



**CITY OF OAKLAND  
OAKLAND POLICE COMMISSION**

**Meeting Minutes**

**Thursday, August 9, 2018**

6:30 PM

City Hall, 1 Frank H. Ogawa Plaza, Hearing Room 1  
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 (Left early), José Dorado, Ginale Harris, R. Jackson, Mike Nisperos, Edwin Prather, and Thomas Smith. Quorum was met.

Alternate Commissioners present: Maureen Benson and Andrea Dooley.

Counsel Meredith Brown.

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

Thomas Lloyd Smith will welcome and call the public speakers.

Saleem Bey said that the public appreciates the Commission being here and having an avenue to be able to bring things directly from the public. Last week he spoke on IAD 13-1062 and how IAD 13-1062 is not complete. He also sent emails to multiple Commission members after being asked to produce these documents. With these documents, it shows that the police department admits that they still haven't finished in IAD that was opened in 2013 and erroneously closed in 2014. I am requesting of the Commission is that they take this case up and provide independent oversight so that we can actually get to the bottom of this matter. Since Case 13-1062 was closed by the CPRB but sustained by IAD, I think that is even more reason for it to be investigated independently.

Assata Olugbala is concerned with the situation of Joshua Pawlik who was killed in March by the police department and nothing had been made available in terms of outreach to the community to make clarity regarding the incident and what happened. She requested that the Commission consider that situation. The other thing she is concerned about is the Equity Report. The Report is 160 pages. It does encompass law enforcement. Within the pages around law enforcement, is some data that should be of interest to you because the data reflects incarceration rates, it reflects prison incarceration rates, jail and prison, number of stops by police. What is not in this document that confused me is they don't deal with the title of racial profiling. They do deal with excessive force. That confused her because racial profiling is out there not being resolved; excessive force has somewhat been brought under control so they say. I am concerned that you have a document around equity with a serious issue of racial profiling and it is nowhere in this document.

Natalie Cupps regarding Joshua Pawlik. He was a friend of hers. He was an amazing person. She brought extra copies of the story about him if someone would like a copy. He had a hard life due to mental illness and struggled; always had a support network backing him up and always wanted to do better. Then got into a bad situation. Her main concern (she is a registered nurse) - had experience of unconscious people, potential drug overdoses, situations where patients come in with a weapon. combative, and she is trained to handle it. This was a 911 call about an unconscious person beside someone's house. She doesn't understand why it wasn't treated as a medical emergency. I don't understand why the police stepped in and surrounded him with guns before he was even conscious. There was a pistol they could see - but doesn't understand why somebody could not step forward and remove the pistol from an unconscious person. I would have done it for them if I was there. I have done this at work before and it seems like a police officer would be trained in a safe way to step in and remove the weapon. He didn't have to die. I have been to the place where he was shot; we had a memorial. There were bullet holes in all the trash cans where they had ricocheted on the sidewalk; in the trash cans, they were all shot down. There is never proof anywhere that he ever woke up. She is concerned. I am glad that his story is out and that we can bring our attention to him.

Gene Hazzard asked what is happening with Joshua Pawlik? In this article, it speaks that there was a gun but it didn't say that he shot at anybody. Why did it take this number of bullets going into an unconscious individual? If the Chief remains silent, so be it. You at least put forth the inquiry, and you don't do that. It talks about serious offenses; how serious can an offense be? Minimally, you should ask the question on any issue that the public brings to your attention. What the result is remains to be seen; minimally ask the questions.

Cathy Leonard, Oakland Neighborhoods for Equity and Coalition for Police Accountability. She is concerned with the OPD and hasn't seen any change in policy. This man that we heard about, Joshua Pawlik, was mentally ill, shot and killed by three police officers who had rifles. They unloaded a fuselage of bullets upon this man who was down and unresponsive when he was shot. She held up a picture of an officer, resident took a picture of him sleeping in his patrol car - is that what we are paying OPD officers to do? On July 24, she participated in the vigil of Nia Wilson, teenager who was stabbed along with her sister and murdered by a white guy. She went to the vigil and is curious to know why the OPD would assign two officers who had previously shot and killed black men be placed on duty at her vigil. These two officers, Officer Patrick Gonzales and Officer Nicole Rhodes. How callous, how indifferent to the community that the OPD is supposed to serve. Think about the message that you are sending to the African-American community. We know who these people are. Why would you have them on the front line at a vigil for a teenager? OPD constantly talks about how it wants to build community trust. We hear at these meetings; we hear it every month at the Community Policing Advisory Board meetings - is this the way to do it? I don't think so. On August 3, a respected member of our community, Najari Smith was arrested by the OPD. He was on a youth ride on first Friday. He was approached by a police officer, hand cuffed, sent to Santa Rita for two weeks, his crime was playing music while bicycling. When is the department going to stop terrorizing the community it is charged with protecting? She urged Chief Kirkpatrick to take advantage of the opportunity to change this department; be bold, be a different Chief, make real changes. Until then, we are going to keep returning to these meetings, informing this body about the latest wrongdoings of the OPD. Our tax dollars will continue to be wasted on court monitoring fees, on Dr. Eberhardt, and on lawsuits. Let's get it together.

Sarah Taylor, East Oakland Collective, expressed concern and is here to make the

Commission aware about the important evidence of the treatment of homeless residents. The number of car sleepers is rising in Oakland because of the housing crisis. It is harder to track. With the vehicle being their only shelter, we are concerned by the rising rates of stories of evidence of vehicles being towed by the OPD. Gathered from testimony, it appears that tows are primarily for expired registration – I would like to note that her registration as a white woman and owner of a Toyota Prius has been out of date for six months but I have yet to receive anything. Some data in East Oakland on the number of cars towed so far from our servers are five cars towed from 45<sup>th</sup> Avenue, one car towed from 62<sup>nd</sup> Avenue, questioning and harassment of residents along High Street and at Home Depot, five cars and RVs towed along San Leandro Boulevard. The impact of these tows includes one black woman who has had her car towed five times and is now forced to sleep in a tent; a black senior citizen who I know well has had her car towed twice and is now sleeping in a plastic chair outside with no shelter; one car towed belonging to a young black man on 62<sup>nd</sup> and 63<sup>rd</sup> Avenues, who is now forced to sleep on the street as all the shelters are full and now is unable to see his child. We would like to request that you explore with the OPD issuing verbal warnings and/or no fine fix it tickets before towing cars – that is unacceptable and allowing them some time to fix registrations. We are out in the encampments talking with them almost daily. If they have time, we are happy to support with that. We also request that the OPD release to the Commission the data on the number of towed vehicles that are belonging to an unhoused person and if they are not collecting that data, we suggest that they do.

#### **IV. Approval of Draft Commission Meeting Minutes for June 28, 2018 and July 26, 2018**

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

##### **a. Discussion**

A. Dooley does not have any specific comments on the content of the meeting minutes – suggested a balance between not enough information and too much information; 17 pages of minutes were too voluminous to go through, particularly because we have video recordings of the meetings.

R. Jackson echoes A. Dooley's comment. M. Nisperos agrees. T. Smith said that he is happy to assist in downsizing the minutes.

G. Harris reminded the Commission that these minutes are because the public asked for them to be this way. In reading the minutes, I know it is hard to get through them, but there are a lot of things left out that she thinks are important so we shouldn't be picking and choosing what goes into these minutes because the public asked for it.

J. Dorado referenced Page 5 (Minutes), last paragraph, Line 10 – Corrected to read: Insert (**World Trust**) after Ginny Berson.

R. Jackson concerned that it seems as if there is a perception that we are not asking questions during Open Forum because we don't care. It is because we have been directed not to; we are to take in the information. T. Smith clarified that is correct.

Counsel Brown reported that the Brown Act requires that the Order/Commission not have a conversation back and forth because the purpose of the Brown Act is transparency and if there is going to be a conversation, it has to be agendized so people know that it is going to happen and can show up so that there can be clarification but there is not a conversation or discussion because that would leave people out who didn't know that there was going to be that conversation. That is

why I have asked the Commissioners not to have a conversation back and forth regarding Items that are not on the agenda. Open Forum can include any items that are within the subject matter jurisdiction of the legislative body so there is not a limit on what people can bring other than the subject matter jurisdiction of the Commission. The Commissioners themselves should show restraint and not get into conversations otherwise they violate that open meeting transparency principle of the Brown Act.

b. Public Comment

Saleem Bey regarding Chief of Police nothing is stopping her from writing down this case number IAD 13-1062 of going and finding out who is it that is responsible for finishing IAD 13-1062? What is the actual status of IAD 13-1062? Find out why the City is sealing this from the public. IAD 13-1062 was sustained against the department as a whole according to the police department. If it was sustained against the police department it should not be sealed from the public.

Gene Hazzard the intent of my comments for you after hearing what the public has said to then discuss immediately afterwards to agendize this item. That is all we are asking.

T. Smith asked Counsel Brown what is the ability of the Commission to discuss something like this which is still ongoing in terms of the investigation? Counsel Brown asked is the question can the Counsel discuss something that is under investigation or can the Counsel request more information? T. Smith asked what is the scope of our ability to engage in discussion around this and ask questions of the Chief, etc.? Counsel Brown reported that the Counsel can ask for updates. If there is a matter that is an ongoing investigation, the police department has counsel that will caution the Chief not to about things she can't talk about. If the Commission wants updates or wants a report or wants information that is not otherwise privileged, then you can ask for things that don't violate any type of privacy rules or any type of the rules related to the confidentiality of investigations. What I would say is that formulating the question would be part of the task. Figuring out what you can do to keep apprised of the issues that are within the subject matter of this Commission and then also being responsive to what the public wants to hear, would have to do that on a case by case basis to make sure that you are staying within whatever parameters would be applicable so that you don't undermine the investigation.

T. Smith said the topic is still the Minutes.

A. Dooley would like to note that this is a discussion that we can have on Item 10 on today's agenda. Part of that conversation will be how to move things to the agenda.

T. Smith asked for further discussion on the Minutes.

G. Harris clarified for the record that Ms. Brown does not work as a City Attorney; she works for the Commission.

G. Harris said that there are two sets of Minutes. She has a concern in regards to the July 26 Minutes. Mr. Bey came for the first time to our Commission meeting and approached us with some very serious accusations that are not captured in the Minutes. She would like them to be captured.

T. Smith said that you must let us know what is missing. G. Harris said that there is

a section where Mr. Bey spoke about CPRB closing a case – he made several accusations about OPD and he made accusations about the CPRB. She would like that to reflect in the Minutes. Everything else reflects in there except for that; she went over the video and read the Minutes.

c. Action

MOTION (G. Harris) to approve the June 28, 2018 Minutes subject to the correction and seconded (R. Jackson). The vote was Aye: 6 (Ahmad, Dorado, Harris, Jackson, Nisperos, and Smith); Opposed: 0; Abstained: 1 (Prather). The motion passed.

MOTION (G. Harris) to amend the July 26, 2018 Minutes and put in Mr. Bey's comments/accusations to each Item he spoke and seconded (J. Dorado). The vote was Aye: 7 (Ahmad, Dorado, Harris, Jackson, Nisperos, Prather, and Smith). The motion passed unanimously.

**V. Oakland Police Department Report**

a. Discussion

Chief Kirkpatrick reported that she will be answering the questions in categories. She will be answering the first four questions that the Commission presented. Chief Cunningham will be addressing the Swanson questions that you presented to OPD.

(1) How much influence does this Commission have over the scope of work for the contract? Chief Kirkpatrick stated that with respect to that as you know the contract was already passed and in terms of the scope of work, that is then between the City Administrator's Office who has oversight of the contracts and negotiation then with Dr. Eberhardt. That would be how and where it is today.

R. Jackson said that I believe that then I asked a very specific question around penalties if the work is completed early. Chief Kirkpatrick said she does know that from last year's contract, she drew down \$150,000 (from \$250,000). It was about liquidated damages and she does not remember the specific wording she used. If you do not know the answer now, can you come back to the Commission with a response and the Chief said she could.

(2) To what degree can the Commission modify the scope of work for the contract? Chief Kirkpatrick stated the Commission should be able to weigh in and give comment and then the negotiations are between the City Administrator and Stanford. Would you be able to give comment – yes, you can give comment.

(3) Can the Commission or OPD have Dr. Eberhardt track the amount of fines affiliated with racial disparities in police stops? Chief Kirkpatrick reported that we had a similar question that was asked of us by Councilmember Kaplan. It was on September 15, 2017 that we gave a response back on an agenda report associated with the issues with fines. Councilmember Kaplan had asked us about racial inequities in traffic enforcement. At that time, we did try to get that information but it is within the Alameda Court that has control over that and at the time we were trying to determine the fines in response to Councilmember Kaplan, the Court would not give us the fines. We were able to report back how many tickets were given and we had that type of information but with respect to the fines themselves,

we do not have it aggregated out and as I understand the court or the county would not give us that information. The aggregate amount of fines that were paid for traffic was \$133,554 that OPD received in fines.

G. Harris thanked the Chief for trying to obtain the information. Being a former court clerk, I know that you can go to the COO and ask them to come up with that information for you. Chief Kirkpatrick said that she will follow up and give you a report back. The Commission has oversight on policies in regards to OPD but in regards to information gathering that the City of Oakland is paying for, where did you get the information that says we can comment. Was that given to you by the City Administrator, City Council, or where did that come from? Chief said that came from their legal counsel. G. Harris asked Counsel Brown if that is correct. Counsel Brown reported that the short answer is yes. We started with Measure LL which gives the Commission the authority to comment on policies and that is part of what the Eberhardt contract is doing is gathering data because to make informed decisions regarding policies. If you look, there is nothing in Measure LL that talks about contracting authority but the topic of racial disparity and enforcement that sort of thing is what is part of the purpose of the Commission. So, on those topics, you can make comment because it would be a natural progression that you would talk about those subjects and that you would give those recommendations to the Chief of the department. Those issues are the issues that are pertinent to this Commission. You don't have to have contracting authorities make a recommendation; you are making a recommendation on items that are within the purview of the Commission.

M. Nisperos said that the difficulty with this contract was that it was already done so it is hard to comment after the document has been executed. One of our responsibilities will be oversight of the OPD's budget. Once we become familiar with the budget, we will see these things coming down the pike and seeing them being budgeted for future expenditures. Then we will be able I think through our questioning and working on policy with the Chief to help fashion our concerns into those contractual relationships.

Chief Kirkpatrick said she wants to be careful in how she talks about contracts because it is not her area in which to engage. This is her understanding – The Council approved for the City to enter into this contract. They are presently working in the negotiations of those terms of the contract. She is not in that. That is between the City Administrator now and Stanford. What is completed is the fact that the City Council has approved that they can go into a contract and that is what is being worked on.

M. Benson said that if negotiation is still happening I am wondering if we can have the City Administrator flesh out what it is what we expect and the type of data we are looking for.

(4) How can we track the outlier officers who repeatedly profile and track their levels of accountability? Chief Kirkpatrick said the framing of the question is the call of the question would be racial profiling and how many officers get complaints or associated with racial profiling. That is tracked through Internal Affairs ("IA"). To be complained on is a complaint through Internal Affairs. Risk Management is a totally different system that is not associated with a discipline process. We do track if and when an officer receives a complaint for racial profiling via IA and we can also look to see if there are repeat officers named for racial profiling. It is a two-prong approach to that.

M. Nisperos asked the Chief if you are tracking officers who are issuing large numbers of tickets to minority members of the community whether or not

complaints are being filed. Chief Kirkpatrick said yes, that is the Risk Management side. The tracking system we look at and track every single stop by every single officer and then do an analysis on that and that is where we have benefited so much from our relationship with Dr. Eberhardt and the Stanford team behind her to look at that data and to learn what is that data indicating and how do we correct those disparities. We do track it in the Risk Management side and then the complaint side would be through Internal Affairs. M. Nisperos asked am I correct that Risk Management tracking is what is being merged into what you are calling PRIME and will be up next year? The Chief said yes, those systems are connected and inter-connected.

M. Benson mentioned that she was shown without officer's names how that tracking system worked and she was quite impressed. I am hoping that we can look at the processes that the Chief is using to be able to track these officers. She asked a clarifying question - These complaints that are coming in through IA -Firstly, is it every single time that the CPRA is notified about those complaints, so the numbers that CPRA has should match the same amount of numbers that IA has? Chief said yes. Mr. Finnell and the IA Commander make sure that those are tracked back and forth between the two agencies. Maybe we identify police officers and give them numbers and could be doing that on data analysis in house. Second clarifying question - It is still process and procedure that IA is a bit of a rotating cast of officers in house? The Chief said that it is a concern that she hears a lot from the community whenever we must rotate commanders. Just to give you again an understanding of her situation - when she rotates a commander, is typically because someone's getting promoted and once that promotion rolls up, then she has vacancies. Those vacancies end up where she needs to move and shuffle the commanders around because she has these roll ups or roll downs or maybe she has someone who is going to be out on a long term and needs to fill the spot. That is the situation.

A. Dooley asked does the police department have civilian human resources professionals that are nonsworn officers? Chief Kirkpatrick said that we do indeed have a whole professional staff that are personnel team, manager, nonsworn person and have been in that role for many years. They do not tend to rotate through. With respect to what you are talking about within IA, no that is not in our system. Dooley asked HR professionals that are overseeing personnel, what is their relationship to whoever is over in IA? Chief said the IA Commander is a direct report to her, which is a common structure - IA does not answer to another commanding rank officer. With respect to tracking timelines, they must complete an investigation within the one-year mark. We give the goal that they complete an investigation at the 180-day mark, but there is no discipline if they don't hit the 180-day mark. It is a goal. There are legal consequences for not finishing an investigation by the 180<sup>th</sup> day. Because we are still under federal oversight, we answer to the federal team on all the documentations and they follow it very closely.

(5) How can we more closely examine the tasks that are incomplete? DC Armstrong reported on tracking of the Stanford recommendations - we are required monthly to provide an update to the independent monitoring team regarding our progress on the Stanford recommendations. In each month, we are to give them an update. We also are required to report to the federal judge a date when we must go in front of the judge for a CMC meeting we also must provide the federal judge an update on the Stanford recommendations and expect the completion of the open recommendations. Our last court date in June, we had to give the judge an update on all 50 recommendations and what our timelines would be for the completion of those recommendations.

G. Harris asked in regards to the complaint about the racial profiling. He said the work that we are doing with Dr. Eberhardt is helping us to understand how to think and look at the data and use it in a way so that as an organization we can implement policies and practice that help better inform our officers to what you mentioned. Everybody has biases. Prior to Dr. Eberhardt coming, we did not have that training. The department has a better understanding of implicit bias and where it comes from is a help so that we can have those discussions internally. To the Chief's point, we are police officers by trade and when it comes to research and understanding how data should be reviewed, how data could help inform how we can create policy or practices that might change the way we do policing – that is where Sandford is very useful to us because they are showing us now that you have this data in front of you, here is how you need to look at it, examining your officers, look at certain ways in which you are policing and see if your strategies can change in order to reduce the disparity in who you stop, the number of stops you make, etc. From that standpoint is where we see the greatest benefit in terms of better understanding how to utilize data. DC Armstrong said that we often say that we as a police department are examined in our practices. I have been here a long time. We policed in a certain way. As we look at the data we are examining the way we policed before and seeing if there are better ways that we can police now. Looking at the data, it allows us to better understand how we can implement new practices to better impact our police officers, our policies and then have less of a negative impact on the community. That is what the data is showing.

Chief Kirkpatrick said what Dr. Eberhardt has helped us to see is that by resetting our thinking she has been able to say and say look at your policy on handcuffing, your policies on asking about probation and parole. That is pointing to that institutional impact. That is the benefit. Prior to having those outside eyes to come in and say have your thought about looking at that and as for your institutional racism gets rounded and routed, that is the benefit. Racism is not just a matter of reducing disparity – it's a matter of eliminating any kind of racial profiling, it is unconstitutional/unethical. We hear you. I embrace it. I understand that. That is what the academics have been able to come in and give us new life.

R. Jackson said what I recognize is that we can often get caught up in this tinman approach. All head no heart. When you are looking at data clarifying this kind of information, what we are not talking about is how we affirmatively shift the culture and you can't teach culture in the statistics, in the data. It is supposed to come from leadership, to be intentional, and be a way of thinking which then flows down to a way of doing. I am very interested in understanding, not necessarily Eberhardt inputs. How does this flow to shift the culture of how policing is done?

Chief Kirkpatrick said our goal is anybody who is in the top leadership of this department, must be on board with the understanding that transformation is the goal. Transformation is the heart and the mind.

R. Jackson said she still thinks that foundations and expectations are what directly inform culture shifts but what I would like to ask for is we are changing – I want to know how? Like every month I want to hear how you have recognized a shift, a change so that we recognize that it is no land of Oz but as we are moving toward, taking that journey, I would like to have you demonstratively explain how we are seeing change. Chief Kirkpatrick said she will leave you with one and we can go to any of the stats that you would like to – but stats measure change. I gave you an example of our use of force has dramatically dropped 75% over the last four years. That is an amazing amount of fruit on the tree of how officers are no longer going to force as a first option and that the use of force and de-escalation is showing to percolate within our police department. That is just one example. There are

changes.

M. Ahmad asked when you say you are making transformation, when you recruit people, how many of the people are educated aside of just a high school diploma and possibly no felonies. How many of them have education (been to college)? Chief Kirkpatrick said that she has stats and did not bring them today. Most of them have college backgrounds. In the end, I think that education is important, but I am looking for men and women of good character, not power hungry, understand and want to be invested in this community. She holds a bachelor's, master's, a law degree, and is a licensed attorney. She has an appreciation for education but she will take a man/woman of great character over any degree any day.

R. Jackson mentioned that use of force is drastically down. How has this happened? Is this the 25% all in one? Chief Kirkpatrick said this is an open investigation and you know I can't speak to it. R. Jackson said when we talk about use of force being down and have unconscious people being killed, that is a problem. Chief Kirkpatrick said that you do not have all the facts nor do I until this investigation is complete. R. Jackson said that unfortunately we have a history of facts that aren't explainable around use of force.

J. Dorado shortly after you came on you were kind enough to come to his office and meet with the Latino Task Force. We appreciated that. If you recall, one of the things that you recounted was that you had been a member of nine different police departments and that you were known as the change agent. My response to that if you recall was that the culture in OPD does not need to be reformed, it needs to be destroyed and rebuilt from the bottom up. My point is that a big part of that building from the bottom up is what you cited in terms of the recruits that being people of good character. People of good character will not hesitate to say something if they see something. That means that if in fact there are people of good character, and there are in OPD, they will not hesitate to say that one of their officer's is doing something wrong. Sometimes criminally wrong. I would like to know, and the Commission would like to know, on a regular basis how many incidents there are of OPD officers of good character stepping forward and saying this is wrong and I am going to report it because I am going to honor the badge by doing that. Chief Kirkpatrick said I came here because I do believe in this police department. I think this department is one that I am very honored and very proud to be their Chief. I will stand for this police department each time, make no mistake of that. If there is a problem in this police department, I will call it out. I will deal with it. This is my eighth police department, not my ninth. I am a change agent but I will tell you that the Oakland Police Department has all the makings to be the super bowl champs of any police department in this country or I would not be here. I want to bring it to a place where you will be very proud of your department and supportive; I know I am.

(6) What is the plan for ongoing assessment and maintenance once these tasks are checked off? To remind you, it is the police department's Office of Inspector General. We do have a Lieutenant who serves over that role as the Inspector General. Under her leadership she has several employees, most of them are perpetual staff and they have the responsibility to audit as well as making sure that we accomplish and stay on task that once we hit compliance, we remain in compliance. We don't revert.

(7) The very last question that you asked that we come back to was to respond to the Swanson status on some policies that are in your purview right now to comment on. Chief Kirkpatrick said that the Commander over our Criminal Investigation Division, DC Oliver Cunningham, will address the nine outstanding points under these two policies that you are inquiring about.

DC Cunningham spoke about the nine Swanson recommendations. He reported that in April, Tim Birch, provided two copies of the Policies (611 and Training Bulletin V-T.1). Policy 611 deals with criminal misconduct by employees and Training Bulletin V-T.1 deals with internal investigations. Regarding the Swanson Recommendations, we promised the court that we would implement all nine Recommendations of which I have them listed – I will draw reference to them and try to cite some of the language changes if you have the documents in front of you. T. Smith said that we have the documents in our Agenda packet (Items 5a, 5b, 6, 6b). DC Cunningham gave a brief narrative of each recommendation.

Chief Kirkpatrick gave comments relating to the Policy.

E. Prather thanked the Chief and DC Cunningham. He said that this is the Policy you fully support, the Policy that you believe is transformative in your department, and this is the Policy you believe will fix the problem. Chief Kirkpatrick said yes.

G. Harris said that reading the Policy in depth brings up several questions. For her this Policy has the police policing the police. We have done that for as long as the police have existed. When an officer who we hold to a higher standard than a civilian has sexual relations with a minor, not only should he be fired on the spot, but he should go to jail and register as a sex offender.

R. Jackson said when police officers break laws, they should have double the responsibility because they know what the responsibility is. If they disregard it, then that is two-fold. There is no pass for our officers. When you all step forward to get trained to protect the citizens of the city, you cannot expect that you can be excused from certain kinds of behaviors especially the trauma enforced crisis of impacting a young person. This gets us half of the way but not all the way. She stated that more accountable language needs to be put into the Policy for it to put forth a believability factor in community people.

Chief Kirkpatrick said that these Policies are in the Commission's purview now; you have until August 21 to come back to the department. This is your role and your opportunity.

b. Public Comment

Lea Baken said she heard Chief Kirkpatrick talk about the kind of officers the department is looking for. She knows that in the Academy they have new black officers, don't like black and brown people. One I have personally heard say I know this place is f\*\*\*ed up but if I can wear a uniform, I can bash heads and not be held accountable. I asked, why do you want to be a police officer? He responded with that same response again. There are a couple of them that are not there to protect and serve. She witnessed out of her window a police officer pulling a homeless man up by his leg near the 13th Street Post Office. I know that not all police officers are bad; we have those rotten ones that need to be taken care of sooner rather than later and not wait until they are out of the Academy and on the street. T. Smith asked Ms. Baken to speak with Chief Kirkpatrick and to stop by and speak with Mr. Finnell regarding the homeless man incident.

Terry McClain, Coalition for Police Accountability – If there has been training in the police department and most of those that are stopped are black and brown people, I need to understand what exactly is the training that they are getting. Because of all this training, why are we still hear that black and brown people are still stopped more often than anybody else? Maybe if we can come back and get

that question answered.

Rashidah Grinage the Coalition had a meeting and we started thinking about solutions. We are going to start working on what we think are some viable courses of action to address racial profiling and racial disparities that continue daily. By the way, the training in implicit bias did not just start when Dr. Eberhardt came here. As I said last time, I attended along with Oakland and Berkeley police officers a training in 2010 on implicit bias. This is not something that we just learned about and it is going to take time. This is at least an eight-year exposure to the idea that we all have biases. I want to urge you to keep digging; not settle for rhetoric (transformation) – what does that mean to an organization? Commissioner Jackson because she has her own organization understands very well how meaningful change, substantive change happens. We need to start drilling down on that idea because data and analysis takes you only so far - at the end of the day, what are you going to do differently in your organization to get different outcomes? This is not rocket science and there are people who do understand organizational change. Let's start looking at best practices and how organizations change their culture. Let's start drilling down. No more rhetoric – it is not going to cut it.

Carolyn Burgess gave comments. She is confused. I think that you are very intelligent up here but what I see happening is that we're thrashing people rather than figuring out how to help. What needs to be done that isn't being done? Ms. Grinage was right on. You have the information, maybe that will help. Why are things not getting done? Let's work together.

Bruce Schmiechen, OCO and Coalition of Police Accountability, regarding the bottom line being accountability, consequences – something must happen to people who do not reform and then their thinking will change.

Cathy Leonard said she wants to see accountability. You can get people to change – hit their pocket book, affect their careers – fire them, refuse to promote them. That is how you are going to get change with the OPD. Stop hiring officers from other departments who have committed crimes. Why are we doing this?

Lorelei Bosserman, she wants to see transformation. In summary, we need accountability and not changing hearts and minds (we have been counseling and training people for years).

Sarah Taylor to get to the policy of the Swanson Report, someone must want to report. This is not a sex scandal; this is a sexual assault, a rape of a minor. The violation of young women/girls. This has been going on for too long; unacceptable. The Swanson Report is great on paper but how is anyone going to get to enacting the Swanson Recommendations if they aren't feeling safe to walk into a police department to make a report that a police officer has sexually assaulted them. She supports the Commission and asks that there is a culture change that dismantles the rape culture that exists in the OPD.

Assata Olugbala stated the purpose of the Swanson Report was to fix the fact that an investigation related to the sexual acts of police officers. That investigation was a cover up to protect officers and the Swanson Report attempts to eliminate in the future investigative procedures where fellow officers protect each other – the blue wall of silence. That culture must be eliminated. The Eberhardt contract came up in Public Safety and it was denied because it was felt that Dr. Eberhardt's performances, etc. needed to be brought forward before they approved a contract. It was based on the fact that the racial profiling that was going on in the police department hadn't changed that much so the data January 2014 to December 2014.

had 27% African Americans (19,000) stop data; 2016-2017 it was 62% (20,000) – an increase. It is not people of color; it's African-Americans. The next group was 18% Hispanics in 2014; 2016-2017 Hispanics was 20%. It is African-Americans. When you need to say people of color, say it. But when it is African-Americans, let's make it clear. So, the Eberhardt issue she has with her is that there has been no change. Another thing, the City Administrator has the capacity to approve contracts after \$250,000 without going to Council. Last year, beside the Eberhardt contract had, the City Administrator gave her a contract for \$150,000. It was never explained for what purpose. They are saying they must have this contract – she has already got \$150,000 for some unknown reason. We wanted to have that explained at the Public Safety Committee meeting but they had people there, etc. who wanted to rush this contract through with no accountability, no transparency on what's going on. I hope that you pursue having her come before you, having it being dealt with, and clearly the Swanson Report says the police do not have the capacity to police themselves. She mentioned Ms. Guape - They did not report to the City Attorney, District Attorney – this child, they undermined her, the investigative procedure was the worst of it, and attacked her.

Saleem Bey he would challenge the Chief's character by her very first action when she became the OPD Chief – she promoted the officers who were associated with covering up that report. They were involved in that report. It shows that OPD still has a failure of fail upward promotion system. If you are going to fail upward, then the people who you replace afterward are going to have to be failures also otherwise they will break that chain. I would like to say - please look at Page 28 in the Swanson Report. It says that the police department as well as officials have a fiduciary responsibility to report criminal acts or known criminal acts but acts that may have the potential to embarrass the City or OPD. All these things apply to 13-1062 as well as the Swanson Report with failure to notify.

Gene Hazzard regarding looking at the Swanson Report, it further concludes that the City failed to take necessary steps to examine these deficiencies. That is why these steps were not taken before the court got involved. First OPD's initial investigation was wholly inadequate – but the deficiency of the investigations were shielded from review. It took court intervention to cause OPD to investigate the allegations against its officers thoroughly and properly. We can no longer allow that to occur. Liquidated damages equal to consequences. You make them high enough so they don't repeat the same. You don't give promotions where the people are involved in covering up and they need to go to jail. In the civilian world, they will go to jail; they are crimes. This is misconduct of people who think they are above the law. He suggested that the Chair and Vice Chair should meet with the City Administrator to see if you can help craft the scope of work – nothing precludes you from doing that; if the City Administrator doesn't come in, then you go to her.

Jasmine said that she doesn't have faith in the Swanson Report. You know they are all going to cover for each other like they have been doing. They will continue to do that and get promoted. I don't see things changing. It's a real slap in the face. I have to walk around Oakland a lot and it seems like the same officers who have violated are smirking at you like they got away with it. I see this continuing unless real consequences are handed down and it needs to happen. She thanked everyone for asking the right questions and to continue.

c. Action on formal recommendation regarding Eberhardt contract, if any

None.

**VI. 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. The due date for modification or approval of OPD Policy 611 is August 21, 2018.

a. Discussion

T. Smith said that E. Prather will take the lead on this Item. E. Prather said we are here to talk about Policy 611 which we discussed previously and had feedback from the police department as well as was identified – this is the third time this matter has come before us.

Counsel Brown reported that the Commission has 120 days and then if there is not a comment, then the Policy can go forward but I would like to do is give the exact citation – I have read it in here and I would have to look at LL and the Enabling Ordinance to make sure I am giving you the right citation.

Counsel Brown said it’s in Measure LL. Our Ordinance has how it is done. What can be done is in Measure LL. It is in the Charter. It is Number 5. Counsel reported that if the Commission does not approve or reject the department’s proposed changes within 120 days of department’s submission of the proposed changes to the Commission, the department’s proposed changes will become final. If the Commission rejects the department’s proposed changes, notice of the Commission’s rejection together with the department’s proposed changes shall be submitted to the City Council for review. If the City Council does not approve or reject the Commission’s decision within 120 days of the Commission’s vote on the department’s proposed changes, the Commission’s decision will become final.

T. Smith said that at this point we have given some feedback at prior meetings but the feedback is not encompassing what everyone feels about the Policy. The initial feedback that we gave was only on notice and they responded to that feedback and did not change the document much but included the notice. At this point, is there new feedback that we have based on the third time we are looking at this?

M. Ahmad suggested we make a motion to reject it.

G. Harris said the document (Item 6) is four pages – why can’t we do it now with the public’s input? T. Smith said it is the third time we have seen it and why not do it now.

E. Prather said even though it is not perfect, it is an improvement over status quo is to approve it with comment and to take it up at our larger Policy consideration. Further discussion ensued pertaining to the Policy.

b. Public Comment

Cathy Leonard said if there are substantive changes to be made, you need to do your due diligence. I thought you had a Policy Analyst (Juanito Rus). Is he working on this? You need to have your staff. You have full time jobs. We are here to support you.

Gene Hazzard said the Council has the final say. Consider Commissioner Ahmad’s

motion to reject the document. Stall for time.

Assata Olugbala said that when she read the Recommendations as mandated by the court with the Swanson Report giving them the details of what they needed to do, they have complied with that. It is not about the behaviors; it is about the investigative procedures that they know must go through to make sure that they don't cover up. They have done that with these Recommendations. I would not be protecting them if it wasn't so. You have a lot on your plate. You are spending a lot of time on something for which you don't have to go there because the courts are going to review this with Swanson and if it is not right, they are going to send them back. Swanson is good in identifying the wrongs in the police department; I have a lot of trust in him. Listen to this counsel person and my concern is with what Mr. Hazzard said – in the future, no matter what you say it goes to the Council and the Council makes the final decision to approve or reject policies. Don't kill yourself with this one.

c. Action, if any

MOTION (M. Ahmad) to reject the Policy document and there was no Second. The motion fails.

MOTION (E. Prather) that the Commission approve Policy 611 in its current form that has the notification edits – Chair of the Police Commission, Executive Director of the Community Police Review Agency (CPRA) – in Section 611.8.1 and Section 611.9(g) and seconded (M. Ahmad). The vote was Aye: 6 (Ahmad, Dorado, Harris, Nisperos, Prather, and Smith); Opposed: 1 (Jackson); Abstained: 0. The motion passed.

**VII. Recess (6 minutes)**

**VIII. Executive Director Recruiting Process for the Community Police Review Agency**

The Personnel Ad Hoc Committee will work with the Commission to define the Executive Director recruiting process including the candidate evaluation template.

a. Discussion

T. Smith asked M. Nisperos to give a report. M. Nisperos reported that an additional 12 new applications and out of that 12, there were 5 or 6 repeats to add to our prior total. We have all been reading them and sent his recommendations to the Personnel Committee. We have a meeting scheduled in the week of August 20 with the Director of HR and representative of the City Administrator's Office. The City Administrator will make the final selection. We all received an email from Commissioner Benson regarding excellent recommendations that she got from NACOLE.

The Commissioners discussed the hiring matrix (Item 8) and will be moving forward.

b. Public Comment

Assata Olugbala said she spoke to the attorney and Measure LL/Ordinance specifies that you must form standing committees with the approval of Council. She

explained that you are okay with what you are going through. She appreciates all that you are doing but the bottom line for her is that once these people get hired, once they say the act was justified, was lawful and proper, that there was sufficient evidence, I want to know how you came to that conclusion. That has been a historical piece around the CPRB when they were doing the work – how did these investigators conclude and the finality (Sustained, etc.). Go through this process but at some point, we must come up with a way to hold these investigators accountable for their final decisions.

G. Harris said that was something we have been working on as well. How did you come up with that process? Mr. Finnell has been working with them so they can learn about the process. Counsel Brown stated that Ms. Harris was speaking on an agenda item and not responding to public comment.

c. Action, if any

None.

**IX. Analyst II Selection Process and Placement for the Community Police Review Agency**

Stephanie Hom will report to the Commission on the Analyst II selection process and placement timeline.

a. Discussion

T. Smith stated that Stephanie Hom sent him an email that she was unable to attend tonight's meeting and he was hoping to get an update/report from her.

T. Smith asked Counsel Brown to outline the process that was current after the last Enabling Ordinance for us to get our Analyst position. M Brown reported that the process is in Measure LL that is what has the authority regarding hiring for the Agency staff and Director (Budget Staffing E4) and she read the item aloud.

G. Harris said that she wants to put Counsel Brown on notice that she has been requesting information in regards to the hiring process for the Commission's Analyst II on several occasions and have also sent a notice to our City Administrator that she is in violation of the ordinance and the charter in regards to hiring the staff of the Police Commission. I keep asking and we are not getting. She is not here tonight and she does not send a representative. Counsel Brown said that she will accept that as a request for help.

T. Smith said that he has the email/letter that he received from Stephanie Hom today which he read aloud – she is unable to attend the meeting but the City Administrator's Office is currently in the process of scheduling interviews with candidates for the Administrative Analyst II position that will help support the work of the Police Commission based on civil service personnel rules in the MOU with Local 21. The City Administrator will first consider candidates from a restricted internal eligibility list of HR Management Department before considering candidates for an unrestricted external eligibility list. Interviews will be taking place within the month pending on the outcome of place will occur shortly thereafter. Richard Luna, City Administration Analyst, will be serving as the City Administrator Liaison to the Police Commission as the Police Commission identifies specific work, tasks, and assignments that need to be completed through the City Administration. Please communicate tasks to Richard and he will work to coordinate the resources needed to complete tasks. Examples of administrative

work, the police commission may wish to include and she then gives some examples. T. Smith said that based on the letter he got this afternoon, we can expect probably another month or longer before we receive our Analyst.

G. Harris clarification – She is in violation. The Commission should be fully staffed by now. It is taking months and months. She thanks him for helping the Commission. She wants this on record.

M. Nisperos that the Chair notify Ms. Hom that it is our perception that our liaison will do more than just greet us at the door and leave and that he will stay for the entire meeting and hope that you convey that in a civil tongue.

Further comments were given by Commissioners.

b. Public Comment

Rashidah Grinage said that this is unacceptable. You need to give a deadline. We looked for the job listing on the City's website and it is not there. It was never listed to begin with or was listed and it closed. Either way, based on the letter the Chair just read, it seems they are in the final stages of selection. It is not telling how many interviews they will do. Our Coalition is going to raise the temperature on the City Administrator's Office because it is unacceptable and shouldn't be tolerated. It might be time to go to the Press and get some public awareness because it is not fair to you. The community stands with you and strongly recommend to the City that you demand a date certain by which you will have your Analyst.

c. Action, if any

MOTION (R. Jackson) that we demand that there be someone hired and in place by September 15 and seconded (T. Smith). The vote was Aye: 5 (Dorado, Jackson, Nisperos, Prather, and Smith); Opposed: 1 (Harris); Abstained: 0. Commissioner Ahmad is not present. The motion passed.

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

The Ad Hoc Committee tasked with updating the Commission's Rules of Order will report on its progress and recommendations to the Commission.

a. Discussion

T. Smith asked E. Prather to speak and get the whole committee involved. E. Prather reported (Committee members Harris, Nisperos and myself) on several occasions discussed Item 10. We are not asking that this Item be approved and voted on this evening. We do have edits to this language. Counsel Brown has suggested some edits – not substantial in content but substantial in volume. We would like to resubmit the document. We also did create the form which the Rules do reference but that was not included in the Agenda Packet so we would like to have the language and the form to be voted on the same time and that this Item be included in the next meeting. In the interim, what the Ad Hoc Committee has put together is a new process for agenda items and what we would like to do is take the burden off the Chair to keep these items on a running basis and make it more accessible to the public. We would like to create a form that is for agenda suggestions. Unfortunately, you can't see the form because it was not included in the Agenda Packet. He reviewed the form, etc. with members.

Commissioners gave comments.

b. Public Comment

Assata Olugbala asked if anybody reviewed the Rules work for the City Council. They set the agenda for the City Council. There is a collective process of how the agenda is set and suggested looking at how that is done. She appreciates so much detail of how you are going about this but you have a lot of work. A part of setting the agenda that the Rules Committee does – mandated things that must be on the agenda and selective things that people come up with. You have a lot of mandated items. The list is eleven, some of the items that are mandated. She suggested that the Commission set the agenda items for the mandated ordinance required agenda items that you must be prepared to address and it is a lot.

c. Action, if any

None.

**XI. Training: Discipline Committee and City of Oakland Employment Policy and Procedures Training**

The Commission will discuss scheduling Discipline Committee training and training on City of Oakland employment policies and procedures.

a. Discussion

T. Smith said that he reached out to the City Attorney's Office (Ms. Dibley) for training dates and times. Counsel Brown spoke with them this week and reported that they should come back with those shortly. Ms. Dibley has identified the people that will be doing the training and you should be getting the dates soon. When the dates come out, her assistant will help coordinate dates and it doesn't cost anything.

T. Smith asked Counsel Brown if she wants to talk about the training for the City of Oakland Employment Policy and Procedure Training. Counsel Brown reported on the training and said that it is important to know those rules and it is a training that can be done in a general session.

b. Public Comment

No public comment.

c. Action, if any

None.

**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. The Commission will also discuss the possibility of holding a retreat in lieu of a regularly scheduled meeting.

a. Discussion

T. Smith, R. Jackson, M. Benson led a discussion regarding the Retreat II.

T. Smith went around the table and each commissioner gave comments on what they want to achieve from this Retreat.

Commissioners gave comments.

b. Public Comment

Assata Olugbala said that you become thoroughly invested in this Ordinance/document and understand what it means (to file a complaint, etc.). Get to know your authority of the Public Ethics Commission.

c. Action, if any

MOTION (N. Nisperos) that we continue this meeting until we complete this Item and Item XIII will be on the next agenda since we are going past the 10:30 p.m. mark and seconded (J. Dorado). The vote was Aye: 6 (Dorado, Harris, Jackson, Nisperos, Prather, and Smith). Commissioner Ahmad is not present. The motion passed.

**XIII. Commission Review of Community Police Review Agency Cases Proposed for Dismissal or Closure**

The Commission will review the CPRA's proposed dismissal or closure of complaints of misconduct involving Class 1 offenses and consider whether to direct the Agency to reopen the case(s) and investigate the complaint in accordance with Oakland Police Commission Enabling Ordinance § 2.45.070(M).

a. Discussion

T. Smith asked Mr. Finnell if he had anything to report. Mr. Finnell said no.

b. Public Comment

No public comment.

c. Action, if any

None.

**XIV. Adjournment**

MOTION to adjourn (R. Jackson) and seconded (M. Nisperos). The vote was Aye: 6 (Dorado, Harris, Jackson, Nisperos, Prather, and Smith). Commissioner Ahmad is not present. The motion passed.

The meeting was adjourned at 10:56 p.m.