

OAKLAND POLICE COMMISSION

MEETING MINUTES

June 22, 2023 — 5:30 PM

I. Call to Order, Welcome, Roll Call and Determination of Quorum

Chair Tyfahra Milele deferred her welcome address under this item to after Closed Session, called the meeting to order at 5:50 p.m. and took roll call.

Present: Chair Tyfahra Milele; Vice Chair David Jordan; Commissioner Brenda Harbin-Forte; Commissioner Rudolph Howell; Commissioner Regina Jackson; Commissioner Marsha Peterson; Alternate Commissioner Angela Jackson-Castain; Alternate Commissioner Karely Ordaz

Late: Commissioner Jesse Hsieh

Before moving onto closed session, Chair amended the agenda to table Items #13 (Community Outreach Committee proposal of rules for review by the rules committee) and #16 (approval of the minutes) for a future meeting date. Public comment was still taken for these items.

II. Closed Session (approximately 5:30-7:30 p.m.)

The Police Commission will take Public Comment on the Closed Session items.

**CONFERENCE WITH LEGAL COUNSEL –
EXISTING LITIGATION (Government Code Section 54956.9(d)(1))
Delphine Allen et al., v. City of Oakland, et al.
N.D.Cal No, 00-cv-4599-WHO**

**PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE
(Government Code Section 54957(b))**

There were no public comments on closed session items.

Chair Milele reestablished quorum upon return from closed session with roll call:

Present: Chair Tyfahra Milele; Vice Chair Jordan; Commissioner Brenda Harbin-Forte; Commissioner Rudolph Howell; Commissioner Jesse Hsieh; Commissioner Regina Jackson; Commissioner Marsha Peterson; Alternate Commissioner Angela Jackson-Castain; Alternate Commissioner Karely Ordaz

Commission Counsel shared a closed session report out:

On April 27, 2023, the Commission voted unanimously in closed session, on a motion made by Commissioner Peterson and seconded by Commissioner Harbin Forte, to direct CPRA to investigate IAD Case #22-1102 and #23-0459. The one-year timeframe into Case #22-1102 was “told” (i.e. paused) as of April 11th, 2023 based on a criminal investigation into the matter. The case remains in told status based on the criminal prosecution of the subject officer and the addition of civil action against the same subject officer. The administrative investigation will proceed once the criminal and civil actions are resolved on the second matter. Tonight in closed session, the Commission received a briefing from Interim CPRA Director Jones regarding cases involving racial profiling that may not be appropriately categorized and investigated as racial profiling cases. Thus, in a motion made by Commissioner Jackson

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and seconded by Commissioner Harbin Forte, the Commission voted unanimously to direct CPRA to provide the two closed IAD case numbers for the Commission to agendaize at its next meeting to request f(2) access regarding the issues of racial profiling claims. On the third item tonight in closed session, in a motion made by Commissioner Harbin Forte and seconded by Commissioner Jackson, the Commission voted unanimously to direct legal counsel to explore the submission of an addendum or any court legal documents for the September 2023 NSA court filing.

After the closed session report, Chair Milele gave her deferred welcome address prior to Open Forum.

III. Open Forum Part 1 (2 minutes per speaker, 15 minutes total)

Members of the public wishing to address the Commission on matters that are not on tonight's agenda but are related to the Commission's work should submit a speaker card prior to this item. Comments regarding agenda items should be held until the agenda item is called for discussion. Speakers not able to address the Commission during this Open Forum will be given priority to speak during Open Forum Part 2.

Public comment was made by 5 persons (Leonard; Grinage; Grisham; Loggins; Janks)

IV. Police Chief Search Update and Approval of Brett Byers Group as Police Chief Search Firm

The Staff Searches Ad Hoc Committee (Chair Milele, Vice Chair Jordan, Commissioner Howell) will provide an update on the ongoing Police Chief Search. On May 2, 2023 (see attached timeline), the Ad Hoc received a preapproved list of vendors from the City for the Commission to consider and interview, from among which, the Ad Hoc Committee recommends Brett Byers Group. The Commission will review Brett Byers Group's proposal and vote on the Police Chief search firm.

Chair Milele introduced this item with a review of the Police Chief search timeline and activities to date, including the possibility of approving Brett Byers Group to conduct the search. After discussion and questions among Commissioners, public comment was made by 2 persons (Grinage; Cleveland).

Vice Chair Jordan made a motion, seconded by Commissioner Jackson, to approve Brett Byers Group as the Police Chief search firm. The motion carried unanimously by the following vote:

Ayes: 7 - Milele, Peterson, Harbin-Forte, Howell, Hsieh, Jordan, Jackson

Nays: 0

Absent: 0

V. Community Police Review Agency (CPRA) Update

Interim CPRA Director Jones will provide updates on the CPRA, to the extent permitted by state and local law. Topics discussed in the update may include the Agency's pending cases, completed investigations, staffing, and recent activities. ***This is a recurring item.***

Interim Director Jones provided a report out with updates on CPRA. Following questions and comments from Commissioners, public comment was made by 1 person (Grinage)

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VI. Resolution Reconfirming Engagement with Garcia Hernandez Sawhney, LLP

The Commission previously approved engagement with law firm Garcia Hernandez Sawhney, LLP on December 9, 2021 and March 31, 2022. It came to our attention in May 2023 that a formal resolution is required to be in compliance with contracts policy.

Chair Milele introduced this item regarding a Resolution reconfirming engagement with Garcia Hernandez Sawhney, LLP. Commissioners clarified the need for a resolution and asked questions.

Commissioner Harbin-Forte made a motion, seconded by Vice Chair Jordan, to approve the Resolution reconfirming engagement with Garcia Hernandez Sawhney, LLP. The motion carried unanimously by the following vote:

Ayes: 7 - Jordan, Peterson, Harbin-Forte, Howell, Hsieh, Jackson, Milele

Nays: 0

Absent: 0

No public comments were made on this item.

VII. Approval of Garcia Hernandez Sawhney, LLP as Commission's Legal Counsel with Resolution

The Police Commission may hire and/or contract for, by an affirmative vote of at least five (5) members, one or more attorneys to provide legal advice to the Commission (604(b)(12)).

The Commission reviewed a proposal from Garcia Hernandez Sawhney, LLP to serve as legal counsel, which was submitted through an RFP process to contract Commission Counsel before the current contract expired. In alignment with city policy, a required Resolution was also reviewed and discussed.

Public comment was made by 2 persons (Cleveland; Grinage)

Following robust discussion, Commissioner Harbin-Forte made a motion, seconded by Vice Chair Jordan to approve the proposal submitted by Garcia Hernandez Sawhney, LLP to serve as the Commission's legal counsel with a Resolution.

Commissioner Jackson made a substitute motion, seconded by Commissioner Peterson, to approve Garcia Hernandez Sawhney, LLP for one year, renewable annually for up to three year after an evaluation of their services. Commissioner Harbin-Forte was not friendly to this amendment. A vote was taken on whether to hold a vote on the substitute motion. The motion failed by the following vote:

Ayes: 3 - Peterson, Hsieh, Jackson

Nays: 4 – Jordan, Harbin-Forte, Howell, Milele

Absent: 0

The Commission then voted on the original motion, made by Commissioner Harbin-Forte and seconded by Vice Chair Jordan, to approve the proposal terms and Resolution as submitted. The motion carried by the following vote:

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Ayes: 5 - Jordan, Harbin-Forte, Howell, Hsieh, Milele

Nays: 2 – Peterson , Jackson

Absent:0

VIII. Office of the Inspector General Requests Extended Access to Subpoenaed Bey Matter

Documents The Office of the Inspector General (OIG) is requesting that OIG staff also have access to documents that Inspector General Phillips currently has access to related to the Bey Matter, pursuant a November 2021 vote of the Commission granting the OIG access to records.

The Commission and Inspector General discussed whether it was necessary to vote on granting OIG staff access to subpoenaed documents related to the Bey matter. It was determined that a vote was not necessary to grant access, considering a November 2021 vote of the Commission granting the OIG access to records already. This approved access was reconfirmed and expressed verbally for the OIG.

There were no public comments on this item.

Chair Milele approved a reordering of agenda items switching #9 and #11 to accommodate a scheduling conflict.

XI. New and Revised Policies to Address Deficiencies in and Strengthen Internal Affairs Investigations

Following up on our May 25 Commission meeting, Deputy Chief Clifford Wong will report on new and revised policies to address deficiencies in and strengthen the Internal Affairs investigations process. Policies were distributed for advance review on June 1, 2023.

Deputy Chief Clifford Wong presented on the new and revised policies to address deficiencies in and strengthen internal affairs investigations. Commissioners discussed the policies with comments and questions for OPD.

Commissioner Harbin-Forte made a motion, seconded by Commissioner Jackson, to extend the meeting to midnight. The motion carried unanimously by the following vote:

Ayes: 7 – Jordan, Harbin-Forte, Howell, Hsieh, Jackson, Peterson, Milele

Nays: 0

Absent:0

The Commission took a 5-minute break before returning to the meeting. Chair Milele reestablished quorum upon return:

Present: Chair Tyfahra Milele; Vice Chair Jordan; Commissioner Brenda Harbin-Forte; Commissioner Rudolph Howell; Commissioner Jesse Hsieh; Commissioner Regina Jackson; Commissioner Marsha Peterson; Alternate Commissioner Angela Jackson-Castain; Alternate Commissioner Karely Ordaz

Representatives of OPD continued and completed the presentation on IAD policies.

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There were no public comments on this item.

Commissioner Harbin-Forte made a motion, seconded by Commissioner Hsieh, to extend the meeting to 12:30pm. The motion carried unanimously by the following vote:

Ayes: 7 – Jordan, Harbin-Forte, Howell, Hsieh, Jackson, Peterson, Milele

Nays: 0

Absent: 0

X. Negotiated Settlement Agreement (NSA) Update

The Court has extended NSA court oversight beyond June 30, 2023. NSA Ad Hoc Committee (Committee Chair Harbin-Forte, Commissioner Hsieh, Chair Milele) will provide a report on the NSA and invite public discussion on the top NSA priorities with respect to the Commission.

Chair Milele tabled the Negotiated Settlement Agreement (NSA) Update for the next meeting.

IX. Update from Oakland Police Department (OPD)

Representatives of the Oakland Police Department will provide an update. Topics discussed in the update may include crime statistics; risk analysis; a preview of topics which may be placed on a future agenda; responses to community member questions; and specific topics requested by the Commission.

Chief Allison provided an update on OPD, including information on the department's budget, progress on Task 5, and staffing updates. Commissioners provided comments and asked questions during the discussion.

There were no public comments on this item.

Chair Milele moved on to item # 15

XV. Commission Vote for Resolution Determining Outcome of Second Meeting in June

The Commission will review and take action on approving a resolution to either hold a second meeting in June, or not.

This item was to address the cancellation of the June 8th meeting due to lack of quorum. Chair Milele entertained a motion to approve either Resolution A or B in the agenda packet following discussion among Commissioners.

There were no public comments on this item.

Vice Chair Jordan made a motion, seconded by Commissioner Harbin-Forte, to approve Resolution B, which eliminated the need for a second meeting in June. The motion carried unanimously by the following vote:

Ayes: 7 – Jordan, Harbin-Forte, Howell, Hsieh, Jackson, Peterson, Milele

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Nays: 0

Absent:0

Commissioner Harbin-Forte made a motion, seconded by Commissioner Hsieh, to extend the meeting to 12:45pm. The motion carried unanimously by the following vote:

Ayes: 7 – Jordan, Harbin-Forte, Howell, Hsieh, Jackson, Peterson, Milele

Nays: 0

Absent:0

XII. Recommendations on Proposed Budget for the Oakland Police Department

Pursuant to Charter 604(b)(7), the Commission shall " Review the Mayor's proposed budget to determine whether budgetary allocations for the Department are aligned with the Department's policies, procedures, customs, and General Orders. The Commission shall conduct at least one public hearing on the Department budget per budget cycle and shall forward to the City Council any recommendations for change."

Chair Milele introduced this item highlighting the two budget priorities that rose to the top during OPD budget conversations with the Commission and community throughout the year: the civilianization of IAD and continued investment in mental health and wellbeing programs. Chair solicited any additional, final feedback before entertaining a motion to send City Council the two stated recommendations.

There were no public comments on this item.

Vice Chair Jordan made a motion, seconded by Commissioner Harbin-Forte, to approve the recommendations on the proposed budget for OPD. The motion carried unanimously by the following vote:

Ayes: 7 – Jordan, Harbin-Forte, Howell, Hsieh, Jackson, Peterson, Milele

Nays: 0

Absent:0

XIII. Community Outreach Committee Submits "Ad Hoc Rules Proposal" for Review by Rules Committee

Item #13 was tabled.

XIV. Committee Reports

Representatives from Ad Hoc Committees will provide updates on their work.

- **Staff Evaluations: IG, CPRA (Commissioners Harbin-Forte, Jordan, Howell)**

The mission of this Ad Hoc is to establish the criteria upon which the Inspector General and CPRA Executive Director will be evaluated by the Police Commission.

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- **Community Outreach (Commissioners Howell, Jordan, Ordaz)**
The objective of this Ad Hoc is to increase public awareness and knowledge of the Commission's work and ensure broad community voices, especially from the most marginalized, are elevated. This Ad Hoc will also oversee the community engagement and outreach of the CPRA, the IG's office and to some extent the OPD. Additionally, this Ad Hoc will work to set the guidelines for how Commission Ad Hoc's are formed and run.
- **Community Policing DGO 15-01 (Commissioners Hsieh, Harbin-Forte, Howell)**
This committee is dedicated to developing a new policy directing Oakland Police Department's role in Community Policing. This project began in earnest in July 2021 in partnership with community leaders, activists, police officers, and city staff. The ad hoc was reconstituted in May 2023 to review additional updates to the policy by OPD.
- **OBOA Allegations (Commissioners Harbin-Forte, Jackson, Ordaz)**
This Ad Hoc Committee is tasked with selecting an outside firm through the City's Request for Proposals process, to investigate allegations made by the Oakland Black Officers Association that the Oakland Police Department engages in racially discriminatory hiring and promotions.

Item #14 was tabled.

XVI. Approval of Meeting Minutes

The Commission will review and possibly amend or approve meeting minutes for May 25, 2023.

Item #16 was tabled.

XVII. Upcoming/Future Agenda Items

The Commission will engage in a working session to discuss and determine agenda items for the upcoming Commission meeting and to agree on a list of agenda items to be discussed on future agendas.

Item #17 was tabled.

XIX. Adjournment

The meeting adjourned at approximately 12:45am.