



**CITY OF OAKLAND
OAKLAND POLICE COMMISSION**

Meeting Minutes

Thursday, September 13, 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, and Thomas Smith. Quorum was met using Alternate Commissioners Andrea Dooley and Maureen Benson.

Commissioner Late: R. Jackson.

Commissioners Excused: Mike Nisperos, Edwin Prather.

Counsel Meredith Brown.

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

Thomas Lloyd Smith will welcome and call public speakers.

The purpose of the Oakland Police Commission is to oversee the Oakland Police Department's policies, practices and customs to meet or exceed national standards of constitutional policing and to oversee the Community Police Review Agency that investigates police misconduct and recommends discipline.

Quarry Jason Hollis, student at Laney College and employee at Peralta District, regarding attention at Laney College we will be having a listening session in regards to security and public safety on campus. Wanted to invite members who are interested in listening in on that meeting to get a glimpse of how students are concerned about the issues that are going on the campus in regards to criminal activity and how they feel in regards to police presence that is on campus. In hopes that we could find a better alternative such as community based organizations that would be willing to come through to Laney College and help protect students which is an institution that is meant to be for learning and not to be intimidated in regards to being cracked down on either side of the fence of criminal activity or police activity.

Rashidah Grinage requested that you include the contracts for each of the two attorneys that work for the Commission and the CPRA in the next agenda packet. We would like to review the contracts in view of the faulty RFQ that went out that suggested that the attorneys reported to the City Attorney. We want to make sure that is not the case.

Jesse Smith shared an insight that in the fallout to the rape and trafficking of the woman

we referred to as Celeste Guadalupe, if we consider how many agencies were involved and how there was even a federal agent who became involved in her trafficking, we see that there is this vast social network and culture behind it but this isn't relegated to law enforcement agencies. This connects to pimping in general. After this all came to light, several pimps in the area disappeared, moved out of town, many were arrested on charges outside of pimping to silence them. This created a power vacuum in the crime structure over an international area. This can be seen in the spike of gunshots in that area just following this without casualties; this I guess was warning shots. He wants to impress upon this Commission how deeply rooted OPD is in the criminal networks of Oakland.

Assata Olugbala is hoping that this body is taking some time to express their sympathy and concern around the situation that Officer Jordan gave and is experiencing right now. We need to take time to acknowledge our officers, especially when they are in hospital situations or recovering from injuries. She went to the public Safety Committee meeting and the Life and Enrichment Committee meeting. She was concerned at the Life Enrichment Committee meeting - on the agenda was the item of future Violence Prevention Department. Her concern is that it appears that this initiative around the community becoming involved with law enforcement issues. They don't want to have anything to do with the police. She can't foresee how you can be about the business of correcting anything that is wrong or anything that you want to change without having a relationship with the police department. She hopes that somebody will get on board to help that initiative get where it needs to be because you must work with the police if you want change. The other thing was in the Public Safety Committee meeting there were some very good things, particularly, the Captain of Area 5. He said something he never heard a Captain say "I don't want to lock individuals up; I want to give them the help they need." He was talking about individuals using drugs. That compassion of that officer struck a nerve with her. There was another officer who talked about the issue of probation and parole in Area 2 - they are working on stopping the probation and parole stops unless it has a legitimate reason - they are trying to change that around. That was good. Another thing she heard was that the people are creating solutions and they are bringing it to us and they are working with the public. One guy said in creating the solutions that they were doing in the department - he heard something else that the community wanted. They are concerned about blight. I think it is worth your time to pay attention to what is going on in Public Safety Committee meetings.

Lorelei Bosserman, has a problem with something that was said at the last meeting. Someone expressed the opinion/assumption that everyone on the Police Commission was a fast reader. Her personal belief is you are all working your free time, you have jobs, lives, and anything that would help you out is probably worth doing but of course you must balance that with how much your staff has and you are not even fully staffed yet. I wouldn't want all the people on the Commission to have the same set of skills and talents. If you all have the same set of skills and talents, then the selection panel didn't do their job. When I think about the things that I would want every Police Commissioner to have, being a fast reader, is nowhere on the list. If you restrict it to a certain skill, then we are leaving out people who bring a lot to offer in terms of many things. She also mentioned that the comment displays a kind of elitism that doesn't have any place here.

Sanai Dennis said that he wants to address Number 3, Item 5. This was noted by Chair Smith.

IV. Approval of Draft Commission Meeting Minutes for July 26, 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 (A. Dooley) and seconded (J. Dorado).
The vote was Aye: 6 (Ahmad, Dorado, Harris, Jackson, Smith, and Dooley).
Commissioner Benson stepped away from the meeting briefly.
The motion passed. Commissioners M. Nisperos and E. Prather were excused.

V. **Oakland Police Department Report (30 minutes)**

The Commission shall maintain the confidentiality of ongoing investigations.

Chief Anne Kirkpatrick will report on all publicly disclosable information about

- (1) The police involved shooting of Josh Pawlik on March 11, 2018
- (2) The in-custody death of Marcellous Toney on September 28, 2017
- (3) The citation and arrest of Najari Smith, Founder and Executive Director of Rich City Rides.

The Chief will also report on OPD's vehicle towing policy and impact on the economically disadvantaged and homeless residents and OPD's Police Academy graduation and failure for Police Officer Trainees by gender, race and ethnicity for the last ten OPD Police Academies including what plans, if any, OPD has for supporting Police Officer Trainees from underrepresented backgrounds in meeting the graduation standards.

a. Discussion

Chair Smith introduced Acting Assistant Chief Darren Allison. AC Allison said he is also here speaking on behalf of Chief Kirkpatrick (out of the office this week). He will speak on the first two items and staff will speak on the other items.

(1) The police involved shooting of Josh Pawlik on March 11, 2018.

AC Allison gave an update on public disclosable information regarding the shooting. He reported that the criminal investigation as well as the administrative investigation are ongoing so there is no information to disclose publicly now.

(2) The in-custody death of Marcellous Toney on September 28, 2017.

AC Allison reported that the criminal investigation has been completed and the administrative investigation is still ongoing. An update is that the Executive Force Review Board has been held; a draft report has been completed and it is currently with the Chief of Police for review. We can move forward once the finalization of that review has occurred and depending on the outcome, any personnel matters that are borne out of it we can then discuss what we can put out or not put out. Chair Smith asked if he anticipates that the Commission could get a report on that at the next meeting (in a few weeks)? AC Allison said the review – yes. Depending on how the review/outcome of the review, involving the personnel issues – that may still be an ongoing issue; the personnel matters that could be attached to it. It depends on the timing of it.

(3) The citation and arrest of Najari Smith, Founder and Executive Director of Rich City Rides.

AC Allison introduced Captain Chris Bolton and said he will speak on this topic.

Captain Bolton reported that he is the assigned Captain for Police Area 2, North Oakland. He understands that you wanted a report on an incident that occurred after last first Friday. On August 3, after first Friday had ended, shortly after 10:00 p.m. an officer detained an individual for vehicle code violations. It was the intent of that officer to issue a citation for the observed violation. The enforcement direction that he had planned for first Friday was to address unpermitted entertainment issues and other crowd management issues including loud music on unpermitted DJ booths, unpermitted food sales, and other things he felt were attracting a crowd below West Grand and typically about 16th Street. This was a concern of his in operational planning due to the safety of Oakland Neighborhood and Oakland residents. Since January 2017, that immediate neighborhood has experienced 19 shootings, 9 or 10 of those have occurred between the hours of 9:00 p.m. and 3:00 a.m. and a total of six of those have occurred directly after first Friday events into the early Saturday morning hours. He is not saying that individuals involved in unpermitted activities and situations and circumstances that cause crowds to gather and remain in the neighborhood are directly responsible for those incidents of violence but he examined the situation from the point of view that he did not want to site or arrest my way out of a crowd management problem. He chose to address the environment and the circumstances to remove attractions to better manage the flow of pedestrian traffic, vehicle traffic to prevent another shooting of a young individual. After 10:00 p.m. that officer did use their own discretion, detained an individual for various vehicle code violations; one of them being excessively loud music in violation of the Vehicle Code as well as the Oakland Municipal Code. It was the officer's intent to issue a citation. It did not end up that way due to efforts to explain to the individual that we needed to identify him and ultimately that choice was made not to identify himself to the officers. The officer did not feel that the cooperation was satisfactory. That individual was arrested for resisting, delaying, obstructing the lawful detention. Understanding that is not what the officer intended to do, make a custodial arrest and understanding that individual was not to blame for anything than the relatively minor Vehicle Code violation, the District Attorney's Office, under their own assessment, decided to drop the charges of resisting, obeying, obstructing the arrest. The Department made the decision to withdraw the citation. When he returned on that Monday and learned of the incident, he did several things and those efforts continue throughout this evening when he personally had to meet that individual who is with us tonight. I called local bike Advocacy groups and asked for their assistance in bridging the gap as a liaison with organized bike rides, he learned that this was an organized bike ride which was unknown to the Department at the time. That effort has been made. His neighboring Captain through certain community contacts reached out to this individual. He contacted the individual's attorney and those efforts were made to improve the relationship, improve the situations for future first Fridays. He had the pleasure of being at our most recent first Friday event and saw a noticeable change in bicycles behavior, much of which is in his opinion and the opinion of the Vehicle Code and Oakland Municipal Code, very unsafe riding. That is typically not limited to juveniles riding without helmets, without lights, doing impressive stunts in and out of traffic, riding through traffic in both directions. He has asked those local bicycle groups to help him bridge the gap, try and implement some safety mechanisms and safety awareness and then we also did several other changes this last first Friday. We did not have to detain, site, or arrest individuals – we took more approaches to change the atmosphere, the conditions of those blocks below West Grand and were successful in not having a fist fight or a shooting after the last

first Friday due to those changes. Other people were detained and those either ended in warnings or citations without issue. In the last six months, we have only made three arrests – two were firearm related arrests for which there is very little discretion and the other arrest was an unsafe level of alcohol intoxication.

R. Jackson wants to make sure that she is getting the facts correct. This person was detained for his loud music, correct? Captain Bolton said that there were several things observed. The primary reason was identified as loud music and cited also the effort to open the roadway and keep the roadway open to traffic, etc. R. Jackson said that he did not want to identify himself and therefore was arrested? Captain Bolton said that was why he was arrested as listed in the crime report. It is very uncommon to talk about an arrest in an open forum and he is trying to be respectful as he told this individual before he started speaking. He feels it is his story tell. He can be factual on what happened and was not there. He is factually reporting to the Commission on what was in the Crime Report. R. Jackson said that it was later determined that this was an organized bike ride that you were not aware of? Captain Bolton understood later that this may have been an organized bike ride with the stated intent and purpose was not known to the Department. That is a lesson learned in which the community can help the Department with as well; we have a very controlled aggressive policy on crowd control. In the future, should an organized bike ride wish to participate in first Friday, he has made an offer to bridge that gap with the Permit holder and perhaps provide space, provide opportunity and willing absent a permit to facilitate that in a safe manner. His obligation is to help facilitate if it is an organized bike ride with a stated purpose and objective, he is more than happy to figure out a way an organized bike ride can be successful, feel successful with that ride in a way that works with his operational planning and is also reasonable time, place and manner and does not present a traffic safety hazard - that was the case in that last first Friday.

G. Harris said that when she first heard about the arrest, she was embarrassed because it sounded ridiculous to her. I don't know if the press got all the facts right but as you stand here before her, you still don't have all the facts from your staff. Your staff is only as good as it's leader. She says that because it sounds to her that like you are trying to justify the arrest which it still is not justifiable. She wants to know what Vehicle Code he violated. You said he resisted a lawful detention but the District Attorney didn't think so. She wants to know the codes that he violated. It doesn't seem that you are prepared to answer any of our questions. I don't think that this kind of arrest should be happening. You guys have bigger fish to fry like harassment or killings in East Oakland (a couple after that incident that I think you guys could be focused on instead of arresting a bicyclist that has loud music on a first Friday which is an event that has loud music. Captain Bolton responded to each of her questions. He is sorry to hear about that and that was not the Department's intent. As a leader, leading other people, is provide them good direction which I thought he was doing that night. The California Vehicle Code is 27007. If you go on Leister you can find the Oakland Municipal Code which prohibits loud music after 10:00 p.m., etc. He does not want to debate the merits of the case; the officer had PDRD footage from the first point of contact to the very end of contact. With being respectful and not wanting to litigate in this environment, it is inappropriate to do so, this individual's attorney has received that video footage. If you want to put it on your website, so everyone knows the truth of what happened, he doesn't want to be accused of having a spin or coming here being unprepared. He is here now to answer questions you may have. As a leader, he can be as honest and transparent as possible. If we can do something better in the future, certainly we can do that. G. Harris suggested that the first Friday is happening in your area, that you get to know the organizers (to be community) and reaching out sometimes. Captain Bolton said that he has worked that event for five

years and proud of the liaisons and has walked around. He appreciates that advice.

Chair Smith asked Counsel Brown if she sees any problem of posting the PDRD video regarding this incident. Brown said that is it a matter that is still under investigation? Captain Bolton said that he will make sure that there is a public records exception and he will give it to the City Attorney's Office. Chair Smith said that would be helpful, since concern about this incident. If people can see exactly what happened, they can judge for themselves. Chair Smith said let's do the research and see if we can post it.

Mr. Finnell added that I understand the DA has dismissed the citation and dismissed the arrest, but there may be an Internal Affairs review. We need to confirm that first, then any other research through the Chief or the legal department.

G. Harris asked that Internal Affairs should be sharing that with you? Mr. Finnell stated that we all received the information – I just don't know if IA launched an investigation or if it is continuing. That is what I meant.

(4) OPD's vehicle towing policy and impact on the economically disadvantaged and homeless residents.

AC Allison introduced Captain Tony Jones who will speak on that topic since he has organized several of those operations. Chair Smith welcomed Captain Tony Jones.

Captain Jones reported that he is with Area 5. Abandoned bicycles in East Oakland. He took over the post on June 16 and met with community groups, NCPCs, City Council staff, etc. to get a feel of what the issues were specifically in Area 5 (part of East Oakland). The number one complaint he was getting from citizens, business owners was the number of abandoned vehicles that were being left on City streets in East Oakland. More problematic for him is the overseer of the police operations in Area 5 is that we have only one person dedicated to abandoned cars in East Oakland.

Chair Smith asked how do you know cars are abandoned? Captain Jones said that there are several ways we know. We get a lot of complaints. There is a hot line that people call. He has encouraged citizens to avoid the red tape of having to call a hot line – to let their NCPC reps know or to email my Neighborhood Service Coordinators directly so we can get those vehicles towed. When we go out, we don't just show up and tow cars. We go in a very direct manner with planning – we have Neighborhood Service Coordinators with us to interact with community members. One time we went, we had Project Dignity with us in case we encountered homeless people who were living in their cars, which we ended up encountering. Before we go out and tow cars, we place a sticker on the window advising people that they have three days to move the car. This is not a situation where I want to go out and hammer people and tow the cars without giving them the opportunity to move it. If it is not moved, then it is towed. It looks bad for the people who live in the neighborhood. The cars identify themselves just by the poor condition that they are left in but we still give them an opportunity to move the cars in three days before it is towed. One time we have encountered homeless people, we have not towed their cars. We have offered services for them and there were times when we didn't have Project Dignity with us, we circled up to make sure that they did contact those people to offer services so they don't have to sleep in their cars, to see what we can get them out of that situation.

R. Jackson asked if she could talk about the time frame you are reporting on because I thought it was made aware to us particularly in August that there were quite a few

cars towed that were related to homeless people who were sleeping in their cars. Captain Jones said that he was talking from June 16 to resent in East Oakland. He can say for certain that in Area 5 we haven't towed anyone's car who lived in it or were homeless in the operation that he ran. We don't want to add to the homeless situation in Oakland if someone is living in a car. R. Jackson can appreciate that and she believes that some of these cars were in Area 6 that were towed and belonged to homeless people. She knows that was reported. Who would we talk to about getting the information on Area 6. Captain Jones said that Area 6 was his area. The operations that he ran, he has not towed a homeless person's car. If there were other police activities (traffic division, entities that he may not be aware of), he can speak to that but his staff has not done that. R. Jackson – does that mean that there is coordination to ensure that your focus is also aligned with other focuses? It does sound like there may be some opportunity to engage with some other departments to ensure that your focus is also aligned and respected by that entity as well. Captain Jones agrees with that.

A. Dooley thanked Captain Jones for sharing in what sounds like a good working practice in Area 5. Commissioner Jackson was sort of asking – this may be a question for the Chief, etc. – How do we ensure that the good practices that are happening in one area. Do the Captains meet and talk about that? Is it field services coordinating with traffic? She appreciates hearing that we have a good practice here but what would also be useful is to hear how the Department plans to make sure that the other areas are also implementing a successful practice. Captain Jones said the Chief is being clear to all the Area Commanders – she doesn't want us out there doing things to make the homeless situation worse. That is a mandate from the Chief and everyone is following it. Is there going to be outliers or instances where officers do things that we may not agree with or interact with a homeless person that doesn't meet the standards that we set, I am sure it happens from time to time but as a Department, that is not our philosophy to go out and make a homeless situation worse by taking their cars/homes from them. Some of these cars he sees they got a person's life belongings in the car and it would be wrong to go out there and take the car (even if we got a lot of complaints from the neighborhood). He would rather deal with a block of people being upset with them and I am sure the other Captains feel the same rather than put someone out of their house which is a car.

G. Harris said that is her area too. How many times have you done these sweeps since June? Captain Jones said three times. G. Harris said that she knows that there were 167 cars were reported/towed (abandoned cars in Area 5). G. Harris said on this last particular/last sweep. Captain Jones said yes and unfortunately we got another 600 abandoned cars in Area 5. G. Harris - What is the process and time frame of these operations, like from beginning to end? Captain Jones said we meet on Monday with the Neighborhood Service Coordinator and we coordinate our community outreach efforts we will have on that day. On Tuesday and Wednesday, we send the officers out to begin placing warning stickers on the car and talking to the residents in an area that we are going to focus on. Then on Saturday morning, about 6:00, we go out in a coordinated effort, the tow trucks are with us, and the officers go to where the cars are and they remove them. G. Harris – said if she calls today, when can I expect to see you come? Captain Jones said that is going to vary, if you email the Neighborhood Services Coordinator and she send him an email, the citizen needs this car removed, it can get removed that night. What he started going was using the graveyard officers when things slowed down to removed abandoned cars from the street people are complaining about. G. Harris said she is asking this question because she has tried a couple of things on her own, just to see how they work. She has emailed the Neighborhood Supervisor and to date has not received a response. She emailed them several times. She can forward them to you if you like. Captain Jones said if you want to get a car removed, that would be the best thing to

do. G. Harris said that she also brought this up to AC Armstrong also. She is starting to debate whether she is a fan of these NCPCs because she doesn't see them proactive in the community as they claim to be. How do you balance between homeless living in their cars and the residents who live in the community? The people who live in the houses are the ones paying taxes and then you must have compassion for the people living in their cars. Captain Jones said that he does. We don't tow every car that we could legally tow. If someone comes out and says I am sorry I did not move the car, I will move it. We will not tow that car. He balances it with the complaints that he gets from the community for the need for action. On 83rd Avenue, he had almost the entire block of people show up for a community meeting and complaining about abandoned cars and a mechanic who would turn the street into a mechanic shop, in that situation when a whole block of people shows up demanding action, as the leader of Area 5 we must go down there and do something to make those people's lives a little bit better. G. Harris – How do the residents feel about that? Captain Jones said the feedback that he has gotten from the people is that they have been very happy about it. He does go out and talk to the citizens when they do the sweeps; some of these cars have been in front of some people's houses for 5-6 months at a time, and that is not right. He has only been on the job for two months. G. Harris – If the car was in downtown Oakland, etc., would it sit there for 5 or 6 months. Captain Jones said that has been the situation because each Area only has one person assigned to abandoned autos.

Chair Smith said that the concern that was raised when we talked about this topic was one of homeless people having their cars towed – I hear your policy. I am sure bridging what I heard R. Jackson say about the coordination because I am starting to think, if we are looking for the source of the problem, it is not with you but there may be some other source of a problem because from what we heard from the public, there were cars that were being towed – homeless people were losing their cars, people who had parked their cars someplace and had them taken away, so I think we need to try to understand who do we need to talk to find out who is towing away these cars from homeless people and people who don't have economic means to park their car elsewhere – Where do you see that happening if it is not in your district, because it is happening and people have told us it is happening. Captain the way that we are structured is that we are Area based. He can only speak to everything that is going on in Area 5 which is Seminary to San Leandro. That is his Area of responsibility. Chair Smith – do we need to move through each of the Areas to see where this is happening? The Traffic Division? Captain Jones said that each incident where cars are towed is unique.

A. Dooley said that in her area, Rockridge, it is common to see the three-day sticker on a car. The cars are usually gone within 72 hours. She is not sure if it's from towing or from owners identifying that they left their vehicle. What also happens is that there is a full week of emails among neighbors saying, whose car is that and why is that still there. It is frequently handled. She appreciates his sentiment that neighborhoods shouldn't have to see cars that are creating a blight particularly if they are not owned, certainly if they are not inhabited. It is an equity issue and all the areas need to have the same policies and procedures. If you are only a one staffer for towing, it needs to be understood by everyone else that touches it.

E. Harris said she would like to see cars gone within 72 hours in Area 5. Captain Jones said that is what they are shooting for.

Chair Smith thanked Captain Jones for his report.

(5) OPD's Police Academy graduation and failure for Police Officer Trainees by gender, race and ethnicity for the last ten OPD Police Academies including

what plans, if any, OPD has for supporting Police Officer Trainees from underrepresented backgrounds in meeting the graduation standards.

AC Allison introduced Sgt. Brian Hubbard???, Academy Supervisor, and he will address the Academy and concerns raised.

Sgt. Brian Hubbard reported that he is the Sergeant and Training Coordinator for the Oakland Police Academy. He is here in how we promote success in our 26-week long Academy. Now our average success rate is 61%. That number is at par with the rest of the State. We are a little bit different than most academies in that we count failures as they are but we also count successes as they are – means that one person went through three academies and when she failed the first time we put her through the next one and the next one after that. So, we call that a recycle police officer training. Even though we have the initial failure that we count, we also count the success that she graduated the academy eventually. First will talk about the recycle and the standard they use. They must be in good standing and their GPA must be a minimum of 85% and then we reduce it from 92 to 85% to help promote success. He talked about the four major reasons why people leave the academy. The first one is resignations (we have a high number). We found that we do an exit interview on the way out and found that they don't have the support of their family, they struggle and conclude that this job is not for them. Some other personal issues come up – family illness, etc. The second one is our driving. A high number of people fell off for driver training. Statewide that has been a serious problem. The next one is injury. We have reduced that number significantly and is a very active academy and unfortunately we do have some injuries sustained. The last one is arrest and control. That has dropped significantly – the numbers of failure in that area. Chair Smith asked that he define arrest and control. Sgt. Hubbard said that it covers hand cuffing, weaponless defense, and searches of persons.

Sgt. Hubbard spoke about resignations. We have partnered with Merritt College and they have an Academy that we encourage the individuals who are applying for the OPD to participate in. Because of that we found success for people who have a general understanding of how our Academy works. They get their feet wet before the Academy starts. It helps them academically. Some of the instructors in our Academy also teach there. We also implemented a family night early in the Academy to meet the training staff and found that to be beneficial. Families can ask questions and we can lay out our expectations. The Academy is difficult and it requires long days and nights. That relationship seeing us and seeing the OPD and coming into our building helps with their home life. The last one is we are trying to implement more ride alongs but having them go out into the street with another officer and experience that has also helped. The next one is driver training – we have doubled our driver training. California POST only require 40 hours in the Academy for driver training and we do not think that is enough; we have doubled that to 80. Even with 80 hours of training we had 20 of the 30 trainees fail the initial exam. Thus, we added 60 more hours of training on top of that. Our Academy appreciates the Port of Oakland, leadership in the City to allow us one of the Port parking lots, Berth 33, that we can do our training. Before we were at the mercy of the Coliseum. Also with regards to recruiting and hiring – trainees and their driving record, we looking into that; some trainees got their license before the Academy started and that always became a problem for us because we are essentially teaching them how to drive from square one. The next one is arrest and control. We have expanded our instructor pool to allow for more ratio coverage so more instructors for each individual trainee and that reduces injuries. We also instituted a pre-test where before they take the POST exam, we do our pretest to see where they are at. We do not allow them to test until they pass our pretest so we know that they can do it correctly. Also, even though I mentioned that our Academy is 26 weeks long and 40 hours per week, we have a lot of off-hour

training that is optional. We must make it optional because they are not getting paid per se and it is not part of the curriculum and we also recognize that some people struggle academically and some people struggle physically so we always open our office, mat room for extra room, and our staff is very dedicated to ensuring their success. We also do that for arrest and control. Some Academies don't do this but we provide our objectives early and often so there are no surprises – sometimes we test them on objectives to see if they memorize them and do a quiz for a test. Finally, with the arrest and control, unlike other departments, we do ours in a modular format. We phase it throughout the entire Academy so they are introduced early to all the skills and to the end of the Academy. We are confident that we are giving our community well-trained officers in that regard. Next, injury prevention. We have installed pre-academy fitness program led by one of our officers who works in recruiting and background. We have found great success in that. Also, he leads a yoga class, multiple times so they are well flexible by the end of the Academy. We track recovering and unlike other Department where you either sink or swim with physical fitness, we allow for modified physical training so if you are injured or muscle soreness, we have modified training. If you suffer one injury, you can essentially wash out of the Academy very quickly. We offset that by giving them modified PT that POST has approved and are proud of that program that we installed.

Chair Smith said the overview/orientation detail of the Academy has been incredibly helpful. He doesn't want to lose the focus – the focus is that there is a disparity between people/trainees that pass the Academy. One of the key disparities that folks are concerned about is African American trainees. As we recently heard – is it correct that there were no African Americans who passed the last Academy? and no women? Sgt. Hubbard said that is correct. We don't want to lose the focus of this question. We looked at the numbers for the trainees who entered the Academy and the Chief was very proud and she told us that it was reflective of Oakland. However, the only group that was disproportionately behind the Oakland demographics were African Americans and women. Right? Sgt. Hubbard said yes. Chair Smith said that we learned that no African Americans passed the Academy. The demographics going in are one thing but the people who came out and became actual officers looked much different because there were zero African Americans and zero women. The focus of this question is what is going on and why is that happening? What are you going to do to change that or are you doing anything to change that?

Sgt. Hubbard said the ones coming into the Academy were one African American male and one female. Both suffered injury. The male is being recycled into the 181st Academy.

A. Dooley said that she is not going to try and make Sgt. Hubbard know all the numbers. Her notes are from the June 28 meeting when the Chief reported on this. At the time, she reported - 32 recruits from 34; 26 were men; 3 women; 9 Caucasian; 7 African American; 13 Latino, 5 Asian. Fifty percent were bilingual in 5 different languages; 3 naturalized citizens; there was a great distribution in terms of educational background; six Oakland residents; and then the final numbers – there were no African Americans, two Hispanics, and correct me if these numbers are wrong – the 14 graduates of the 179th Academy were 50% White. You described some measures that were undertaken to try and reduce the number of recruits that leave. Were those in place for the 179th? And if so, what happened, where did all those people go?

Sgt. Hubbard wants to make sure that we are talking about the same class. A. Dooley wasn't sure which class it was but the Chief reported on the Academy that

was underway in June. Sgt. Hubbard said the point is taken. That is why he started out talking about the training. We have ownership over our recruits. The last time he spoke is that he does not waiver on constitutional policing and our expectations for ethical policing in the Academy. With regards to the personal struggles, to include their personal and professional life, driving, arrest and control – we go above and beyond what POST requires and historically what OPD has offered so we can pull them across the finish line. He can take the five strongest people in class, that is great, but I want to focus on the people who are struggling and the whole class seems to follow that lead. If that requires more training, it requires more training. All these measures we need to get approval for because costs are associated. Sgt. Hubbard said he wants everyone to be clear that we are dedicated for everyone to pass.

R. Jackson said initially made the request for the information and while I was disappointed at the outcome for this most recent class, what I really asked for was to take a look at the last ten academies and look at what went in and what came out because as she sees it, these kinds of disparities – looks like we start off with this great intention around diversity and inclusion, and it would seem that perhaps there are some issues that are not all about character and I don't know that we should be teaching people to drive, I think that is a set up, but perhaps there also needs to be an opportunity to take a look at the challenges by the majority of people who are falling out in these different areas and perhaps modify or try to understand how to make this work for you, etc. She cannot believe that just White folks no how to follow all these rules and not get injured – I don't get that. She is not sure if you are prepared to report on the last 10 Academies or maybe we should set this for another meeting. That is the information/foundation we are trying to get to. Sgt. Hubbard said that if you want actual percentages based on the objective fail, gender and race, we can certainly provide that. For clarification, do we measure success based on someone eventually graduating the Academy or the individual Academy because the numbers fluctuate. As I said, the one person I mentioned, she went through three Academies, and finally graduating. That to us is a success; several speed bumps along the road to get her there. You can look at it as 33% success versus 100%. Chair Smith said when you have a zero and have no African American graduating and zero – no woman graduating. That signals a structural problem.

R. Jackson – and to that point – how do we measure success? You having a drop from 92% to 85%, that is an issue but if that is where the bell curve is, then I get that. If you tracked in both areas, I run GED programs, if somebody can't get through the first time, I like the fact that you do that pretest so they are not set up, you don't let them take the test if there is a great possibility that they will fail. Yes, we want people to graduate and for people that are continuing to try and somehow are missing the mark, not being good test takers, etc., yes, if they recycle through two or three times, maybe they are a better person because of that. I don't know. I would like to see both tracks. Sgt. Hubbard said okay.

G. Harris said I think the perception for her with those numbers and the conversation that we have had here today is that African American people are not as smart and that is not the message that we want to send. African American people are very smart. Everybody learns different and I think with the Academy you need to look at just like the College test. Some people don't do well; I am not a good test taker but I am sharp. Maybe we need to look at our relationship with our communities too – a lot of African American men and women have very bad interactions with police officers. Mothers teach their boys how to act with the police officer because they don't want them to be killed. White women don't do that to their children; they teach their children different. We must do something to bridge that gap. It is the relationship. When I ask young people, we have a police

academy going on, do you guys want to go there – I don't want to be no police. Like Ms. Olugbala said, we must work with the police. We are trying to unlearn something that has been on us for 500 years. We need help from you – officers like you who are in the position to train and make sure that we recruit quality – there is not only quality in White.

R. Jackson mentioned that she works with youth and uses a lot of youth development tools; cascading mentoring. She suggested looking at some of the officers, maybe the last five years, and ask them what were some of the pain points for them inside the Academy. What things did you have to work hard on? Get some indicators. She recognized that there are lots of different challenges over the years, some more visual learners, etc. You probably have many of the answers and that you haven't asked them.

J. Dorado mentioned three areas that need to be discussed in the future. First, recruitment, specific to home grown cops in Oakland. The other is the comparison of those graduates of the Academies that failed in some way or another – rash of DUIs, involved in different misconducts. What was it? Does OPD go back and say, what could have possibly been seen in the recruitment and training process in the curriculum to identify those cops before they hit the street, before they graduated? If it is not being done, it should be done. Lastly, there must be a real significant community element in terms of the development of curriculum and the teaching of curriculum. It is critical. It must be discussed, developed and applied to have the Oakland cops that we need and deserve here in the City.

Chair Smith thanked Sgt. Hubbard and we appreciate your time.

b. Public Comment

Saleem Bey, 50-year resident of Oakland. I wasn't going to speak on this issue but I did have to say something that I observed out there. I was just looking at this police officer answer questions from a black woman and he flipped. Suddenly his whole demeanor changed and it brought to me - it's like this is a lady who has hire and fire power over his boss and all the bosses of OPD so if he could change that quick on her, dressed as she is isn't in the position that she is, what happens when a black man would question him over something simple as do you understand my question? Right? That's a very prime time thing that you should go back and review that OPD and put that as part of your training to show how fast you snap on people. You are supposed to be the liaison for first Friday. Come on now. That means you are walking around and maybe you liaison with people that you feel comfortable with. From what your example is right here, I see who you don't feel comfortable with.

Mr. Sanai, Chairperson for the Local Chapter of Red, Bike, and Green, here to speak on Item 5 (No. 3) about the bicycling incident on the first Friday. For the record, Captain Bolton, his name is Najari Smith as referred to earlier as the individual. This has been a community black cycling club In Oakland riding successfully for ten years, this is our ten-year anniversary. We organize black residents and community members to get out and ride bikes and talk about alternative forms of transportation, safety, riding together as a sign of unity, we do several rides – one of them is a family ride where we work with youth and elders (people who may not be able to ride fast and are new to bikes) and we also do an adult ride on our first Friday. We ride with people in their late teens through adults. We ride safely through African communities, bike trails, and other community spaces just like the infrastructure that has been created on Broadway at Telegraph for a long telegraph and I am sure that you are familiar with that bike infrastructure.

We also had a partnership with organizations like Bike East Bay to help institute that type of infrastructure to be here in Oakland. The problem is that black and brown cyclists have been disproportionately targeted and criminalized by OPD. This isn't something restricted to cycling. We are basically criminalized for living while black. The gentleman, Saleem, who came up earlier demonstrated how the interaction in terms of attitude can be very antagonistic and life threatening for black men. I can speak to that very personally being a resident of Oakland for almost 50 years. Many of the issues that are needed to be addressed tonight are systemic. I believe they are systemic problems. Just like you discussed earlier about the police academy – somebody who was college educated, African male, sometimes would not choose to go to the police academy because I don't want to choose to be a part of a criminal organization that harbors rapists, child molesters, murderers, dope fiends, and many other nefarious types of activities. So, to just put out there that there is not enough black people or women coming through the police academy, does not say anything necessarily about the criteria for passing a test, but it may speak to the systemic issues about people being intelligent enough not to join a criminal entity. Commissioner Harris – I appreciate your transparency and honesty about being embarrassed. I would be embarrassed too. One of the issues is that OPD has a long history particularly of white males being racist toward black and brown people. It was an easy stop, young man please turn your music down, we are trying to do our work. Mindful, most of the report that Captain Bolton gave, was slanderous. I don't know if he has more contempt for you all or the audience in the community. The stop was made before 10:00 p.m. – it was made before 9:00 p.m., where music is allowed and it is easy to come up to a cyclist and say, can you please turn your music down. This is a man who has worked in organizing, Mr. Najari Smith, for over a decade with children. This is a leader in the community. We are not just people who popped up on a bike with a boom box. Do not frivolize us like that. It was easy to tell him to turn it down which he did right away and he had identification. My thing is that biking while black should be decriminalized. There are many other things to be dealt with here and if we are going to have any faith in the police officers or this Commission, things that should be decriminalized should not be coming to our attention. The only reason those charges were dropped is because we organized and he has a lot of community support, not because the police saw this as something that needed to be dismissed. There was pressure applied. It is very embarrassing and is disrespectful. We expect change immediately and promptly decriminalize biking while black. You have a lot of work to do Captain Bolton.

G. Harris thanked Mr. Sanai for his words. She would encourage you, biking while black, if you encounter this kind of behavior from a police officer, I would like you to report it. We have an APP and you can talk to Mr. Finnell. You don't have to come into the office, you can report it on your phone – take a picture of his face. Mr. Sanai said if that is possible. This man had to go to Santa Rita for a weekend from first Friday off his bike. No warning. I didn't know he got arrested until the next day. He had to bail out, a lot of money spent. Reaching for your phone when dealing with a white officer could mean your life. Every moment I meet a white officer, it is potentially a life and death potential. G. Harris said that we need to know it and even after the fact, we need to know it. You get a name and badge number and you report it and it will be investigated and it will be dealt with. The only way we can change things is if we cooperate with each other as people and report them and nail them to the wall. Mr. Sanai said that he agrees but he wants to put out there that there are many people who do not trust the infrastructure here so there is going to have to be a lot of proactive activity to limit people – what is the criteria for passing police brutality if the engagement with white officers in a black community is an absolute fail. It is not poor; it is an absolute fail. What is the criteria for passing? And the fact that the Captain could come and stand before you

and have a nonchalant attitude he does about such an embarrassing, disrespectful thing with a pillar in our community who did not resist. You can watch the tape yourself. That says a lot. If it is not dealt with in a systemic manner, it is hard for us to believe that making these reports to cooperate with a process that is flawed is going to work. The thing is you know what is happening, living while black. We don't have to file and fill anything out for you. Just what is on the records right now is enough. I am here and he is here. What we are saying is that this good ole boy gang mentality must end. They owe us.

Chair Smith asked Mr. Sanai if Mr. Najari Smith wanted to give comments since he is here and Mr. Sanai said no, it is still an ongoing process. Chair Smith said we appreciate you coming.

Jesse Smith thanked the Commission for allowing that man to speak for as long as he did, this is what this is for, we don't have to keep to these rules so strictly. That was a wonderful process he honored this room here tonight. I am glad you were thoughtful about that. First, on the issue of the arrest of the bicyclist – I think it is important to say the name of the officer, Nigel Lawson. It is important to say the names of these cops so when you do you might find that other people around you are familiar with them. Nigel Lawson is a bully and has a reputation. When I have mentioned his name before to people, they go oohhhh, Lawson, yeah, he stalked me and intimidated me, laughing because he thought it was funny. I can get pretty shook up especially by a cop with a gun who is lurching his car at me and he thought that was funny. When Bolton was talking about how he gave these orders and was taking responsibility – that was probably him speaking as a boss. Lawson takes a lot of initiative – he is an odd person and a bully, a creep, and has a reputation and we need to have these names out there. Now moving to the training topic – it was discussed that they dropped the score one must have to be recycled from 92 to 85% to “help promote success”. That is called lowering the bar. We can help promote success by lowering that standard to 60%. When I hear that they are helping stragglers struggle to get across the line, that doesn't make me feel like we are getting better cops. Who is that for? That is not to benefit us. It is a feel good, self-esteem camp. But when it comes to the issue of the gender and race gap in recruiting, I want to point out that after the rape and trafficking scandal came on, I personally observed but by just being engaged in the community - I noticed a lot of women cops left. Notably Outlaw who went up to Portland – it was a sinking ship. A lot of these women I had seen for years in my neighborhood and downtown. The other night, Tuesday, at the Public Safety meeting, giving a presentation on trafficking was Coleman and Holmgren who were two of three officers noted for covering up the rape and trafficking scandal and here they are the spokespeople on this issue. If you are looking at Departments to go into and you look at the top and you see these – what kind of organization is it? Do bad cops get punished, no. Right here in the room we have Joe Turner who got into a drunken attack with another officer who was drunk in the hills (Faithe). He is also the man who murdered Richard Perkins. Chair Smith thanked Mr. Smith

Assata Olugbala said she came here in 2007 and one of the concerns she had in evaluating what she wanted to deal with is participating in the process of City Council meetings was the hiring of more black police officers. I thought it was important and it never happened. It never became a priority in your attempt to deal with it. Her conclusion was that this Department does not value having black police officers as an important entity. That's it. I spent too much time on it. They are hiring people based on language (Asian, etc.) That is there concentration for whatever reason. It is so important when I see a black officer say something like I live here, all my life, I talk to my friends and neighbors, I can connect to that. Nobody seems to understand when you have African Americans dealing with - they

can see it for Latinos, Asian Community, but when we say we do a better job of relating to people that look like us. We will probably get more resolve around issues if we have people in our community that live-in Oakland and look like us. Nobody thinks that is important. Here is the whole picture. Evictions (80% African Americans), 70% of the homeless (African Americans); we are being displaced out of this community. There is not a passion for us as a people in this community. It is not just the police – it is across the board. Education (African American boys being suspended at such a high rate). The federal government had to come in to make them stop. It is not just the hiring; it is across the board. Jobs (22% unemployment of African Americans). I can't make the police department value us. I can't make housing become important to us. 70% homeless are African Americans. Why can't we be a part of the process of the opportunity to thrive? Can somebody tell me that? I am a mother of two black boys. I came here tonight and I am working hard at saying - Let's get in a relationship. Let's do that. Somebody from that side must say – you as a people are valuable, we are going to stop the racial profiling, we are going to work on the excessive force (15 years – we don't need the NSA). We need leadership to say we value African Americans therefore we are going to start hiring African Americans. Somebody is going to stop this racial profiling or you are going to lose your job. We don't need the courts to say that; the leadership must say that.

Lorelei Bosserman here to let people in the audience know that if you haven't been here before and don't know this is that you can submit a complaint about the police. You don't have to submit it to the police or to Internal Affairs. As Commissioner Harris mentioned, you can submit it through the APP or you can submit it through the Community Police Review Agency.

Rashidah Grinage said OPD mentioned that there was a woman who basically went through the Academy three times before she graduated. I think you need some data about the costs related to the Academy and I am wondering whether this individual needed to pay each time or whether it was just recycled and she just paid one time because it is extraordinarily expensive. I think you need to understand what the costs are to the individual, what the commitment is that they make in terms of whether or not they need to join the Oakland Police Department after we have spent all that money training them or whether they can just take accreditation and go somewhere else. When you hire your Inspector General, that person can conduct an audit of all these aspects because it is a huge amount of money that goes into this and especially when you have such a small percentage graduating. That means we spend lots of money to put people through the Academy who don't graduate. That needs to be reviewed from a financial perspective.

VI. Determination of IAD 13-1062

The Commission does not have jurisdiction to review the closure of an Internal Affairs Investigation, and therefore cannot undertake the review of, IAD 13-1062. A case closure statement is attached.

a. Discussion

Chair Smith asked Counsel Brown to speak on this matter. Counsel Brown reported that the determination listed in Item VI is available on the Agenda. There is a statement in Item VI and a statement that is for Agenda Item VI. She asked if everyone including the public has it. It says Agenda Item VI – Determination of IAD 13-1062. She read aloud the document.

Chair Smith asked if Commissioners have comments and there were none.

b. Public Comment

Saleem Bey said the very first thing I am going to read which shows that this is a false premise by your legal advisor who was hired by the City Attorney's Office who worked in the City Attorney's Office during 13-1062, who was placed on this Commission to muddy the waters on anything that would affect the City or the City Attorney's Office so how is it that you as a Commission are independent and yet you look at the City Attorney's Office for guidance? 13-1062, first, was a current complaint that was filed with this Board about a failure to investigate 13-1062. It is not you reopen 13-1062, it is you investigating the failure of the police department to investigate 13-1062 for years. I asked to play a video today. A very short video of a public safety meeting of OPD admitting that 13-1062 is still incomplete to this day and the people have fought me all the way. Let's get directly to what the City Attorney's Office was saying and I am going to blow that out to water as a false premise to delay this investigation. This document is from the Office of the City Attorney - reading is verbatim, frequently asked questions, facts, regarding City Charter Amendment creating the Oakland Police Commission - that is you - you - you and you. Oakland Police Commission effective January 10, 2017, voter approved ballot initiative Measure LL November 20, 2016 election issued October 10, 2017, Revised - that means they went back and looked at it and cleaned it up issued by Barbara J. Parker, Oakland City Attorney. Section 4 - Powers and Duties of the Agency. Question 3 - Is the Agency required to investigate all complaints? Answer: No. Measure LL requires the Agency to investigate public complaints involving (a) Uses of Force (b) In custody death (c) Profiling based on any of the protected characteristics identified by Federal, State, or Local law. So, I know I said multiple times - racial profiling. I said it, I have given you documents about it. So right there that qualifies. Right now you are in violation of your own thing by following somebody who follows the City Attorney. (d) First Amendment Assembly such as citizens protest or marches. In addition, the Commission has the authority to direct the Agency to investigate any other possible misconduct of a police officer even if the misconduct is not the subject of a public complaint. That means you have the discretion to investigate the complaints that I have and go out of your way. So, if that is the case, I will refile a complaint. I want to ask you to, first of all, IAD 13-1062 was found sustained by the police department. Right? CPRB 13-1062 was unsustainable. The people who were supposed to represent the citizens didn't find 13-1062 sustained but the police who never admit - so that shows you at the tip of the iceberg, how dirty it is, if the police would admit to that. Your job is for justice. Alright? You have a mandate, 83% told you to fire the people in the police department that are not complying with the NSA. Not complying with racial profiling, etc. What are we going to do when the investigation is now put back on you and we are asking to investigate the CPRA? Again, the CPRA closed this. That was prior to the last CPRB one that I filed with Mr. Finnell who closed it and would've been out at this meeting when the video played because we filed that complaint based on that video. Right? So, I ask for CPRB 16-0146 to be a part of this meeting. It was given to you beforehand. That is Mr. Finnell's case, he closed it, he sat on it for a whole year, and then closed it. Then you go ask me to make a complaint to Mr. Finnell to send to you so that we can get justice. Does that make any sense? The CPRB closed how many of our case? Why are we still here? Why am I still here? Right?? Because I am not going to quit because my brother was murdered, my brother was shot, people in the community were murdered based on undercover dirty cops and how they were leaving illegal weapons on the street. Somebody came up to you and said something that wild, you would say naw, he has got to have some evidence to back that up otherwise you are just talking. Everything I have given you, I have given you. Our lawyers said that the Police Commission has the right to see sealed documents for the OPD. Right? Just like the City Council - they can see it because they are the boss of OPD. You have the right to see sealed documents. Get off your ... and do something.

Rashidah Grinage said that she was a little bit confused when she read the Attorney's comments that were sent out. Talking about that you have no jurisdiction over IAD complaint. Her understanding is that is not what Mr. Bey was asking for because IAD had already sustained his complaint. What he was asking for was a review of the CPRB complaint which did not sustain. I am not sure why IAD was the focus of your commentary because her understanding is that was not the request, am I incorrect in that? Chair Smith asked Counsel Brown to respond. Counsel Brown stated the Minutes would show what was stated in Open Forum. It was IAD 13-1062. |

Commissioner Ahmad said he wants to say this quickly before Mr. Bey leaves. He has been a resident of Oakland for 50 years and wants to say that he feels as a black man up here, I feel that the whole Police Commission, and they are going to be mad at me, is a sham. I feel that like all we are doing and, I feel for myself, that I am wasting time. The power that the community thinks we have, we don't. You do have power. You need to show us how to pull the power that we have out and execute it. No one is doing that. I applied for the job as a Commissioner and I got it. I am sitting here soaking all of this in that the community is saying, and I have lived in Oakland for a long time and from the Bay area. It is a kangaroo type Commission to him – that is his belief. I am not a quitter and that is why I am still here.

Chair Smith said this is a process and part of what the Commission needs to do is to learn how to exercise its power. We need to figure-out what the boundaries of our authority are, and that means in great part, a lot of this requires us to be able to ask the right questions to figure out the kind of authority we can exercise that falls within the scope of what we can do. We have a substantial amount of authority. We are still learning how to unlock the authority we have. It is something that is going to be a persistent challenge that we have to face.

Commissioner Harris said that we do have the power but we need to assert it. I am all for that. I will say that the City Attorney's Office has been uncooperative, they have been not helping us in any kind of way, and no kind of trainings, and no kind of anything, in nothing and the City Administrator too. This is a process that we are learning how to live in. I don't live by those kinds of processes but we are learning them but it is not an excuse Mr. Bey. You are absolutely right. I am for it. I would love to resolve or help resolve an issue if we could but we have to follow a process and I am sitting in a seat where we must create these processes, not only follow them, but create them. Nothing was given to us; we are making these processes as we go. We don't have a staff; we don't have nothing. We have demanded, asked, etc.

Chair Smith said to that point I think that question that is raised today and that we need to try to understand is the issue that Counsel Brown that you looked into was not what whether we could reopen the Community Police Review Agency or CPRB case – it was the IAD case that you looked at. If we looked at the other question, we would be able to help Mr. Bey and readdress is cause. Is that a different analysis? Counsel Brown said if the Commission wants her to look up another item, look up a CPRB case, the Commission will have to say that. Chair Smith said he would like to do that.

Saleem Bey said that one of the issues is that the premises is incorrect. Right? If you start with incorrect premise, you will always end with an incorrect premises or outcome. The legal advisor said that based on Open Forum. Open Forum was all of

2, 3, 4 minutes or whatever. I have sent countless emails to you - the Chair, Vice Chair that outlines very clearly what it is. There is nothing like that I got up here and said some stuff, she read the transcript and misinterpreted, and found out that you guys can't do IAD. I sent very clear instructions that showed misconduct, that showed even the transcript of the video that you should have played. I gave you the transcript of it – time stamped. In it, the OPD admits that it is an incomplete open investigation. If it is incomplete, and on top of that, closed incomplete, then you do have it. I just read the City Attorney said you have the discretion to do whatever you want to do so what are you looking around for?

A. Dooley said she has a request for clarification. She is looking at the CPRB Minutes of July 10, 2014 where CPRB case 13-1062 was closed. The rationale was for an administrative closure that the complaint on the basis of a hearing would not facilitate the fact-finding process and that no-good cause has been shown for further action. Which is different than the outcome of IAD 13-1062. Her question is which complaint or complaints of the CPRB are we directing her to investigate reopening or directing be reopened? Ask why we are asking for a legal opinion whether we have the discretion when the language of the enabling ordinance/measure says we have the discretion. It may be that there is no action that we can take after an investigation or hearing but I am not understanding this. Chair Smith said that if we have that discretion to do this. He asked Brown to respond. You have asked me to give you a legal opinion – the question you have asked me to be researched. The legal opinion will be confidential because I can't break the attorney/client privilege so I am not going to give a legal opinion now on the issue you asked. I can research what you asked me to research.

M. Benson said she is clear that one next step is to get legal advice around the reopening of a case. She is unclear about what we can do as it relates to what she just heard Mr. Bey read which is directly from the City Attorney's website that says "in addition the Commission has the authority to direct the Agency to investigate any other possible misconduct of a police officer even if the misconduct is not the subject of a public complaint." She is wondering if we need to make a motion in addition to figure what we need to do if that is an avenue we want to take so we are not waiting another two weeks. I feel like they are concurrent things we can be doing here to honor the request of this citizen.

c. Action

MOTION (R. Jackson) it is the CPRB case that we are trying to reopen in order to review it because it was closed or unsustainable with a different outcome and seconded (M. Ahmad).

The vote was Aye: 7 (Ahmad, Dorado, Harris, Jackson, Smith, Dooley, and Benson). The motion passed. Commissioners Nisperos and Prather were excused.

Chair Smith directed Counsel Brown to look into whether or not we have the jurisdiction to reopen the CPRB case. If we find out that we do, then we can actually take action at the next meeting.

MOTION (M. Benson) that we get the legal advice to figure exactly what we need to do to exercise that right as it relates to this case and potentially other cases that citizens bring to us and seconded (A. Dooley). The vote was Aye: 7 (Ahmad, Dorado, Harris, Jackson, Smith, Dooley, and Benson). The motion passed. Commissioners Nisperos and Prather were excused.

VII. OPD Departmental General Order R-02: Searches of Individuals on Probation or Parole

Individuals on probation with certain court-imposed search clauses and individuals on parole/PRCS (Post-Release Community Supervision) may be subject to warrantless searches by law enforcement. The intent of this policy is to enhance the effectiveness of Oakland Police Officers while also reminding them to use their best judgment on when to use probation and parole/PRCS searches. The Commission will consider recommendations for revisions to the policy pursuant to Section 605 (b)(6) of Measure LL.

a. Discussion

Chair Smith introduced Tim Birch and thanked him for coming.

Tim Birch said he seen the comments that were made in Item 7 and he will respond to the comments and they can review them later.

Tim Birch said after reviewing the version of the Policy that was marked up by the Commission with recommended changes, he met with the Executive Team in OPD and we reviewed it together and he can go through those changes; however, who all has a copy of that Policy if that will be helpful in providing context. Chair Smith said we all have a copy of it and asked him to continue.

In several instances of the Policy was to change the word should to must (we are not planning to implement that change in the document and the reason is to sort of reiterate one of the things that he failed to make very clear in his last appearance. This Policy is meant to service as guidance for officers. This is a Policy that goes above and beyond what is required by the State and addresses legally sanctioned and constitutionally valid searches. In changing this throughout the policy what we would effectively be doing is punishing officers when they are legally entitled to perform these searches. Rather than focusing on punitive actions for officers who are actually following legal standards, what we are looking to do is provide guidance and provide an opportunity for officers to understand that again we want these searches to be very focused and very carefully done.). Chair Smith responded that changing the word "should" to "must" – gave reasons why – more accountability, etc. That is the way you make a policy transformative. It is with must and not with should.

G. Harris said we put these changes into the Policy and want them followed; she suggested they take these changes. Why are you giving us these policies? OPD is very familiar with the policies they have in place and they are not being followed. Chair Smith said that we need to speak with the Chief regarding our suggestions/changes to this Policy.

The remainder of the changes/suggestions to the Policy by the Commission were reviewed with Tim Birch and he gave responses. Comments were given by Commissioners.

b. Public Comment

Bruce Schmiechen said that he appreciates the Commission standing their ground, pushing back, asserting your legitimate authority. Racial disparities in Oakland are huge but also RDA in Alameda County has been using probation terms 3-5 that go way beyond anything that data shows is useful, supervision which is about 18 months. This is putting a burden on people that is extended way past any window

that makes any sense.

Rashidah Grinage mentioned that power does not give up. It must be taken. She followed up on Mr. Schmiechen's comment. That is what is needed; what you need to do. No one is going to give you the power that they have had all these years without a fight. You need to be up for it and we will be here for you. She followed up on statements by Commissioner Harris because when she was the Director at Pueblo they had a program running Highway to Work, a Alameda County Social Services Program, We would get these kids jobs, do soft skills, training, and support to help them once they were off probation to redirect their energy to get back to school, get jobs, training skills, etc. These kids were perpetually fearful of being stopped when they saw a police officer or car coming up on them, they would melt down. Everything that they had to face in that regard, those traumatic experiences defeated the kind of progress we were trying to help them make so that they would not reoffend, so they would create a new pathway for themselves. Unless you have had that experience or worked with kids who had this experience, you don't know what kind of intense stress these kids are under with respect to that hanging over them all the time and it is horrendous. This is one of the most important policies that the Commission will get to weigh in on and will go a great distance to help alleviate that kind of stress and trauma.

Assata Olugbala said it is quite absurd when you say instead of should an officer must frame his questions in a respectful manner. When you say an officer must provide the correct information instead of should. The officer must have correct facts instead of should. Something is wrong. To pursue what you are doing in terms of we are going to demand that this be done correctly, is the right route. I am fearful, I read Measure LL and you have the ability to recommend policies. Your recommendation goes to who? The City Council. If they don't act on it in a certain amount of time, then your recommendation becomes policy. That policy (they know this) and unfortunately we have a Council who is police friendly, the majority of them. That is what this gentlemen meant about the power is not truly there. I don't want to rub it in. We got to be truthful about what is going on. This is the appropriate thing to do; it is reasonable; it is fair; this is the way it has to be. Why don't they see that? It is food for thought. I see you going in the direction of demanding that things change. The fear is Measure LL, was developed to make you have limitations. Go ahead and do this; change it; it goes to the Council; if they don't act on it in a certain amount of days; it is automatically going to be a policy. Let it be truthful – it is in the hands of the Council for some degree. You do have a supreme amount of power to deal with this subject matter - you can evaluate and fire the Police Chief. When you speak of a subject matter as important as this, let them know and hold her accountable.

Mary Vail said she decided to come here tonight because the Express's article about your first meeting where someone from the department – Well whatever they do, then it goes to bargaining with the Police Union. This is a work rule and a policy. If the Department decides to change the penalty schedule for violating this policy, yes, they bargain with the Union. The Union, you have to be diligent because the City Attorney and Administrator, get ruled by the Police Union all the time about what is bargainable. I want to remind you that Commissioner Benson mentioned that all this talk about this evening from the Department about – crime victims, these are on probation, these folks that didn't have money for bail, needed to live their life, couldn't wait for trial for three months, in jail so they took a deal. It is not people who have been convicted of something. I was offended by the Department talking that we need to hear from the stake holders, the crime victims. Police Department's need to treat people with respect. I don't see how a victim or neighborhoods are made safer by having police officers abuse their discretion and

jack people up because they are African American, etc. and they happen to have probation papers. It is about profiling, the NSA, discrimination issues, this is the policy area that you can and should weigh in on and we will support you when the Department pushes back.

Elise Bernstein said she submitted one earlier and you missed her. She will put the two together. I see that Captain Jones presented earlier - the kind of empathetic, human leader that we want on the police department. He doesn't prove his power by arresting everybody and pushing people around. I will take Captain Jones as a leader of the OPD over these other guys. I am impressed with how the Commission has responded so strongly and so appropriately and angrily to this ability to underestimate your power and authority. That everyone spoke up is wonderful to see.

c. Action, if any

MOTION (R. Jackson) that we implement the changes that have been set forth and forwarded to the Oakland Police Department as it relates to the Policy on Searches of Individuals on Probation or Parole (R-02) and seconded (M. Ahmad).

The vote was Aye: 7 (Ahmad, Dorado, Harris, Jackson, Smith, Dooley, and Benson). The motion passed. Commissioners Nisperos and Prather were excused.

VIII. Commission Policy Review Process

The Commission will review, discuss and formulate a policy review process submitted by Alternate Commissioner Maureen Benson to handle incoming policy proposals from OPD.

a. Discussion

Chair Smith asked M. Benson to give a report. She reviewed Item 8 in the Agenda Meeting Packet (Process for editing or drafting policy). This was a list that she was tasked with.

Commissioners gave comments. R. Jackson said it is brilliant work. A. Dooley asked if we could make the timeline clearer – notices. M. Benson said it is 4-6 weeks before it is to be agendaized. J. Dorado suggested folding in some responsibilities of Community Policing in terms of the outreach and add in NCPCs and NSCs so they are clearly a part of this outreach, that they have this obligation and that this kind of information goes out. I want to see the NSCs do their jobs. G. Harris agrees. A. Dooley suggested going back to the outreach plan and who is going to have actionable responsibility for that. G. Harris asked if we have a liaison person?

Chair Smith said Richard Luna was here earlier this evening.

b. Public Comment

Oscar Fuentes said that Commissioner Dorado has started a political action committee to raise money to unseat Desley Brooks. He has raised \$2500 on it already from a developer. I think it is important to understand the roles you have. Changing the composition of the Council will impact how the Commission does its work. The front runner in District 6 against D. Brooks probably doesn't share the same values as the people who wanted the Commission to succeed. Please look up the campaign finance website. The Oaklanders for responsible leaders opposing Desley Brooks for Oakland City Council for 2018. You are named as the person

who filed this. It is important people consider whether it is ethical. Should a Commissioner be involved in a political action committee for the composition for the City Council who has a relationship to the Commission? You can ask Commissioner Dorado for information regarding this matter.

c. Action, if any

MOTION (R. Jackson) that we modify the agenda and move up Item XII to after the recess and seconded (A. Dooley). The vote was Aye: 7 (Ahmad, Dorado, Harris, Jackson, Smith, Dooley, and Benson). The motion passed. Commissioners Nisperos and Prather were excused.

IX. Recess (6 Minutes)

(Item XII was received out of order by direction from Chair Smith.)

XII. Oakland Police Commission Retreat II: Prioritization of Agenda Items

The Commission engage in planning for its second retreat including prioritization of items for a proposed agenda, scheduling, training sessions, facilitators, and location.

a. Discussion

Chair Smith said that M. Benson will give a report. For folks in the community she put a hand out on the table and she asked KTOP to project the screen. She said that this is a list she created over a period as she heard from the meetings, different folks are asking for different kinds of training. What she tried to do was tasked with trying to help us get to a sense of what are the big priorities that we take under Retreat time. She put them in three different categories. The first category are items are around a Commission practice or process. The second category is around the strategic plan. The third category is around community informed trainings. The process that she wants to suggest is that in each category you get a certain number of votes. In the first category, there are four items. I used a metric used to say that how many items you have I give them two votes. The first column you would have a total of eight votes to put in whatever order you like. You could in theory put all eight of your votes on one item, two of your votes on four items, four of your votes on two items. I would love to do is begin with the first one and wondering through the Chair if there is room or have conversation from different people, etc. That is generally the gist. We would do that three times – three categories. The first is reviewing allegations of misconduct or lack of ethics on a Commissioner Board. The second is creating equitable governance processes for Board or Commission – how we work together as a Commission (like committees, communication, tools to enhance our effectiveness). The third is creating professional standards for a Board or Commission. The fourth is embracing or navigating differences for group norms and processes, building an inclusive Commission. G. Harris said are we doing the stars now? M. Benson said that she was going to suggest the stars in a moment but give folks an opportunity to speak, etc. G. Harris asked how did you narrow it down to these three categories/boxes? It was her best thinking as to what categories they fit into. Some of the items occurred to her and it

was just me, etc.

R. Jackson said that we use it on our staffing as part of a human resource. For you Commissioner Harris, if you have done some other training tools, there are animal wheels, etc. that give an indicator of where you tend to be strong, if you are more firm in some areas and more flexible in others. So, Myers Briggs is one of those that is kind of a personality test – nothing that you could fail. It would give insight to all of us in terms of how we think and for someone who might be creative, they might fall in a particular area where somebody who has a tendency to manage, etc. There are indicators and we all fall in some space.

G. Harris asked about the Retreat process – when we do our stars, what does this look like? M. Benson said it will tell us what the Commission as a whole thinks what to do in Retreat times. It is giving us an order of operations to put a call out for facilitators and get these items scheduled. We are nearly done with the legal mandated training. This will be the next round of those types of things. We still have to schedule times for the Retreat. This is a beginning process.

Further questions and information was provided by Commissioners. M. Benson explained how to complete the forms by columns, etc.

M. Benson asked Commissioners to put votes in the columns, your name on the form, and give the form to her, and she will present/report on it at a meeting to be agendaized.

b. Public Comment

No public comment.

c. Action, if any

None.

X. Executive Director Recruiting Process for the Community Police Review Agency
The Personnel Ad Hoc Committee will provide an update on the Executive Director recruiting process.

a. Discussion

Chair Smith said that M. Nisperos had to leave before the meeting due to medical reasons. Chair Smith reported that Item 10 is included in the Agenda Packet which he reviewed and shared it publicly.

Chair Smith asked Commissioners for additional dialogue.

b. Public Comment

Rashidah Grinage said that there is a Category 3 (Audit) – Person expected to have that type of expertise and feels that is not relevant or necessary. The Inspector General's job is to audit. There is redundancy. Rethink this item. She mentioned that Dan Kalb also asked for an Auditor and you have a Policy Analyst. What are

your priorities? You are under the gun to hire an Inspector General and don't even have a job description or started the process. That person is to be hired in October. You need to start to re-prioritize. Mr. Finnell is doing two jobs – his job and the Analyst that you should have hired nine months ago. You should be paying him two salaries. Let's be clear and start thinking. You have two vacant positions you are not thinking about and the position that is filled that you are prioritizing. That doesn't make sense. The City Council decided to remove the investigative offices to a ground floor level – the Ordinance specifies that as well. That was decided in 2013 and this is 2018. There are things that need your attention, far more than this item. To conclude on this item, I noted in your sources, you did not include/reference NACOLE. NACOLE is the foremost authority on these positions of oversight and management. Take a step back and rethink what your priorities are and in terms of managing your work.

M. Ahmad said that he wants to make it clear that the Executive Director is Mr. Finnell's job.

Chair Smith said that Mr. Finnell is the Interim Executive Director.

M. Ahmad said that this came up once before and Ms. Grinage and the Coalition that she works with made it a point to say that if they have been working with it all these years and were pleased, I am more inclined – rational and make a conclusion on what she is saying, maybe we should be concentrating on the IG instead of Mr. Finnell; let's keep Mr. Finnell. That is what he thinks. We are biting off too many interview processes when he has been in the position and I don't think he has been a detriment to the Commission, that is my comment.

Dooley said about the Audit – she doesn't know if it is in the job description. The Executive Director would have the skills to evaluate the agencies processes and that would be different than the IG. It is appropriate for the Director to audit their own department. She echoed Ahmad and Ms. Grinage and she does think that we should prioritize the IG being filled given the number of big topics we have asked of OPD and not satisfied with answers; a lot of work to do. We haven't been doing this a year to evaluate Mr. Finnell in this role and that may be more appropriate while we are in the process of filling the IG position.

R. Jackson said that she feels everything is going in slow motion. Analyst, IG deadline coming up - She agrees with A. Dooley, M. Ahmad, and Rashidah Grinage who is quite alert, knowledgeable.

G. Harris said that she has been working diligently on the positions you are speaking about; writing these things. We come to these meetings every two weeks and forget that between these meetings, people are working.

c. Action, if any

None.

XI. Administrative Analyst Selection and Placement

The Commission will report on the placement of the Administrative Analyst for the Oakland Police Commission.

a. Discussion

Chair Smith spoke about the process the City Administrator's office was using to hire an Admin Analyst. Chair Smith said he was informed by Stephanie Hom that they hoped to make an offer to an individual who has been identified, sometime during the week of September 17, 2018.

b. Public Comment

No public comment.

c. Action, if any

None.

XIII. Authorize the Continued Investigation of Cases Formally Under Investigations by the CPRA

Interim Director Finnell has requested that the Commission direct the Community Police Review Agency ("CPRA" or "Agency") to continue investigating complaints of possible misconduct or failure to act of a Department sworn employee which investigations were commenced by the Citizens' Police Review Board prior to the establishment of the Agency.

a. Discussion

A. Finnell provided an oral presentation of the report submitted for this item.
A. Finnell made a request that the CPRA be allowed to continue with the non-public generated pending investigations and the ability to investigate future non-public generated complaints.

Discussion followed between Commissioners and Board Counsel.

b. Public Comment

No public comments.

c. Action, if any, to approve request to direct Agency to continue investigating complaints commenced by CPRB as referenced in the attached document.

Motion made by A. Dooley to have a standing authorization to the Agency to continue to investigate the open complaints from the CPRB and non-complaint driven issues that have arisen since, and authorize the Agency to initiate investigations as needed with a reporting function. 2nd by Commissioner R. Jackson. Motion passed.

XIV. Review of Agency's Administrative Closures or Dismissals

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

a. Discussion

A. Finnell provided an oral presentation of the report submitted for this item, as well as the pending investigation list. Discussion followed by Commissioners regarding the pending case list and the improved reporting process.

b. Public Comment

Rashidah Grinage spoke regarding the report template and requested a legal finding to include in the agenda as to why there is an issue with the proposed report template. Ms. Grinage also questioned the date CPRA received complaints from IAD. A. Finnell responded that IAD does work on complaints through their intake then sends it to CPRA. There is no problem with CPRA receiving complaints from IAD in a timely manner.

Ms. Grinage also asked about the recommended discipline and why it wasn't included in the case closure report. A. Finnell said it was an oversight, then provided the discipline recommendations.

Motion to continue the meeting beyond 10:30 pm made by R. Jackson. 2nd by J. Dorado. Motion passed.

c. Action to approve CPRA recommendation for dismissal or closure of cases or reopen the investigation, if any.

None.

XV. Agenda Setting and Prioritization of Upcoming Agenda Items

Thomas Lloyd Smith will engage the Commission 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.

a. Discussion

Chair Smith said that Mayor Schaaf would be attending the next meeting. Commissioners then stated what questions they wish to ask the Mayor when she appears before the Commission.

Discussion followed between Commissioners to establish the next agenda.

b. Public Comment

Henry Gage spoke regarding using meetings more efficiently. Mr. Gage also spoke of a proposed policy change regarding grooming and appearance of OPD officers.

c. Action, if any

None.

XVI. Adjournment

MOTION to adjourn made by R. Jackson and seconded Chair Smith. The motion passed.

The meeting was adjourned at 11:06 p.m.