoid bias and racial profiling in crime prevention efforts.

a. Discussion

Jenny Berson gave an introduction of Neighbors for Racial Justice (N4RJ).

A presentation was developed to address more directly the impact and the harm of profiling. She mentioned that additional handout materials were brought and are on the table (N4RJ postcard about the presentation; articles about reports from Universities removing race description from vague crime alerts; and info for N4RJ's public letter regarding racial profiling of the on-duty firefighter Kevin Moore).

She introduced the presenters: Shikira Porter and Monica Bean both of whom participate in N4RJ and are also very active in the Diamond Neighborhood Council. Shikira Porter introduced herself and Monica Bean. Ms. Porter reported that they live in the Diamond District. They created the presentation for the NCPCs and to let you know we are here in the community doing this type of work. What does racial profiling have to do with an NCPC? They are about public safety - not be stopped/harassed/questioned for being in the world. They raise awareness at the meetings around the impact of racial profiling on the list serves (Nextdoor; 20,000+ neighbors). That platform has started to be used for profiling black and brown youth, especially black men in our community. They encourage NCPCs to ensure that their idea of public safety in that their priorities will include that of people of color.

The presenters reviewed the PowerPoint slide presentation (Item 6 in the

Agenda Packet). They thanked the Commissioners for their time and work.

Chairperson Smith thanked them for their presentation. He asked if Commissioners had questions.

J. Dorado thanked the N4RJ for the work they have been doing for years, particularly the vigil at Fruitvale and McArthur and their dedication to this huge issue. He stated that the mission of the NCPCs and the essence of community policing is wider and deeper than many people realize and this is an attestation. It is not just about catching the bad guys, a partnership between OPD and the community. It is about reinforcing relations between neighbors. So NCPCs activities around racial profiling, racial and social justice truly promote that neighborhood safety that you are talking about. I would recommend that we the Commission take advantage of the local resources that we have, not just the N4RJ, but also one of their members, Jenny Berson, World Trust, who is one of the facilitators cofounded by Dr. S. Butler who has a wealth of films and materials on how to guide

people through discussions around these important topics and recommends that we have that be an iatrical part of our training.

Chairperson Smith referenced the slide of the pictures of the people who were victims of these crimes – it was powerful for him because when he started thinking that he wanted to be more involved and do something about the community relationship with police, it was as a process of understanding and watching these stories and feeling the impact on him as someone who was a black male who was watching this happen to others at all different ages. He thanked them for the presentation and for the slide.
You made a lot of powerful points.

G. Harris thanked the presenters and the work that went into the presentation. She gave comments. The presentation struck a nerve for her. She lives it so she knows it very well. She lives in East Oakland and has yet to see the NCPC. She has called, emailed, etc. and she is a Commissioner. This is an everyday occurrence. We have been enduring these comments for hundreds of years. It is not surprising to her – the information is real. The only reason why it is so public now is that we have social media. This is a lifestyle (she has 5 black sons that she raised); this is the fear that she lives with every single day. It is why she wanted to be a Police Commissioner. She has a little bit of say so in what happens with the raising of our children. This is a fearful time that we live in. I can only imagine what my ancestors lived through; I could not do it. This is real; institutional racism is very much real. It is not about implicit bias; it is about people who are racists. We are all born with biases; when you attack another person of another race because of the color, you were taught that from somewhere in your family tree and didn't end there. When people are silent, you are just as guilty when you see it happen, and you do not say nothing, you are just as guilty.

b. Public Comment

Rashidah Grinage appreciates the work of N4RJ. As Commissioners, your purview is not to hold the community accountable but the police department. She focused her remarks on that challenge because the police department has gone through training in implicit bias for years. This has been going on for over ten years – they have been trained; yet as we know, the stop data reveals that the problem of discriminatory stops remains despite the training. She would like the Commissioners to focus on the remedies. How do you get compliance? It is not for lack of training. It is certainly not for lack of data and by the way, next Tuesday at the Public Safety Committee they are going to entertain a renewal of the contract with Dr. Eberhardt for between \$200,000 – \$500,000 additional dollars to do more data collection, more data analysis, etc. She has already produced 50 recommendations. What are we doing? Where is it going? She asked Commissioners to focus on taking a deep dive into the remedies. This is one of the things that is holding up the exit from the Negotiated Settlement Agreement. Until this is fixed, that is more millions of dollars going to the Monitor, etc. This is directly under your purview with respect to constitutional policing and hope that you would call in some experts in the field or maybe get your Policy Analyst to provide you with some contemporary work that is being done in other jurisdictions that looks at best practices, where there is success in combating this. Something different should happen. One of the things that the Chief indicated and Dr. Eberhardt indicated was that for officers that they have identified as outliers – meaning that there stops are clearly disproportionate than other officers – there is no

discipline and the reason being that it is an institutional bias, a cultural bias and therefore not fair to hold individuals accountable for something that is essentially a societal problem. That could be part of why we are not making any progress. The reality is clear; the remedy is not.

Nino Parker, Homeless Green Team, mentioned Maya Angelou – we can't be friends until we see each other as equals. He is here because he heard Chairperson Smith speak at a City Council meeting and he asked him for his business card. Chairperson Smith invited him to come to the Commission meeting to discuss his experiences with OPD as a homeless person. Mr. Parker is homeless and is a homeless advocate. He goes to a lot of homeless evictions (Northgate, etc.). What he notices is that at some of the evictions there 12-14 police. These officers come in after an 8-hour shift (overtime). Black men being pushed around because they got three days to move their stuff when they have 5 days of stuff to move. They try to move. The officers are standing there after a long shift, getting moody. If you are moving fast, they might not say anything. There is a gentleman, Sgt. Perridon, who has several officers who are at every eviction. He has eviction skills. He has been through about 20 evictions with this officer and it makes a difference in how these evictions go. It is hard when you don't have a place to go. He has spoken with Sgt. Perridon several times about these evictions. Funds could better be spent on the homeless than pay the officers overtime. Chairperson Smith thanked Mr. Parker for coming to the Commission meeting and asked Mr. Parker to provide Mr. Rus (Policy Analyst) with his contact information and Chairperson Smith will follow up on this issue. Smith also said that he will also stop by to talk with Mr. Parker at the break. Mr. Parker thanked Commissioners for hearing him.

R. Jackson gave comments. She appreciates Mr. Parker coming out and speaking about the homeless issues. She was upset last week reading in the paper about AB2595 (allows evictions for no cause). She will reiterate her point at the Community Commission meeting that we need to look at some homeless protocols. She appreciates the recommendation about the officers that are excellent in that area. Chairperson Smith agreed and glad that Mr. Parker came out.

VII. Recess (6 minutes)

VIII. Oakland Police Commission Enabling Ordinance

The City Council approved the first reading of the Oakland Police Commission Enabling Ordinance at its meeting on Tuesday, June 19, 2018. The Commission will discuss the provisions of the Enabling Ordinance and next steps.

a. Discussion

Chairperson Smith reported that there was an important City Council meeting that happened and it worked out very well for the Oakland Police Commission. There were 82 speakers who came to speak on the Police Commission Enabling Ordinance. The turnout was outstanding – Coalition for Police Accountability, NAACP, etc. He will not re-summarize the meeting but will go through some of the important things that happened at the meeting. One point was that we did in fact get approved to review the Chief of Police; we will conduct a review of the Chief of

Police which is huge in terms of accountability, alignment, making sure the community voice is heard, etc. The second point was we were granted the right to have independent counsel. We are excited about the additional degree of independence. We also made it known that we had already been given a new independent counsel and that we wanted to retain the rights that we acquired and take another step forward. The last item was to do with the Inspector General (IG) position. That position was the one that was most tense, back and forth. The IG position – we did in fact get the IG’s report to us.

A. Dooley echoed and thanked Chairperson Smith for showing up and giving support and for Rashidah Grinage for reminding us of the severability questions I think are very helpful for remembering that we can move forward even when things are uncertain. I want to know that if in the eventuality were to pass that we needed another Ordinance, of having an independent counsel to help us do that over the objections of the City Attorney, would be invaluable and this is one example of why it is so important for us to have independent counsel. I hope it doesn’t come to that. If it were to pass, we have some freedom to think about what the other options might be to move forward on that. Thank you for your advocacy and Chairperson Smith thank you.

J. Dorado gave thanks to Chairperson Smith for his eloquent speech at the City Council meeting and to all who stayed real late. He was unable to attend. He will take the suggestions to weigh in with the three councilmembers. Thanks to everyone who contributed.

R. Jackson appreciates everyone. We continue to need your support – you show up and show out. She will be in attendance on July 10. She thanked Chairperson Smith and gave him kudos for leading with distinction and grace.

b. Public Comment

Rashidah Grinage reported that the enabling ordinance cleared the first vote. The second vote was scheduled this morning and will be on July 10. I strongly advocate that you show up in force, and if you can’t be there in person, that you weigh in with the councilmembers and give them assurance. Chairperson Smith thanked everyone who showed up and for those who stayed up after 1:00 a.m. – 2:00 a.m., he couldn’t ask for better support.

Lorelei Bosserman, member of Coalition for Police Accountability, speaking as an individual she thanked Chairperson Smith for an outstanding job of presenting the Commission’s priorities to the City Council and then was called up later to elaborate.

Mary Vail said Chairperson Smith’s presentation was exceptional, the recommendation, the written report prior was useful and exceptionally strong and focused but it is like a team that nails it and in the semi-finals, there is another round. Measure LL would not have passed without the sex scandal; it was put in everyone’s face the old ways of doing this stuff, oversight by the City Administration was not working, the courts hard work wasn’t enough – that we needed this and we needed the independence. Keep pushing, step up your game, and hopefully we will have some success.

Rashidah Grinage gave public comment during the Discussion section.

c. Action, if any

None.

IX. Personnel Committee

Thomas Lloyd Smith will propose that the Commission request City Council approval of an Oakland Police Commission Personnel Standing Committee to allow for greater transparency and public participation in the Commission's personnel decisions.

a. Discussion

Chairperson Smith said that a couple of meetings back we spoke about requesting a Standing Committee from the City Council. This is a new proposal and we should also request a Standing Personnel Committee. Part of what I was thinking when I saw everything happen at the City Council meeting is that if this all goes well in the second reading, we will have substantially more authority over personnel than what we were dealing with before. To counterbalance that, we need to invite more public participation to help us not just do the work but also to hold us accountable. What he wants to propose after discussion, that we also request to have a Standing Personnel Committee that would have to follow the Brown Act. We would schedule those meetings ahead of time. They would be recorded. Have more public participation which I think is ideal because I think the amount of authority that we have will go up substantially if these reforms hold in place. If our Enabling Ordinance is passed as is, then that calls on us to make sure that we increase the level of public accountability for ourselves and that we share the authority. He asked for Commissioner comments.

A. Dooley said that her initial reaction is that she is always in favor of greater transparency and public participation. She can see a lot of ways in which there would be value for that in the personnel here – framework that we might be overseeing. Her question that would come up would be around performance evaluations, disciplinary matters, and confidential hiring questions and how that would be handled. Her only question is to the structure as to what would be contemplated as being public and what would be private and whether non-commissioner participants in that committee would have access to the confidential discussions.

Chairperson Smith said the Brown Act exemptions for matters that are private matters, personnel matters – would still be applicable to that Personnel Committee. Counsel Brown stated that what Chairperson Smith was articulating was correct and that there would not be public participation regarding personnel matters because the Ordinance is specific about what type of privacy protections are applicable and with regard to the Alternates, the Alternates are held to the same standard. They must be compliant with the Brown Act as well.

A. Dooley was thinking more about what are the topics that would be in public. For example, here is what I would like your feedback on – Job descriptions, kinds of projects we might want to assign, how we might communicate the value of our staff or how we might better utilize our staff would be public discussions but discussions about individuals would be private. Counsel Brown reported that the constitutional basis for the privacy issue is your interests in your job and those things that are private to that – the job performance and the persons. The public issues would be policy – things like job description that can be public matters. What I would say is that the evaluation or the analysis would happen on a case by case basis. When something comes up, just to make sure that there are not parts of it that are intermingled that would take a legal evaluation of what was before the Commission at the time. It is known as a spin dodge – sports analogy. You must have the facts

before you to be sure. A. Dooley said that she was concerned less as a member of the committee and more for the privacy of the individuals who might be the staff. Counsel Brown said that you evaluated each instance to make sure that we were spot on regarding the privacy issues.

R. Jackson said that although she is not on that committee, she would like to share some creative approaches to the performance appraisal of the Chief of Police. It is a new day and she would like for us to look at as many ways as possible to create support systems that we can measure against.

b. Public Comment

No public comment.

c. Action, if any

M. Benson said this request to City Council, if they say yes, then we come back and design the details of what that Committee would look like. Chairperson Smith said yes. Two parts. One we can ask for the Standing Committee to be approved and then they can allow us to have that because we don't have that authority until they give it to us. We can talk about how we want to form the Committee. The first step is to get the approval from the City Council.

MOTION that we request from City Council the right to create a Standing Committee for Personnel for the Oakland Police Commission (Chairperson Smith) and seconded (R. Jackson). The vote was Aye: 7 (Ahmad, Benson, Dooley, Dorado, Harris, Jackson, and Smith). The motion passed unanimously. Commissioners M. Nisperos and E. Prather were excused.

X. 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 upcoming cases he plans to refer to the discipline committee and/or propose for case closure.

a. Discussion

Chairperson Smith stated that Mr. Rus (Policy Analyst) is standing in for Mr. Finnell who is attending a conference. Mr. Rus referenced Item 10 in the Agenda Packet.

He reported that five cases were closed between June 1 and June 21, 2018 and one case was consolidated because it was two complaints about a single incident. Mr. Rus offered to respond to questions by Commissioners.

G. Harris said that she highlighted her questions in the document. She asked, Mr. Rus you did not write this report, correct? Mr. Rus said that he did not. G. Harris asked questions – in Case 17-0595, believes there is a typo – she is trying to understand what the complaint is. She referenced Paragraph 1, Line 3 “gun in her mother” should be changed to “gun in her mother’s face”. Mr. Rus stated that the Complaints as written are stated the Complainants.

G. Harris referenced Case No. 17-0553 – Under Allegations: No. 1 and No. 4 the MOR violations are similar? Mr. Rus responded and said that they are two separate allegations, that both can be captured under the same rule. G. Harris asked, will we sometimes see something like that – repeats itself? Mr. Rus said yes, that can happen (Example: like a case with multiple officers are rude, there could be

allegations against separate officers in case each one would be a separate allegation or they could be rude on multiple occasions in which case they would also be separate allegations but under the same manual of rules violation.). E. Harris asked, how do you determine the two; which one is which one? Mr. Rus said that in the actual closures, each one has far larger information there so that is all confidential.

A. Dooley said that these are not helpful for determining whether we can at this point, I can't say whether I understand the process that goes on because the outcomes reported have two little connection to the complaint. For example, we know what this complaint says; for example, Complaint alleges that officers threw or slammed Mr. Lewis to the ground for no reason. That is a single allegation. I don't know why that can't be mapped to the MOR section that says whether it was founded, exonerated, sustained so that we might have a better basis to say why that decision was made. If our role is to ensure that the Agency is completing sufficient investigations, that they are getting access to what they need to do the investigations, the police department is taking the right steps to remedy them - this information doesn't give us any basis to do any of those three things. I have made clear that I disagree with everyone's reading about our access to confidential information but I am not in position to win that argument today. I don't understand why the report given - the complaint language can't be more closely tied to the MOR citations. She asked for a response from Mr. Rus.

Mr. Rus stated that he can answer this in part. We have in the past attempted to publicly disclose more and that was very quickly squashed. A. Dooley said that is a passive voice. Who squashed that, who said that it was not okay? Did they file a legal complaint that you know of? Mr. Rus asked Counsel Brown to respond. Counsel Brown reported that she has provided legal advice regarding the confidential access to confidential information under LL and under the Ordinance. Regarding this specific report, there would have to be an analysis based on the exact language which she does not have. She would have to refer you back to the analysis that she did of the language of LL and in the Ordinance which follows the Penal Code definition of what is considered a personnel record and that is the information that she has without having access to the reports because she doesn't have access to the reports.

A. Dooley said that she understands that and what she is asking for is something more narrow here. She asked what was the challenge to what language and how it applies to this? That would be her first question. If we have a sentence in one paragraph, why it can't be correlated to another sentence in the same document. Two - Her view is that we don't roll over because OPOA says that we must do a thing in a certain way. I am a lawyer too and if my client comes to me and says I need to do something, then I help them do it legally. I'm not putting this on you because you are not the decision maker on the last time the OPOA challenged this. Counsel Brown reported that the decision maker on the advice that I have given and my advice was not based on a conversation or opinion of OPOA, it was based upon the language in LL and the language in the Ordinance. I have seen reports before that are administrative closure reports and I can make an analysis based on the facts before me. Your question is asking about language that has been redacted so it is not a situation where I could look at it and say how do I apply the law to this specific language because it is not here. That is what my statement is. I will refer you back to the memo I wrote, until I can see the report, which I do not have access to, I can't tell you what language it refers to, information that is considered a personnel record under the Penal Code. I would also add that the legality of the privacy is important to retain the authority and the ability of this Commission to do its job without violating privacy rights. That is something that is not dependent upon what the Union says.

A. Dooley said there are two things that we need to figure out. Is there another report that does not violate any privacy of an individual officer and we need to think creatively about what that looks like? To me, this is an open question. (2) We need to better understand – Mr. Rus where you can be helpful – where we see trends around things that are justified, lawful, and proper and not violations under the law but about which we see numerous complaints. That is something I think you can report on without violating any privacy because that is exactly what we are supposed to do is review those policies and make sure they correlate to the kinds of complaints.

Chairperson Smith said that this matter is important and we want to get it resolved but we need more information to effectively do that function. Chairperson Smith suggested an Ad Hoc Committee; a group of people interested and work with Counsel Brown, Mr. Rus, and Mr. Finnell.

R. Jackson said that she would be interested in being on the Committee.

Mr. Rus speaking for himself, but he believes based on conversations with his colleagues, we would like nothing more than to be more transparent. We have tried but we are working within the legal parameters.

G. Harris asked Counsel Brown - the issue that she is having with the reports, closing of the files, today she still does not understand the investigation processes that our Agency goes through therefore she does not know what they are basing their closures on. How can we hold anyone accountable if we don't even know what is happening within an investigation, not saying I need to know who the officer was, etc. I don't need that information. I do need to understand how an investigation is done as far as how did you conclude insufficient evidence? How did you conclude unfounded, etc.? She feels like we have the least amount of information to approve closures on cases that she does not feel comfortable doing that. I would vote no to close them.

Counsel Brown stated that it is very difficult to tell from reading this, when I looked at it I had the same thought. I can't tell what happened. There should be a review of what the investigator process is, a review of what the basis of the administrative closure is, and a discussion and a review of what template can be reported out so that you can have enough information. The template can be presented in a way that it is a mock template and it doesn't have to be an actual report. I recall that when Mr. Finnell presented the mock template, he used made-up names. You can use does. I think we can go through that and present to the public what the process is.

G. Harris said that when she asked for that, she was denied and was told that it is personnel. She even suggested to make a mock folder of a made-up investigation complaint and was still given push back. This is her frustration. We have been here for six months now; she cannot tell you how an investigation is done. She has spent time in that office, asked questions, and told no that you cannot. She asked if the legalities could be considered because she would like to move forward in seeing what an investigation looks like; whether it a real one or not.

R. Jackson said she appreciates the recommendations – protocol should not be mysterious. You are right, we are all hamstrung to not understand the process before any determination gets made. She is glad that we are having the conversation and appreciate that G. Harris tried to champion this issue. Now that I think that we are a bit clearer about both, our responsibility and our lack

of information, to be accountable to that responsibility.

M. Benson support's G. Harris in what she said. She thinks there are two reasons – one primarily so that we are having a second or third set of eyes on whether releasing police officers, what the findings are for police officers, and how can we evaluate the effectiveness of this Agency if we don't get to see the quality of the investigations or how can we evaluate the ineffectiveness or the effectiveness of IAD if we do not know what they are turning over or not turning over. This vague language hinders us from doing our job in multiple ways.

b. Public Comment

Rashidah Grinage said there is background and can provide the documentation. She reported that Mr. Finnell, while the CPRB was still functioning, attempted to revise the format of the summary dismissal that he presented to the CPRB. He sent his revision to the City Attorney's office (public record, own testimony at the CPRB meeting) for approval and it would have been more descriptive than the previous format he had used. The City Attorney approved it and sent it back to him. Before he could utilize it, he then got another communication from the City Attorney's office – saying don't use it because we have been challenged by the OPOA as a breach of their confidentiality (Government Code). It went into meet and confer; remained for the last year. Mr. Finnell did his utmost/expressed great frustration.

Ms. Grinage reported that the City Attorney had signed off on it initially and then suddenly it was no good because it was challenged. That is why you cannot have the City Attorney involved in anything you do. There are no privacy issues here. The officers' names are not here. There is no way to identify the officer in the format. This is not about privacy or personnel records. It is about an incident that occurred. I don't understand this discussion. You need to contact the City Attorney's Office and get a status update – what is the disposition, what are the issues that have been raised, what stage is the meet and confer at, etc. and then agendize it at future meeting so we can all benefit from that disclosure. She did her best to put pressure on the situation and while Mr. Finnell was under the authority of the City Administrator, there was very little he could do; that is why he is no longer under the City Administrator as per Measure LL. That is the lesson we learned. Your recommendation for the IG to be under you is so critically important. Ms. Grinage will send the previous document that the CPRB used and the one that he proposed as a replacement so you can judge for yourself the difference and you can also judge for yourself whether any privacy issues were involved and if there were any, she should not have approved it to begin with. I had not been prepared to speak on this until all of this came up.

Ms. Grinage asked Mr. Rus – on several instances where you state “insufficient to evidence” – does that mean there was no PDRF footage? Is she correct in making that inference or not? If PDRD footage, it would not be a matter of insufficient evidence it would be either evidence in support or against the allegation, it wouldn't be insufficient. When you say insufficient to sustain, is that because there is no PDRD footage? Mr. Rus checked with Counsel Brown whether he can answer questions from the public. Counsel Brown reported that what he is asking is a Brown Act question. She suggested that this issue be agendized and those questions and the template that was used before can be analyzed so that all the material before and the context that it is in can be discussed. That way there can be a conversation regarding what evidence is insufficient evidence and what the template looked like and what information was in the template. Now it is somewhat theoretical for me to look at this and not know what's redacted, what has not been redacted, and look at the template which is necessary to provide a basis for the discussion as to what is

personnel and what is private and what is not. Chairperson Smith asked Ms. Grinage if she had the templates. Ms. Grinage said she will send him both templates – the one that had been in use for the CPRB and the one that had been proposed and initially approved and then rescinded.

Mr. Rus said that without dealing with the Brown Act issue which he does not want to tread on, that it is very difficult to say from what is here, what the evidence was one way or the other. It is possible that even with PDRDs on, there can be insufficient evidence. These are complicated situations in some cases, a lot of moving parts, there could be conflicting evidence, both from the PDRDs themselves, from conflicting testimony, so the standard of review is preponderance of the evidence and in some cases that just not exist and that does not necessarily speak to whether there is PDRD footage or not.

Ms. Grinage said she asked Commissioners to pay attention to this issue because the improper use or non-use of PDRDs should be an allegation in and of itself. If the camera was pointed deliberately in the wrong direction, etc., you need to have that information to be able to justify or not the findings.

Chairperson Smith said this is a very important issue; one for follow up.

c. Action, if any

Chairperson Smith asked if there is anyone that wants to make a motion around the case closures.

A. Dooley asked that it may not matter if some of these cases have blown the statute of limitations already and in cases where there is a recommendation from the Agency to move forward even the only two recommendations here are for counseling, do we want to account for that in the motion?

G. Harris stated that you are right. She said that counseling is not discipline and does not consider that discipline. She still feels like it is principle that we do not close these cases whether they are 180 days, one year, two years, five years, etc. because we want to use that as an example. We need to show the public that we are not just brushing them off because they are year, etc. but we are going to get to the bottom of these particular cases that have been brought across our table to make sure they get closed properly because some of them may not need to be closed.

A. Dooley stated that G. Harris answered her questions and it does not need to be included in the motion.

Counsel Brown reported that it is the Enabling Ordinance and not Measure LL that deals with the administrative closures. Measure LL is missing the language regarding the administrative closures. What the Commission has done now is let's clarify this, let's figure out what the process is, let's get the information which it is building upon, preparing for – so when the Ordinance is passed and the power is there, you will have the infrastructure. That is what is evolving out of this. The Commission does not have to worry about not doing its duty if you do not act on this. Chairperson Smith thanked Counsel Brown for the information.

MOTION that we do not close these cases until we get to the bottom of the investigation process (G. Harris) and seconded (R. Jackson). The vote was Aye 7: (Ahmad, Benson, Dooley, Dorado, Harris, Jackson, Smith). The motion passed unanimously. Commissioners M. Nisperos and E. Prather were excused.

XI. Community Police Review Agency Complaint App

Interim Director Anthony Finnell will provide follow-up information on the Community Police Review Agency App that increases officer accountability by enabling members of the public who observe police misconduct to quickly and easily file a complaint against OPD officers. Information will include but not be limited to the process and timeline for the app to incorporate Spanish language translation and acceptance of positive feedback about police officers.

a. Discussion

Chairperson Smith said that he noted in the last meeting the follow-up items requested.

One – Brought by Commissioner Dorado; having the App in Spanish as well as in English. Asked that Mr. Finnell go back to get an answer.

Two – Brought by Commissioner Nisperos; Answer to the question of positive comments given on behalf of the police as well as complaints so there can be a space within the App to record positive comments.

Mr. Rus referenced Item 11 in the Agenda Packet. He reported the City is mandated to translate all materials, including the App, into three top languages including English (Spanish, Mandarin and Vietnamese). It was forwarded to Equal Access. The problem that we have is that the new Oakland Website was introduced so the entire City has an entire new set of websites that is forced through a small set of translators. They have that in their que and is not in our hands how quickly it comes out. It is moving; he did not personally ask for an estimate. Chairperson Smith asked Mr. Rus if he asked for an estimate of the time to obtain translation of the app into Spanish. Mr. Rus said, no, he did not ask for an estimate. Chairperson Smith asked if Mr. Rus could ask for an estimate. Mr. Rus said we can ask for an estimate. If it is not a priority, we may have to push harder; it is important that the App be accessible by people who do not speak English.

R. Jackson said there was another recommendation that we approached the Chief – a marketing perspective to be able to share out the App or to get it pushed out through their social media and other entities. She is not sure if anyone has made that call yet; she is willing to make the call. Chairperson Smith said that the task will be delegated to her and thanked her for taking it on.

Chairperson Smith asked about the second question raised by M. Nisperos – What is the solution/answer for positive feedback for the police. Mr. Rus reported that the information is in the Packet. He believes that it has been forwarded to OPD and OPOA. It isn't part of the App currently; the App is built into our case management system with respect to Complaints. The answer would be to build the new collection system/database to collect that information. Chairperson Smith said that he had a recommendation coming back to explain the timeline, how it was going to happen, details. A. Dooley said it is in the Report. Chairperson Smith asked Mr. Rus to report it publicly because there are people in the audience who want to listen to the answer of these matters. Mr. Rus referenced Page 4 of the Report (Recommendations for Community Members to Submit Compliments on Oakland Police Officers) then began to read the entire report verbatim aloud.

A. Dooley commented about the two platforms. One is an existing platform that takes real time data (good/bad) and sorts it out and reports. Her concern is that people would be confused with the Complaint App and think they were filing a complaint if they were to use the Raheem Platform. She suggested the police department make mechanisms available for people to positively report on the police

officers who are serving our communities best but I don't think the CPRA is the right home for that because they are investigating complaints. It should not be funneled into the CPRA database. Chairperson Smith thanked A. Dooley for her comments.

J. Dorado asked about OPOA when they released a press release – what is a 0 Compliment Zone? A. Dooley said that the App was released during National Police Week (typically a week for police and law enforcement - time to honor them, lost/hurt in the line of duty, commemorate their service). The timing was probably accidental and unfortunate but I think their press release was less about the CPRA and more about positioning themselves with the police department. In the long run, it will not have an effect in our ability to do our work.

J. Dorado said that he agrees but it is quite annoying. He recommends that a letter be written/answered – it is not helpful. He suggested that we make a motion that we write a letter expressing that sentiment (less than helpful in terms of our doing their work and they doing their work).

G. Harris agrees with J. Dorado. She wasn't worried about the letter. Her perspective is that they don't respect us as a Commission. Proof is in the putting; if we continue to do the work; fight the fight – that eventually they will see.

M. Benson said that we are not responsible to respond to the police union. The fact that they are generating a buzz around this and that we are even engaging, is problematic. Secondly, it is OPD's responsibility to create a space where people can absolutely – I am certain that there are some opportunities where people want to celebrate some actions by police officers, none of that has anything to do with what any of us are doing here. I am troubled by this entire conversation.

Chairperson Smith asked J. Dorado if he wanted to withdraw his motion? J. Dorado said the matter is annoying to him but he will withdraw his motion.

b. Public Comment

No public comment.

XII. 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

Chairperson Smith asked R. Jackson to give a report. She said that back in March we did a Doodle Poll and we were not able to commit to one date. Over the last couple of months, we have both challenged each other and been challenged by our audience to identify some tools and systems that will allow us to strengthen our team dynamics, our understanding of our mission, and set forth a strategic plan for executing that. We popped up with some different projects and focuses over the six-month period but we need to recognize that a retreat would allow for extraordinary efficiency in defining and designing the culture of accountability that we want to hold ourselves to as well as to make sure that we are being held to. It is important that we reset a date and make a commitment. She knows of several people that can facilitate. Meet for six plus hours. Try and set the retreat before September.

Chairperson Smith will send out another Doodle Poll and hope to get the maximum number of attendees. He asked for comments on the Retreat II.

A. Dooley said she is in favor of the retreat.

G. Harris likes a retreat and asks that we be mindful when choosing presenters. She suggested some grass roots agencies provide these trainings; she appreciates all the training we received, but likes it to come from the community that it affects. She wants to hear and others to hear how it affects them.

M. Benson agrees with G. Harris. We need to get the foundations of what it is to get our Commission in order, the legalities that we are obligated by law to have done, and then there are other types of trainings that many of us have been naming but we haven't yet processed where we come together and talk about what are these grass roots organizations – what are they offering, what do we need collectively. She said it is a great start to have a Saturday; create a larger annual plan that lets us go through the long list of items that we need to have done – she has advocated from the beginning is to receive bids from the community (she has received about ten that can facilitate multiple versions of types of training, particularly folks that are doing grass roots work. interrupting police violence in the community but also folks that do specific equity focused strategic planning, help governing bodies form - Coalition for Police Accountability that has sent us). How will we then choose and create that larger plan? Maybe three or four Saturdays through the year not just before summer ends. Some of these sessions are not just one time sessions. We want to be mindful of divergent thinkers. She suggested a long-term training plan and suggested a formal/not draft plan.

b. Public Comment

No public comment.

c. Action, if any

None.

XIII. Adjournment

MOTION to adjourn (R. Jackson) and seconded (G. Harris). The vote was Aye 7: (Ahmad, Benson, Dooley, Dorado, Harris, Jackson, Smith). The motion passed unanimously. Commissioners M. Nisperos and E. Prather were excused.

The meeting was adjourned at 9:35 pm.