



OAKLAND POLICE COMMISSION

SPECIAL MEETING AGENDA

August 22, 2019

5:30 PM

City Council Chamber, 3rd Floor
1 Frank H. Ogawa Plaza, Oakland, CA 94612

I. **Call to Order**
Chair Regina Jackson

II. **Roll Call and Determination of Quorum**
Chair Regina Jackson

THE OAKLAND POLICE COMMISSION WILL ADJOURN TO CLOSED SESSION IN CITY HALL BUILDING BRIDGES ROOM, 3RD FLOOR AND WILL REPORT ON ANY FINAL DECISIONS IN THE CITY COUNCIL CHAMBER DURING THE POLICE COMMISSION'S OPEN SESSION MEETING AGENDA.

III. **Closed Session**
PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE – Gov't Code § 54957(b)

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION – Gov't Code § 54956.9(d)(1)
Name of case: Negrete, et al v City of Oakland, et al, Alameda County Superior Court Case No. RG19030784

PUBLIC EMPLOYEE PERFORMANCE EVALUATION – Gov't Code § 54957(b)
Title: CPRA EXECUTIVE DIRECTOR

- a. Action – Report out of Closed Session
- b. Public Comment

IV. **Welcome, Purpose, and Open Forum** (2 minutes per speaker)
Chair Regina Jackson will welcome and call public speakers. The purpose of the Oakland Police Commission is to oversee the Oakland Police Department's (OPD) policies, practices, and customs to meet or exceed national standards of constitutional policing, and to oversee the Community Police Review Agency (CPRA) which investigates police misconduct and recommends discipline.

V. **DGO M-03.2 Policy**
The Commission will vote to approve amendments to the order for DGO M-03.2. ***This is a new item.*** ([Attachment 5](#)).

- a. Discussion
- b. Public Comment
- c. Action, if any

VI. Review of CPRA Pending Cases and Completed Investigations

To the extent permitted by state and local law, Executive Director John Alden will report on the Agency's pending cases and completed investigations. ***This is a recurring item. (Attachment 6).***

- a. Discussion
- b. Public Comment
- c. Action, if any

VII. OBOA Complaint

The Commission will discuss the OBOA's suggestion of disparate and/or racist implications for OPD hiring and discipline practices and opening a complaint with CPRA. ***This was discussed on 4.11.19, 4.25.19, and 5.9.19.***

- a. Discussion
- b. Public Comment
- c. Action, if any

VIII. Inspector General Position Update

The Commission may take action to adopt or reject the Inspector General job description approved by the Civil Service Commission. ***This was discussed on 9.27.18, 10.11.18, 1.24.19, 4.11.19, and 5.9.19. (Attachment 8).***

- a. Discussion
- b. Public Comment
- c. Action, if any

IX. CPRA Investigator Staffing

John Alden will provide an update on filling the vacant Investigator II positions. ***This was discussed on 7.11.19.***

- a. Discussion
- b. Public Comment
- c. Action, if any

X. NSA Case Conference Update

The Chair and Vice Chair will provide an update on the NSA Case Conference on August 21, 2019. ***This is a new item.***

- a. Discussion
- b. Public Comment
- c. Action, if any

XI. Commission Subpoenas Related to CPRA

The Commission will discuss and may receive responses to subpoenas previously issued. ***This is a new item, and is continued from 6.13.19, 6.27.19, and 7.11.19.***

- a. Discussion
- b. Public Comment
- c. Action, if any

XII. Bey Case Review

Vice Chair Harris will provide an update on the Bey Case. ***This was discussed on 9.13.18, 10.11.18, 3.14.19, 4.11.19, 4.25.19, 5.9.19, 6.13.19, 6.27.19, and 7.25.19.***

- a. Discussion
- b. Public Comment
- c. Action, if any

XIII. Meeting Minutes Approval

The Commission will vote to approve meeting minutes from May 9, 2019. ***This is a recurring item. (Attachment 13).***

- a. Discussion
- b. Public Comment
- c. Action, if any

XIV. Committee/Liaison/Other Commissioner Reports

This time is set aside to allow Commissioners to present a brief report on their own activities, including service on committees or as liaisons to other public bodies. No action may be taken as a result of a report under this section other than to place a matter for consideration at a future meeting. ***This is a recurring item.***

- a. Discussion
- b. Public Comment
- c. Action, if any

XV. Commission Retreat

The Commission will discuss the retreat scheduled for September 14, 2019. ***This was discussed on 6.28.18, 7.12.18, 8.9.18, 8.23.18, 9.13.18, 4.25.19, 6.27.19, 7.11.19, and 7.25.19.***

- a. Discussion
- b. Public Comment
- c. Action, if any

XVI. Agenda Setting and Prioritization of Upcoming Agenda Items

The Commission will engage in a working session to discuss and determine agenda items for the upcoming Commission meeting and to agree on a list of agenda items to be discussed on future agendas. ***This is a recurring item. (Attachment 16).***

- a. Discussion
- b. Public Comment
- c. Action, if any

XVII. Adjournment



This meeting location is wheelchair accessible. To request disability-related accommodations or to request an ASL, Cantonese, Mandarin, or Spanish interpreter, please e-mail jalden@oaklandca.gov or call 510-238-7401 or 711 at least five working days before the meeting. Please refrain from wearing scented products to this meeting as a courtesy to attendees with chemical sensitivities.

Esta reunión es accesible para sillas de ruedas. Si desea solicitar adaptaciones relacionadas con discapacidades, o para pedir un intérprete de en español, Cantonés, 3

Mandarín, o de lenguaje de señas (ASL) por favor envíe un correo electrónico a jalden@oaklandca.gov o llame al 510-238-7401 o 711 por lo menos cinco días hábiles antes de la reunión. Se le pide de favor que no use perfumes a esta reunión como cortesía para los que tienen sensibilidad a los productos químicos. Gracias.

會場有適合輪椅出入設施。需要殘障輔助設施, 手語, 西班牙語, 粵語或國語翻譯服務, 請在會議前五個工作天電郵 jalden@oaklandca.gov 或致電 510-238-7401 或 711。請避免塗搽香氛產品, 參加者可能對化學成分敏感。

Because some persons are sensitive to certain chemicals, persons attending this meeting are requested to refrain from wearing scented products.



DEPARTMENTAL GENERAL ORDER

M-03.2: COMMUNITY POLICE REVIEW AGENCY

Effective Date: XX Aug 19

Coordinator: Internal Affairs Division

The purpose of this order is to set forth Departmental policy and procedures regarding investigations conducted by the Community Police Review Agency (CPRA).

A. BACKGROUND AND PURPOSE OF THE CPRA

Pursuant to Oakland City Charter section 604, effective December 16, 2017 the Citizens' Police Review Board (CPRB) was disbanded and on that date the CPRA became empowered to investigate alleged misconduct or failure to act of all Department sworn employees. Concurrent investigations by the IAD and CPRA may result from a single complaint, and proposed discipline for subject officers may be issued by the Chief of Police based on findings from either investigation.

B. COOPERATION WITH CPRA

Subject to applicable law, the CPRA has the same access to all OPD files and records as IAD.

B – 1. Member Responsibility

- a. Members shall fully cooperate with the CPRA by providing their full and expeditious assistance in the investigation of complaints.
- b. Members who receive interview notices from the CPRA shall appear and testify as directed unless excused by the issuing authority.
- c. Members who receive interview notices shall contact the appropriate CPRA investigator within three on-duty working days. Members shall comply with all directives described in the notices.
- d. Members shall fully cooperate with all CPRA investigatory requests. Members who receive requests shall make every reasonable effort to comply with all directives in the requests within ten calendar days. Such requests may include, but are not limited to, production of any record related to the incident under investigation. The release of records shall comply with all restrictions enumerated by local, state and federal law or appropriate contractual agreements.
- e. Members who fail to comply with these provisions shall be subject to the disciplinary process.
- f. Members subject to an interview are afforded all rights and privileges enumerated in the *Public Safety Officers' Procedural Bill of Rights*.

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B – 2. Supervisor Responsibility

- a. CPRA shall copy a member’s supervisor when noticing a member for an interview and/or noticing a member for other requests for investigatory materials.
- b. If the noticed member is not available within three on-duty working days, the noticed member’s supervisor shall contact CPRA within five calendar days.
- c. Sergeants conducting internal affairs investigations shall make every reasonable effort to respond to CPRA requests for files and records within ten calendar days of the request.

By order of

Anne E. Kirkpatrick
Chief of Police

Date Signed: _____



DEPARTMENTAL
GENERAL
ORDER

Effective Date:
6 Dec 05

M-3.2

Index as:

NSA Task: N/A

Citizens' Police Review Board (CPRB)

CITIZENS' POLICE REVIEW BOARD

The purpose of this order is to set forth Departmental policy and procedures regarding investigations conducted by the Citizens' Police Review Board (CPRB).

I. PURPOSE OF THE CPRB

- A. The CPRB board is comprised of nine members and three alternates and conducts public hearings on police misconduct complaints.
- B. The CPRB accepts, investigates, and reviews complaints regarding the conduct of officers and delivers advisory reports to the City Administrator regarding the facts and a recommended disposition of misconduct complaints. The CPRB may also recommend policy changes regarding investigated complaints.
- C. The CPRB has the power to subpoena Department members and Park Rangers (for the purposes of this order, hereinafter included in the reference of 'officers') who are identified in a complaint or through further investigation identified as having engaged in or witnessed the alleged conduct under investigation.

II. POLICY

- A. The Department encourages private persons to bring forward grievances regarding inadequate police service or allegations of misconduct by officers.
- B. Officers shall fully cooperate with the CPRB by providing their full and expeditious assistance in the processing of complaints.
- C. All officers subpoenaed by the CPRB shall comply with all orders described in the subpoena and appear and testify as directed unless excused by the issuing authority. Officers who fail to appear and participate shall be subject to the disciplinary process.

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- D. Officers subject to an interview are afforded all rights and privileges enumerated in the *Public Safety Officers' Procedural Bill of Rights*.
- E. All Departmental records relating to the incident under investigation, with the exception of personnel records, shall be made available to CPRB investigators.
- F. The release of Departmental records shall comply with all restrictions enumerated by local, state and federal law or appropriate contractual agreements.

III. AUTHORITY

The CPRB may exercise its authority, as granted by City Ordinance, over all citizen complaints concerning the conduct of officers filed with either the CPRB or the Internal Affairs Division (IAD). Concurrent investigations by the IAD and CPRB may result from a single complaint.

IV. RESPONSIBILITIES

- A. The Department Court Liaison shall serve or return any subpoena to the CPRB that is not served on an officer on a leave of absence.
- B. IAD Administrative Sergeant or member designee shall:
 - 1. Serve as the single point of contact for all CPRB related matters.
 - 2. Advise the CPRB when it has been determined that a complaint, which has been filed initially with the CPRB, is also being resolved through the Informal Complaint Resolution process.
- C. Officers
 - 1. Officers who have received a *Notice for Interview, Release of Statement Already Given to OPD, Notice for Supplemental Interview, or Subpoena for Hearing* shall contact the appropriate CPRB investigator and comply with all of the directives described on the Notice/Subpoena within three (3) on-duty working days except when an officer receives a Notice/Subpoena on his/her last work day of the week, in which case contact shall be made with the appropriate CPRB investigator upon his/her return. Under no circumstances shall contact exceed three (3) on-duty working days after receiving the Notice/Subpoena.)

2. Officers on a leave of absence are not required to attend CPRB hearings.
3. Officers on light-duty are required to attend CPRB hearings.
4. If an officer has been served with a subpoena and subsequently takes a leave of absence, the officer shall contact the appropriate CPRB investigator prior to the hearing and provide the reason why he/she cannot attend the hearing.
5. Additionally, officers shall:
 - a. Authorize the release of any and all statements taken by Departmental investigators in an internal investigation; or

Provide a statement directly to the CPRB investigator if no statement has been taken;
 - b. Respond directly to the CPRB investigator's inquiries;
 - c. Provide a supplemental statement to the CPRB investigator, upon request; and
 - d. Contact the appropriate CPRB investigator not less than 24 hours prior to an interview should the interview need rescheduling. The final decision to reschedule an interview shall remain with the CPRB investigator.

D. Supervisors

Supervisors receiving a Court Liaison Memorandum and a *Notice for Interview, Release of Statement, Notice of Supplemental Interview, or a Subpoena for Hearing* shall:

1. Personally serve the Notice or Subpoena on the identified personnel at the next shift during which the "noticed" personnel is assigned to work;
2. Notify his/her immediate superior and the CPRB investigator who issued the Notice or Subpoena if the noticed officer is not scheduled to work within the next 3 days (including leaves of absence) so alternate service arrangements can be made.

3. Ensure the memorandum and Notice or Subpoena is properly completed and returned to the Court Liaison Detail.

V. HEARINGS

- A. The officer who is a subject of the complaint or the officer's representative shall have an opportunity to cross-examine the complainant and any neutral or complainant witnesses. Subject officers and their witnesses are subject to cross examination by the complainant or complainant's representative, the CPRB, its Executive Director and the Hearing Officer.
- B. The complainant has the burden to prove the allegations of the complaint by a preponderance of the evidence.
- C. The CPRB considers all pertinent City and Departmental policies and procedures and current applicable law when making its findings and recommendations to the City Administrator.
- D. The City Administrator will confer with the Chief of Police on any related disciplinary actions or policy changes.
- E. The City Administrator is the final authority for imposing discipline.

VI. FINDINGS

The CPRB recommends a finding for each allegation in the complaint. The types and definitions of findings are as follows:

- A. Sustained

A preponderance of the evidence proves that the alleged conduct occurred and that the conduct violated Department policy or procedure.
- B. Not Sustained

The evidence fails to prove or disprove that the alleged conduct occurred.
- C. Exonerated

A preponderance of the evidence proves that the alleged conduct occurred but that the conduct was justified, lawful or proper.

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D. Unfounded

A preponderance of the evidence proves that the alleged conduct did not occur or that the accused officer was not involved.

E. Policy Failure

A preponderance of the evidence proves that the alleged conduct occurred but that the conduct was justified, lawful or proper; however, the CPRB recommends the policy or procedure be changed.

F. Training Failure

A preponderance of the evidence proves that the alleged conduct occurred and was the result of inadequate or inappropriate training.

By order of

Wayne G. Tucker
Chief of Police

Date Signed: _____



**CITY OF OAKLAND
COMMUNITY POLICE REVIEW
AGENCY**

Class I Cases Administratively Closed or Dismissed

Oakland Municipal Code section 2.45.070(M) provides that the Police Commission shall “[r]eview the Agency’s dismissal and/or administrative closure of all complaints of Misconduct involving Class I offenses, including any Agency investigative file regarding such complaints, and, in its discretion and by five (5) affirmative votes, direct the Agency to reopen the case and investigate the complaint.” Class I offenses are listed in OPD’s Discipline Policy and include the most serious allegations of misconduct, which, if sustained, could result in disciplinary action up to and including termination and could serve as the basis for criminal prosecution.

By separate confidential communication, CPRA provided to the Commission redacted summaries from the investigation files for these administratively closed cases. Based on review of each investigation file, the CPRA Executive Director made a finding for each case, as stated below. Upon request of the Commission, the CPRA will make available additional materials from the Agency’s investigative file(s) regarding any of the complaints listed herein, to be reviewed in a closed session.

1. Racial Profiling

CASE #	DATE FILED CPRA	180-DAY	3304
19-0002	1-10-2019	07-9-2019	1-09-2020

The preliminary inquiry disclosed sufficient evidence to determine that the alleged conduct did not occur, and on that basis the Executive Director made a summary finding of Unfounded.¹

2. Obedience to Laws

CASE #	DATE FILED CPRA	180-DAY	3304
19-0055	1-22-2019	07-21-2019	1-10-2020

The preliminary inquiry disclosed sufficient evidence to determine that the alleged conduct did not occur, and on that basis the Executive Director made a summary finding of Unfounded.²

¹The complainant made other allegations, which are not Class I violations, including unlawful arrest and failure to provide a Mirandize warning. The Executive Director reviewed the additional allegations and determined they did not have merit and did not warrant further investigation.

²The complainant made other allegations, which are not Class I violations, including unlawful search. The Executive Director reviewed the additional allegations and determined they did not have merit and did not warrant further investigation.



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3. Use of Force

CASE #	DATE FILED CPRA	180-DAY	3304
19-0089	02-05-2019	08-04-2019	01-20-2020

The preliminary inquiry disclosed sufficient evidence to determine that the alleged conduct did not occur, and on that basis the Executive Director made a summary finding of Unfounded.³

4. Use of Force/Consumption of Intoxicants

CASE #	DATE FILED CPRA	180-DAY	3304
19-0127	12-5-2018	06-03-2019	01-24-2020

The preliminary inquiry disclosed sufficient evidence to determine that the alleged conduct did not occur, and on that basis the Executive Director made a summary finding of Unfounded as to both allegations.⁴

5. Racial Discrimination

CASE #	DATE FILED CPRA	180-DAY	3304
19-0156	02-08-2019	08-07-2019	02-03-2020

The preliminary inquiry disclosed sufficient evidence to determine that the alleged conduct did not occur, and on that basis the Executive Director made a summary finding of Unfounded.⁵

6. Use of Force

CASE #	DATE FILED CPRA	180-DAY	3304
19-0187	02-26-2019	08-25-2019	02-08-2020

The preliminary inquiry disclosed sufficient evidence to determine that the alleged conduct did not occur, and on that basis the Executive Director made a summary finding of Unfounded.⁶

³ The complainant made other allegations, which are not Class I violations, including unlawful seizure and rudeness. The Executive Director reviewed the additional allegations and determined they did not have merit and did not warrant further investigation.

⁴ The complainant made other allegations, which are not Class I violations, including rudeness. The Executive Director reviewed the additional allegations and determined that they did not warrant further action by the CPRA.

⁵ The complainant made other allegations, which are not Class I violations, including failing to take a police report. The Executive Director reviewed the additional allegations and determined that they did not have merit and did not warrant further action by the CPRA.

⁶ The complainant made other allegations, which are not Class I violations, including making threatening remarks. The Executive Director reviewed the additional allegations and determined that they did not have merit and did not warrant further action by the CPRA.



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7. Use of Force

CASE #	DATE FILED CPRA	180-DAY	3304
19-0265	3-15-2019	09-11-2019	03-20-2020

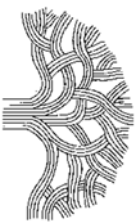
The preliminary inquiry disclosed sufficient evidence to determine that the alleged conduct did not occur, and on that basis the Executive Director made a summary finding of Unfounded.⁷

8. Use of Force

CASE #	DATE FILED CPRA	180-DAY	3304
19-0362	04-12-2019	10-09-2019	04-05-2020

The preliminary inquiry disclosed sufficient evidence to determine that the alleged conduct did not occur, and on that basis the Executive Director made a summary finding of Unfounded.

⁷ The complainant made other allegations, which are not Class I violations, including handcuffs being too tight and rudeness. The Executive Director reviewed the additional allegations and determined that they did not warrant further action by the CPRA.



CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Recently Completed Investigations

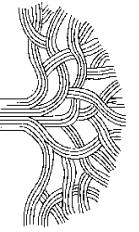
Assigned Inv.	Case #	Incident Date	Completion Date	Officer	Disposition	
NG	18-0977	9/5/18	6/29/19	Subject Officer 1	1. Use of Force (Level 2)	<i>Unfounded</i>
AL	19-0949	8/6/18	7/16/19	Subject Officer 1	1. Performance of Duty – Unintentional/Improper Search, Seizure or Arrest	<i>Exonerated</i>
				Subject Officer 2	1. Performance of Duty – Unintentional/Improper Search, Seizure or Arrest	<i>Exonerated</i>
					2. Performance of Duty – Unintentional/Improper Search, Seizure or Arrest	<i>Exonerated</i>
AL	18-0964	9/3/2018	8/13/19	Subject Officer 1	1. General Conduct	<i>Sustained</i>



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JS	18-0997	8/3/18	7/25/19	Subject Officer 1	1. Performance of Duty – Unintentional/Improper Search, Seizure or Arrest	2. Performance of Duty – Unintentional/Improper Search, Seizure or Arrest	3. Performance of Duty – Care of Property	4. Conduct Towards Others – Demeanor	5. Conduct Towards Others – Harassment and Discrimination	6. Performance of Duty – Unintentional/Improper Search, Seizure or Arrest	7. Performance of Duty – Unintentional/Improper Search, Seizure or Arrest	8. Performance of Duty –General
				Subject Officer 2	1. Performance of Duty – Unintentional/Improper Search, Seizure or Arrest	2. Performance of Duty – Unintentional/Improper Search, Seizure or Arrest	3. Performance of Duty – Care of Property	4. Conduct Towards Others – Demeanor	5. Conduct Towards Others – Harassment and Discrimination	6. Conduct Towards Others – Harassment and Discrimination		
				Subject Officer 3	1. Performance of Duty – Unintentional/Improper Search, Seizure or Arrest	2. Conduct Towards Others – Harassment and Discrimination						

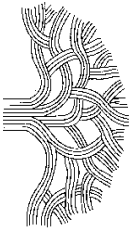


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Pending Cases

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 (Total Pending = 37)

Case #	Incident Date	Rcv'd CPRA	Rcv'd IAD	Assigned Inv.	180-day Goal	3304 Deadline	Type * (604(f)(1) or Other)	Class	Description
18-0964	09/03/18	09/03/18	9/3/2018	AL	03/04/19	09/02/19	Other	1	General conduct.
19-0778	2017 to 2018	11/05/18	09/03/18	AL	TBD	09/02/19	Other	1	Improper dissemination of information.
18-1030	09/16/18	09/20/18	9/16/2018	AL	03/19/19	09/15/19	Use of Force	1	Excessive force; refusal to supply name and serial number.
18-1156	10/16/18	10/30/18	10/16/18	AL	04/28/19	10/15/19	Use of Force	1	Excessive force (Taser); racial profiling; ethnic profiling; false arrest.
18-1137	09/01/18	10/18/18	10/18/18	AL	04/16/19	10/17/19	Use of Force	1	Excessive force.
19-0114	01/28/19	02/05/19	01/26/19	AL	08/04/19	01/25/20	Use of Force	1	Excessive force; demeanor; failure to provide name or serial number.
19-0753	07/26/19	08/06/19	07/26/19	AL	02/02/20	07/24/20	Use of Force	1	Excessive force.
18-0949	08/06/18	09/07/18	8/30/2018	AL	03/06/19	08/29/19	Other	2	False arrest; improper search; illegal tow of vehicle.
18-1305	12/01/18	12/07/18	12/03/18	AL	06/05/19	12/02/19	Other	2	Demeanor; performance of duty; PDRD violation.
18-1364	12/06/18	12/19/18	12/19/18	AL	06/17/19	12/18/19	Other	2	Wrongful detention; performance of duty; service complaint.
18-0991	09/09/18	09/12/18	9/9/2018	ED	03/11/19	09/08/19	Profiling	1	Racial profiling; lying to complainant.
18-1049	09/23/18	09/23/18	09/23/18	ED	03/22/19	09/22/19	Use of Force	1	Excessive force; demeanor.
18-0302	02/27/18	04/11/18	03/26/18	ED	10/09/18	10/28/19	Other	1	Inappropriate sexual contact.
18-1016	09/14/18	09/17/18	9/15/2018	ED	03/18/19	10/29/19	Other	1	Racial bias; care of property.
18-1282	10/16/18	11/28/18	11/27/18	ED	05/27/19	11/26/19	Other	1	Performance of duty; discrimination based on religion.

* The Type (604(f) or Other) column addresses whether the investigation contains allegations for which a full investigation is mandated under Oakland City Charter Section 604 (Measure LL). The allegation types listed in this column are: DUI, Profiling, Use of Force, In Custody Death, 1st Amendment Assembly or Other.

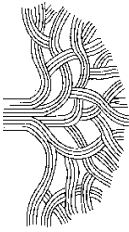


CITY OF OAKLAND
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Pending Cases

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 (Total Pending = 37)

Case #	Incident Date	Rcv'd CPRA	Rcv'd IAD	Assigned Inv.	180-day Goal	3304 Deadline (604(f)(1) or Other)	Type *	Class	Description
18-0524	05/21/18	05/29/18	05/19/18	ED	07/07/19	01/07/20	Other	1	Unlawful activity.
19-0051	01/10/19	01/22/19	01/11/19	ED	07/21/19	01/10/20	Use of Force	1	Excessive force.
18-1241	10/31/18	11/14/18	11/11/18	ED	05/10/19	03/14/20	Other	1	Improper dissemination of computer information; unauthorized use of electronic systems.
17-1009	09/03/17	10/17/17	10/11/17	ED	N/A	Tolled	Use of Force	1	Excessive force; PDRD and Taser policy violations.
18-0972	09/04/18	09/07/18	9/4/2018	ED	N/A	Tolled	Use of Force	1	Attacked by officers.
19-0541	03/25/19	06/07/19	03/25/19	ED	N/A	10/17/19	Other	2	Failure to accept or refer a complaint. (This case is a spinoff case, addressing allegations that the CPRA discovered in case 18-1049. 3/25/19 is the date the CPRA first notified IAD of the
18-1331	12/10/18	12/17/18	12/10/18	ED	06/15/19	12/09/19	Other	2	Demenor.
18-0989	09/09/18	09/09/18	9/9/2018	JS	03/08/19	09/08/19	Use of Force	1	Excessive force; harassment; illegal tow.
18-1095	10/03/18	10/15/18	10/03/18	JS	04/13/19	10/02/19	Use of Force	1	Excessive force.
18-1143	10/10/18	10/18/18	10/15/18	JS	04/16/19	10/14/19	Other	1	Harassment; racial discrimination; improper search.
19-0083	01/17/19	01/22/19	01/17/19	JS	07/21/19	01/16/20	Use of Force	1	Excessive force; harassment; discrimination.
18-0214	02/24/18	02/27/18	02/24/18	JS	N/A	02/28/20	Use of Force	1	Improper pointing of firearm; false arrest.
18-0335	04/04/18	04/12/18	04/04/18	JS	N/A	Tolled	Use of Force	1	Use of Taser; PDRD violation.
18-0997	08/03/18	09/13/18	9/12/2018	JS	03/12/19	08/15/19	Other	2	Wrongful detention and arrest; property damage.

* The Type (604(f) or Other) column addresses whether the investigation contains allegations for which a full investigation is mandated under Oakland City Charter Section 604 (Measure LL). The allegation types listed in this column are: DUI, Profiling, Use of Force, In Custody Death, 1st Amendment Assembly or Other.



CITY OF OAKLAND
COMMUNITY POLICE REVIEW AGENCY
Pending Cases

8/16/2019
 Page 3 of 3
 (Total Pending = 37)

Case #	Incident Date	Rcv'd CPRA	Rcv'd IAD	Assigned Inv.	180-day Goal	3304 Deadline	Type * (604(f)(1) or Other)	Class	Description
18-0999	09/12/18	09/12/18	9/17/2018	JS	03/1/19	09/1/19	Other	2	Rudeness.
18-1260	11/08/18	11/28/18	11/15/18	JS	05/27/19	11/14/19	Other	2	Demeanor; false arrest.
18-1054	09/25/18	10/15/18	09/25/18	TBD	04/13/19	09/24/19	Use of Force	1	Excessive force; demeanor.
18-1352	12/09/18	12/27/18	12/14/18	TBD	06/25/19	12/13/19	Use of Force	1	Excessive force; harassment; racial discrimination; improper search, seizure, or arrest; care of property.
19-0416	04/17/19	04/19/19	04/17/19	TBD	10/16/19	04/15/20	Use of Force	1	Excessive force (K-9 bite); Authority and responsibilities (Commanding officers); Authority and responsibilities (Supervisors).

* The Type (604(f) or Other) column addresses whether the investigation contains allegations for which a full investigation is mandated under Oakland City Charter Section 604 (Measure LL). The allegation types listed in this column are: DUI, Profiling, Use of Force, In Custody Death, 1st Amendment Assembly or Other.



CITY OF OAKLAND

CITY OF OAKLAND
 Established Date: Apr 11, 2013
 Revision Date: May 22, 2019

INSPECTOR GENERAL

Class Code:
EM242

Bargaining Unit: U31 - CMEA Confidential
 Management Employees

SALARY RANGE

\$9,732.05 - \$11,950.09 Monthly
 \$116,784.60 - \$143,401.08 Annually

DEFINITION:

The Inspector General shall conduct any audit or review of the Oakland Police Department necessary to assess the Oakland Police Department's performance and adherence to constitutional policing practices. The Inspector General shall also conduct any audit or review of the Oakland Police Department's policies and procedures, including any pattern of non-compliance with the foregoing, as necessary or helpful for the Police Commission to fulfill its duties under the City Charter. The incumbent shall be responsible for the day-to-day operations of the Office of the Inspector General (OIG), including but not limited to the supervision and direction of all OIG staff.

DISTINGUISHING CHARACTERISTICS:

Inspector General is a management level civilian classification that is hired by the City Administrator. The Police Commission prioritizes the functions and duties of the OIG. The Inspector General is responsible for the day-to-day operations of the OIG. The Inspector General is authorized to observe Executive Force Review Boards, Force Review Boards, and Skelly hearings necessary to fulfill the duties of the position

EXAMPLES OF DUTIES:

Duties may include, but are not limited to the following:

- The Inspector General shall be responsible for the day-to-day operations of the OIG, including but not limited to the supervision and direction of all OIG staff.
- Conduct program and performance audits of all Oakland Police Department functions, including the internal disciplinary system, to identify trends, problems, and solutions; audit Internal Affairs Division investigations to ensure thorough and unbiased adjudication and consistent disciplinary action.
- Conduct and analyze audits on, but not limited to, accuracy of inspections, policy and procedure compliance, police operations, adequacy of procedure/directive/policy/order, and departmental strategies and effects.
- The Inspector General shall be permitted to attend, as an observer, Executive Force Review Board, Force Review Board, and, to the extent permitted by law, Skelly hearings if he or she chooses to do so. The Inspector General shall not have any decision-making authority regarding the specific cases being heard, and shall maintain the confidentiality of the hearings as required by law. The Inspector General shall not be permitted to attend any Executive Force Review Board, Force Review Board, or Skelly hearing until he or she has completed all necessary trainings.
- Prepare an annual report, summarizing the results of the annual reviews of:
 - The Oakland Police Department's processes and procedures for investigating alleged misconduct;

- The Oakland Police Department's processes and procedures for determining the appropriate level of discipline for sustained findings of misconduct;
- The Community Police Review Agency's processes and procedures for investigating alleged misconduct;
- The Community Police Review Agency's processes and procedures for determining the appropriate level of discipline for sustained findings of misconduct;
- Trends and patterns regarding Oakland Police Department training and education, and the Oakland Police Department's use of an early warning system(s);
- Training and/or policy issues that arrive during the investigation of complaints; and
- Trends and patterns regarding use of force and Oakland Police Department sworn employee-involved shootings.

This annual report shall be presented to the Police Commission, the Mayor, the City Council's Public Safety Committee, the City Council and to the Chief of Police and shall include, where appropriate, recommendations for changes in the processes and procedures that were reviewed.

- Monitor and evaluate, on at least an annual basis, the number and percentage of sworn officers who have received in-service training on profiling and implicit bias, procedural justice, de-escalation, diplomacy, situational problem-solving, and work-related stress management, and make recommendations, as appropriate, to the Police Commission regarding changes to the Oakland Police Department's training programs.
- Develop and present a plan to the Police Commission to measure the performance of each element of the Oakland Police Department's discipline process for sworn employees.
- At the discretion of the Police Commission, the Commission may direct the Inspector General to review and comment on all other policies, procedures, customs, and General Orders of the Oakland Police Department.

MINIMUM QUALIFICATIONS:

Any combination of education and experience that is equivalent to the following minimum qualifications is acceptable. Note: Experience may be substituted for education on a year-for-year basis to allow for less typical patterns of qualification.

Education:

A Master's degree or Jurist Doctorate (J.D.) in public administration, public policy, criminal justice, or a related field from an accredited college or university.

Experience:

Three years of progressively responsible professional experience in investigative, auditing, and public policy work in a relevant field that includes experience with statistics and data collection in a public-sector entity. Legal experience and a background in law enforcement policy and practice is desirable.

KNOWLEDGE AND ABILITIES:

Knowledge of:

- Principles and practices of public policy formulation.
- Police Department administration and department organization.
- Data collection and statistical analysis methods including qualitative and quantitative analysis.
- Public relations principles including public speaking and public presentations.
- Advanced personal computer applications particularly spreadsheet and database software.
- Policies and practices of civilian oversight of law enforcement agencies.
- Role of local Boards and Commissions.
- Principles and practices of performance auditing.
- Performance measurement systems and metrics.
- Legal and government auditing practices regarding conducting audits.

Ability to:

- Manage and complete complex audit and/or investigations involving allegations of fraud, theft, deception and conspiracy.
- Conduct impartial, objective performance audits; reduce complex issues to their most basic form; formulate reasonable and achievable recommendations with available resources.
- Maintain accurate records and files.
- Design, manage and troubleshoot databases.
- Interpret rules, laws and regulations pertaining to police conduct.
- Analyze and compile data.
- Prepare well-written analytical reports based on findings.
- Communicate effectively orally and in writing.
- Make oral presentation to both large and small groups.
- Maintain confidentiality and handle sensitive situations with tact and diplomacy.
- Work effectively with employees, elected officials, boards and commissions and the general public.
- Apply strong analytical skills to use data to identify patterns and trends.
- Supervise subordinate employees engaged in technical research and analytical activities.

LICENSE OR CERTIFICATE / OTHER REQUIREMENTS:

Individuals who are appointed to this position will be required to maintain a valid California Driver's License throughout the tenure of employment OR demonstrate the ability to travel to various locations in a timely manner as required in the performance of duties.

OTHER REQUIREMENTS

Must pass a thorough background investigation.

Within ninety (90) days of his or her appointment, the Inspector General shall, at a minimum, receive training described in the City Charter and other related legislation. The Police Commission may propose any additional training it deems necessary for the Inspector General to perform the functions and duties of the OIG.

CLASS HISTORY:

Revised: 05/16/2019; CSB Reso#: 44933

Established: 04/11/2013; CSB Reso#: 44622

DRAFT



**CITY OF OAKLAND
OAKLAND POLICE COMMISSION**

Meeting Minutes

Thursday, May 9, 2019

6:36 PM

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

I. Called to Order
Regina Jackson

The meeting started at 6:33 p.m.

Chair Jackson announced that the former Interim Executive Director, Karen Tom, who resigned effective May 3, declined her invitation to attend this meeting. Mr. Rus is here tonight and will take Speaker Cards.

II. Roll Call and Determination of Quorum
Chair Jackson

Commissioners Present: Tara Anderson, José Dorado, Ginale Harris, Regina Jackson, and Edwin Prather. Quorum was met.

Alternate Commissioner Present: Chris Brown

Absence (Planned) Commissioners: Mubarak Ahmad and Thomas Lloyd Smith.

Counsel for this meeting: Sergio Rudin

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

Chair Jackson welcomed and called public speakers. The purpose of the Oakland Police Commission is to oversee the Oakland Police Department's (OPD) policies, practices, and customs to meet or exceed national standards of constitutional policing and to oversee the Community Police Review Agency (CPRA) which investigates police misconduct and recommends discipline.

Comments were provided by the following public speakers:

Mary Vail
Bruce Schmiechen
Lorelei Bosserman
John Bey
Henry Gage, III
Saleem Bey
Oscar Fuentes

IV. Pawlik Investigation Update

The Commission discussed CPRA's recent findings on the Pawlik investigation. Karen Tom and Joan Saupe reviewed the process. *This is a new item.*

Chair Jackson read a brief statement: "This commentary is on process not findings. Fellow Commissioners – She is extremely concerned about the recent course of events involving the investigation and report on the shooting of Joshua Pawlik. She prepared the statement for the public and this Commission to consider and adopt. As you all

know, the Commission has been very concerned about the completion of the investigation by CPRA and we time and time again asked the Interim Executive Director to report on the investigation process. The report is flawed in many respects. First, it is our understanding that perhaps only one interview was conducted of the officers involved or the other subject witnesses. This means that CPRA did not conduct its own separate videotaped interviews. This is wholly unacceptable and in fact, it violates Section 2.45.140(A) and 2.46.03(E) of the Enabling Ordinance which specifically mentions that CPRA's separate investigations should include probative videotape or audiotape. Separate videotaped and audiotaped interviews are called for a reason. This allows the public to have confidence in CPRA's work product to allow for a truly independent review and an analysis separate from that of the police department's own investigation. By failing to conduct its own videotaped and audiotaped interviews, CPRA doesn't do its job – it loses the support of the community at large and, frankly, it fails on the job. The investigation is inadequate and should be returned. Second, Ms. Tom failed to follow Section 604(f)(4) of Measure LL which provides that CPRA will consult with the Commission prior to forwarding reports to other enforcement agencies. Not only did Ms. Tom fail to follow Measure LL before she provided the report to the OPD, City Attorney, and whoever else she sent it to - that report was not provided to the Commission until I called her and demanded that she send it to us. It is clear from Ms. Tom's actions by disseminating the report outside of the process and procedures, that she sought to politicize this process, there is no place for politics in police oversight. The goal is transparency. What Ms. Tom did was not only politically motivated but also a clear attempt to continue to thwart this investigation. As she mentioned earlier, Ms. Tom refused an invitation by the Commission today to explain her actions or explain specifically the process not the findings. For these reasons, this current report is tainted – it has been politicized by CPRA, basic required investigative procedures were not followed, the public and the Commission's confidence were at least, she believes, that the public and the Commission's confidence in this report is shaken. We must return the report. She would ask all Commissioners to join her in this position.”

Comments were provided by the following public speakers:

Jim Chanin
 Bruce Schmiechen
 Rashidah Grinage
 Saleem Bey
 Mary Vail
 Michael Tigges
 Lorelei Bosserman
 Henry Gage, III

A motion was made by Commissioner Prather, seconded by Commissioner Dorado, to reject the report and return it to CPRA with direction to the to be hired Interim Executive Director that the investigation be done properly.

Commissioner Prather amended his first motion to reject this report and that we ask the Investigator that we previously hired as a vendor for this purpose, to give us an opinion on whether an investigation at this point can be done and whether it is worthwhile.

Counsel Rudin said that this Item is on the Agenda for discussion of CPRA's recent findings on the Pawlik investigation and not for hiring an outside investigator. His recommendation would be that if you want to do that, that you table the motion and take that up at another meeting and in the interim, perhaps it might be helpful for you to receive some advice either from his office or from the City Attorney about CPRA's ability to receive back a rejection of that report. Commissioner Dorado said that he rejects that advice. He supports the amendment to the motion.

The first motion was seconded by Commissioner Dorado. The vote was Aye: 5 (Anderson, Dorado, Harris, Jackson, and Prather). The motion passed unanimously.

A second motion was made by Commissioner Prather that we issue our first subpoena for all documents meaning communications, emails and texts between Joan Saupe, Karen Tom, Emily Prescott, Veronica Harris, and any member of the OPD between March 11, 2018 to May 9, 2019. Let's make those returnable at our first June meeting. It was seconded by Chair Jackson. The vote was Aye: 5 (Anderson, Dorado, Harris, Jackson, and Prather). The motion passed unanimously.

V. Personnel Committee Update and IG Position Update

The Personnel Committee provided an update from its meeting on May 6, 2019. The Committee provided an update on the status of the Inspector General position. *This was discussed on 9.27.18, 10.11.18, 1.24.19, and 4.11.19.*

Vice Chair Harris provided the IG position update. She referenced the last paragraph under Distinguishing Characteristics and asked Rashidah Grinage to review the language to determine if this was the Commission's language. She always asks for a copy before it gets moved to the Civil Service Board and it has not been received.

A motion was made by Vice Chair Harris, seconded by Chair Jackson that the IG Job Description may not be the version that was submitted and to table this Agenda Item. The vote was Aye: 5 (Anderson, Dorado, Harris, Jackson, and Prather). The motion passed unanimously.

Chair Jackson provided the Personnel Committee update (Investigators).

Vice Chair Harris provided the Personnel Committee update regarding interviews (Executive Director). The second round of interviews will be on June 4.

Comments were provided by the following public speakers:

Bruce Schmiechen
Rashidah Grinage
Michael Tigges
Saleem Bey

The Commission returned to this Item at 8:59 p.m. Vice Chair Harris verified the IG Job Description and said to move forward with voting on this matter. The Job Description is the Commission's; it should move forward in the Civil Service Process.

Commissioner Brown asked how to incorporate possible edits to the IG Job Description. Chair Jackson said that at this point to include them, if this is determined the one we put forward, would delay it going to the Civil Service on May 16. Do you think that the changes are crucial/critical and he said "yes?" Commissioner Brown referenced the Minimum Qualifications section. The person needs to be experienced in supervising public employees. In terms of the ability to design, manage and troubleshoot databases is a misstatement about the nature of perfecting the existing and future databases. Troubleshooting databases is a technical skill and this person could not in any way be expected to have that kind of skill. Managing databases also refers to a whole specific area of database management which is not the same as managing the use of the database or overseeing someone who knows how to manage the database.

A motion was made by Vice Chair Harris to edit the IG Job Description with two changes: (1) add on supervisory experience and (2) remove the words design and troubleshoot but keep in manage databases. We adopt this version after the edits. She will move it forward to Mr. Luna (City Administrator's Office) so he can forward it

to Civil Service. It was seconded by Commissioner Dorado.

Commissioner Brown offered a friendly amendment to the motion: supervisor of public employees.

A motion was made by Vice Chair Harris to amend the friendly amendment to the motion to change it to supervisory instead of supervisor of public employees. It was seconded by Commissioner Dorado. The vote was Aye: 5 (Anderson, Dorado, Harris, Jackson, and Prather). The motion passed unanimously.

Comments were provided by Saleem Bey.

VI. Bey Update and Discussion

The Commission discussed the status of the issues such as hiring an outside investigator raised by the Bey brothers. *This was discussed on 9.13.18, 10.11.18, 4.11.19, and 4.25.19.*

Saleem Bey provided an update.

A motion was made by Chair Jackson and seconded by Vice Chair Harris to instruct the Director to contract an outside investigator to give an opinion on the Bey case investigation.

Chair Jackson amended her motion to add that the Ad Hoc Committee, which currently exists of Alternate Commissioner Brown, Commissioner Harris and herself, will commit to designing an appellate process that will be on the Agenda for review and approval at the next meeting. It was seconded by Commissioner Anderson. The vote was Aye 4: (Anderson, Dorado, Harris, Jackson); Oppose: 1 (Prather). The motion passed.

Comments were provided by the following public speakers:
Bruce Schmiechen
Saleem Bey

VII. Performance and Financial Audit of Police Commission and CPRA

City Auditor staff discussed the Police Commission and CPRA audit required by City Charter section 605(a)(4). *This is a new item.*

Courtney Ruby, City Auditor for the City of Oakland, introduced herself and the audit team: Mark Carnes (Senior Performance Auditor, assigned to this audit), Alessia Dempsey (Performance Audit Manager), Mike Edmonds (Assistant City Auditor). The Audit will be conducted and performed by October 20, 2019. Ms. Ruby presented the audit scope and objectives. Mr. Edmonds presented the audit process and the audit report process. Questions were asked by Commissioners and responses were provided by Mr. Edmonds.

Comments were provided by the following public speakers:
Rashidah Grinage
Henry Gage III
Oscar Fuentes

It is 9:07 p.m. Chair Jackson stated the Commission will take a break – Returned at 9:19 p.m. (This Item is not listed on the Agenda).

VIII. Meeting Minutes Approval

The Commission voted to approve the revised meeting minutes from March 28 and

April 11, 2019. *This is a recurring item.*

Chair Jackson asked Mr. Rus if the meeting transcripts were received. Mr. Rus said your staff (Chrissie) posted them on the website. Chair Jackson said that she had asked Chrissie to send Commissioners links because the website is difficult to navigate.

Vice Chair Harris said her understanding is that we have transcription service but we still have Ms. Klasse typing the minutes. Mr. Rus said the minutes form the official record of the meeting and the transcript is a supplemental document that the Commission requested. Commissioner Prather said we are legally obligated to have minutes so we can't substitute a transcript for these minutes. He raised some questions about the minutes last time (grammatical errors, typos, etc.) and they are now very nice. Commissioner Prather and Chair Jackson thanked Ms. Klasse for doing the Minutes.

A motion was made by Commissioner Dorado, seconded by Commissioner Prather to approve the March 28, 2019 Minutes. The vote was Aye: 4 (Anderson, Dorado, Jackson, and Prather); Abstain: 1 (Harris). The motion passed.

Comments were provided by the following public speakers:
No public comment.

A motion was made by Commissioner Prather, seconded by Commissioner Anderson to approve the April 11, 2019 Minutes with attention drawn to the reference noted below by Vice Chair Harris. The vote was Aye: 3 (Anderson, Jackson and Prather); Abstain: 2 (Dorado and Harris). The motion failed. The Minutes will be brought back at another time for approval.

Vice Chair Harris referenced Attachment 8b, Page 2, Paragraph 2, Lines 10 and 11 "It is of the highest importance that these meetings be conducted with class." She asked that Commissioners be mindful of their choice of words because it is discriminatory.

Comments were provided by the following public speakers:
No public comment.

IX. R-02: Searches of Individuals on Probation and Parole

The Commission reviewed an amended version of R-02: Searches of Individuals on Probation or Parole, and discussed the status of collaboration with OPD. *This was discussed on 1.24.19, 3.14.19, 3.28.19, and 4.11.19.*

Commissioner Prather gave an update. The policy is coming back as a last check before it goes before the City Council tomorrow (May 10). Our subcommittee met with OPD. Version 9a is the current version put forward by the Ad Hoc Committee of the Police Commission, Attachment 9b is the current OPD version and is not final and they are working on it, Attachment 9c is the last version we voted on. This version was submitted to be in your packet as a redline and it is not redlined. The operative policy we are working off is Attachment 9a. He reviewed changes made from the last version. The section of issue was Section C-1, Page 3. OPD's request is that we allow them a week to come back with some suggested language and move this to the next meeting for a vote on this version of the policy. Joe Turner, Policy/Publication Unit, OPD, added that we are appreciative of the collaborative work and are close to a unified policy.

Commissioner Anderson offered two amendments to Attachment 9a for the Commission's consideration. The first amendment is adding under A - 2 Violent Offenses – In the examples of the Penal Code, the Vehicle Code that constitute violent offenses that we explicitly include PC § 667.5(c), 1-23 inclusive. The second

amendment was to B – 3, to revise to “is unjust”, removing viewed.

A motion was made by Commissioner Anderson, seconded by Vice Chair Harris to pass Attachment 9a, and to include the amendments offered by Commissioner Anderson. The vote was Aye: 4 (Anderson, Dorado, Harris, and Jackson); Oppose: 1 (Prather). The motion passed.

Comments were provided by the following public speakers:

Lorelei Bosserman
Mary Vail
Anne Janks
Michael Tigges
Bruce Schmiechen
Rashidah Grinage

X. Oakland Black Officers Association (OBOA) Letter

The Commission discussed allegations in the OBOA letter in the Oakland Post suggesting disparate and/or racist implications for OPD hiring and discipline practices, and may hear from a representative on behalf of the OBOA. ***This was discussed on 4.11.19 and 4.25.19.***

Chair Jackson said this Item was called several times and asked the OBOA if they had an advocate to send. There is an ongoing investigation so there is resistance. We need to have action on this item. We asked Ms. Tom to open a similar CPRA investigation. Chair Jackson doesn't have that information. We do have subpoena power. We are aware that there are police officers who have filed cases against the City around harassment and discrimination and have won and still work in the OPD. Granted these cases may have happened prior to this current Police Chief but it does establish that there has been an unhealthy culture previously and clearly it is still alive. Chair Jackson said that we will have discussion among us and then determine how to move forward on this Item.

Comments were provided by the following public speakers:

Rashidah Grinage
Henry Gage III
Lorelei Bosserman
Michael Tigges

XI. Budgeting Process Overview and Review of CPRA and Commission Budgets

Finance Department staff provided an overview of the City's budgeting process and guided the Commission through a review of CPRA and Commission budgets. ***This is a new item.***

Brad Johnson, Finance Department, Principal Budget Analyst, gave a brief overview of items related to the budget process/some specific details regarding the Commission and CPRA. He gave a Power Point Presentation (included in the packet).

Chair Jackson stated that it is 10:50 p.m. and we vote to extend the meeting time.

MOTION to continue this meeting until 11:15 p.m. was made by Chair Jackson and seconded by Vice Chair Harris. The vote was Aye: 5 (Anderson, Dorado, Harris, Jackson, and Prather). The motion passed unanimously.

Brad Johnson continued with his Power Point Presentation.

Comments were provided by the following public speakers:

Rashidah Grinage
Mary Vail
Henry Gage III

XII. OPD Budget Review

OPD staff presented the Department's budget for the Commission to review. *This is a new item.* ([https://www.oaklandca.gov/documents/fy-2019-21-proposed budget](https://www.oaklandca.gov/documents/fy-2019-21-proposed-budget))

Virginia Gleason, OPD, reported their Budget Director is the mother of a seven-month old and is at home and unable to present the budget. Ms. Gleason said that she will stay and Brad Johnson (worked with their Budget Director, Nell Wallington) volunteered to assist in the presentation. Send questions to her by Monday or Tuesday so OPD can provide a written document in the packet for the next meeting. Brad Johnson, Finance Department, Principal Budget Analyst, reported that he was not prepared to go over OPD's budget and gave a short general overview of key details.

Chair Jackson said this item will be tabled until the next meeting and OPD's Budget Director will present. Ms. Gleason requested that this item be heard early on the Agenda.

Comments were provided by the following public speaker:
Oscar Fuentes

XIII. Pro Bono Legal Services Agreement

The Commission discussed and reviewed an agreement from Henry Gage, III for pro bono legal services that was approved by the Personnel Committee, and may vote to approve the agreement. *This is a new item.*

Counsel Rudin stated that it is 11:15 p.m. and you vote to extend the meeting time.

MOTION to continue this meeting until 11:30 p.m. was made by Chair Jackson and seconded by Commissioner Dorado. The vote was Aye: 4 (Anderson, Dorado, Harris, and Jackson); Oppose: 1 (Prather). The motion passed.

Chair Jackson gave an update regarding the Agreement with the idea that the Commission would provide special projects.

Commissioner Prather was concerned with what precedent does this create for the City Attorney denying the Commission legal services in the future because the Commission obtained pro bono counsel. The second point is the Agreement needs to be more specific. We need to have an agreement for each specific matter.

Henry Gage III spoke and said there are concerns raised by this type of proposal. The City Attorney has made it very clear that the Charter mandates her as the sole counsel for the Commission. With respect to litigation, the City Attorney is mandated to represent City departments so you are not in danger of losing representation from the City Attorney at this point. There are some interesting and interrelated issues with respect to the independence of this Commission. That is the threshold issue.

Chair Jackson asked Commissioner Prather to follow up with Henry Gage III as it relates to documentation that can back some issues that were raised earlier. This Item will be brought back to the next Commission meeting.

Comments were provided by the following public speakers:
No public comment.

Chair Jackson recommended that Items XIV through XVII be tabled, go to Closed Session, come out, and then Adjourn.

Counsel Rudin recommended that you vote to extend the meeting to cover the length of the Closed Session

A motion was made by Chair Jackson and seconded by Commission Dorado to table Items XIV through XVII and that we extend the meeting 20 minutes to facilitate Closed Session (Item XVIII), Oral Report (Item XIX), and Adjournment (Item XX). The vote was Aye: 5 (Anderson, Dorado, Harris, Jackson, and Prather). The motion passed unanimously.

- XIV. Report from Ad Hoc Committee on CPRA Appellate Process**
The Ad Hoc Committee on CPRA Appellate Process presented its on-going analysis on a potential appellate process for closed CPRA and/or CPRB cases, if any. *This was discussed on 9.13.18, 10.11.18, 4.11.19, and 4.25.19.*
- XV. Committee/Liaison/Other Commissioner Reports**
This time was set aside to allow Commissioners to present a brief report on their own activities, including service on committees or as liaisons to other public bodies. No action may be taken as a result of a report under this section other than to place a matter for consideration at a future meeting. *This is a recurring item.*
- XVI. National Association for Civilian Oversight of Law Enforcement (NACOLE) Annual Conference**
The Commission discussed and voted on participation at the National Conference in Detroit September 22-26, 2019. *This was discussed on 4.25.19.*
- XVII. Agenda Setting and Prioritization of Upcoming Agenda Items**
The Commission engaged in a working session to discuss and determine agenda items for the upcoming Commission meeting and agreed on a list of agenda items to be discussed on future agendas. *This is a recurring item.*

THE OAKLAND POLICE COMMISSION ADJOURNED TO CLOSED SESSION IN CITY HALL BUILDING BRIDGES ROOM, 3RD FLOOR AND REPORTED ON ANY FINAL DECISIONS DURING THE POLICE COMMISSION'S OPEN SESSION.

- XVIII. Closed Session**
PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE
Title: Chief of Police

Gov't Code § 54957(b)
- XIX. Oral Report of Disclosable Final Decisions Made During Close Session**

It is 11:43 p.m. There are no reportable items.

Comments were provided by the following public speakers:
No public comment.
- XX. Adjournment**

A motion was made by Commissioner Prather, seconded by Commissioner Dorado, to adjourn. The vote was Aye: 5 (Anderson, Dorado, Harris, Jackson, and Prather).

The motion passed unanimously:



OAKLAND POLICE COMMISSION

Agenda Report

Subject:	Pending Agenda Matters List
Date:	August 19, 2019
Requested by:	Police Commission
Prepared by:	Chrissie Love, Administrative Analyst II
Reviewed by:	John Alden, CPRA Executive Director

Action Requested:

Review Pending Agenda Matters List and decide on which, if any, to include in upcoming agendas.

Background:

The following exhaustive list was begun in early 2018 and includes items submitted for consideration on future agendas. Community members may suggest agenda items by completing and submitting the Agenda Matter Submission Form found on the Commission's webpage.

Discussion:

The following trainings must be delivered in open session and should be scheduled soon:

Subject Matter	Provider
<i>Mandated by City Charter section 604 (c)(9) and Enabling Ordinance section 2.45.190</i>	
California's Meyers Miliias Brown Act (MMBA) and Public Employment Relations Board's administration of it (OMC 2.45.190(G)) <i>must be done in open session</i>	HR
Civil Service Board and other relevant City personnel policies and procedures <i>must be done in open session</i>	HR
Memoranda of Understanding with Oakland Police Officers Association and other represented employees (OMC 2.45.190(G)) <i>must be done in open session</i>	OPD
Police Officers Bill of Rights (OPC 2.45.190(H)) <i>must be done in open session</i>	OPD

Attachments:

Pending Agenda Matters List

Police Commission Pending Agenda Matters List

Pending Agenda Matter	Date Placed on List	Duties/Deliverables	Additional Information/Details	Priority Level	Timeline/Deadline	Scheduled	Lead Commissioner(s), if any
Commissioner Training, Part 1	1/1/2018	Complete the training described in section 2.45.190(A) through (H)	The training described in subsections (G) and (H) must be done in open session. The 1 year deadline only applies to the first group of Commissioners and alternates; all other Commissions must complete this training within six months of appointment.	High	10/17/2018		Ahmad, Dorado
Commissioner Training, Part 2	1/1/2018	Complete the training described in section 2.45.190(I) through (M)	The 18 month deadline only applies to first group of Commissioners and alternates; all other Commissioners must complete this training within 12 months of appointment.	High	4/17/2019		Ahmad, Dorado
Confirming the Process to Hire Staff for the Inspector General's Office	5/17/2019	When the Inspector General (IG) is hired, there is to be a Policy Analyst in of the office of the IG. This is to confirm the process of hiring for that position.	This will require information presented from the City Administrator's Office.	High			
Hire Inspector General (IG)	1/14/2019	Hire IG once the job is officially posted	HR staff is completing a compensation study for the position. Since this position is new to the City's Salary Ordinance, this step is required so the IG can be properly funded. Concurrently, HR staff has been conforming the IG job description approved by the Police Commission to fit a class specification for the position. HR staff anticipates this work to be completed in the coming weeks. The next two immediate steps are: 1) The Civil Service Board will need to approve the class specification, which staff anticipates will happen in February; and 2) The salary ordinance will then need to be approved by the City Council. The IG position will become open after these two steps are completed.	High			Personnel Committee

Police Commission Pending Agenda Matters List

Pending Agenda Matter	Date Placed on List	Duties/Deliverables	Additional Information/Details	Priority Level	Timeline/Deadline	Scheduled	Lead Commissioner(s), if any
Notification of OPD Chief Regarding Requirements of Annual Report	1/1/2018	Commission must notify the Chief regarding what information will be required in the Chief's annual report	<p>The Chief's report shall include, at a minimum, the following:</p> <ol style="list-style-type: none"> 1. The number of complaints submitted to the Department's Internal Affairs Division (IAD) together with a brief description of the nature of the complaints; 2. The number of pending investigations in IAD, and the types of Misconduct that are being investigated; 3. The number of investigations completed by IAD, and the results of the investigations; 4. The number of training sessions provided to Department sworn employees, and the subject matter of the training sessions; 5. Revisions made to Department policies; 6. The number and location of Department sworn employee-involved shootings; 7. The number of Executive Force Review Board or Force Review Board hearings and the results; 8. A summary of the Department's monthly Use of Force Reports; 9. The number of Department sworn employees disciplined and the level of discipline imposed; and 10. The number of closed investigations which did not result in discipline of the Subject Officer. <p>The Chief's annual report shall not disclose any information in violation of State and local law regarding the confidentiality of personnel records, including but not limited to California Penal Code section 832.7</p>	High	June 14, 2018 and June 14 of each subsequent year		Dorado
OPD's Towing of the Vehicles of Crime Victims	5/16/2019		This was mentioned at the Public Safety meeting on May 14, and the City Council may want to work with the Commission on	High			

Police Commission Pending Agenda Matters List

Pending Agenda Matter	Date Placed on List	Duties/Deliverables	Additional Information/Details	Priority Level	Timeline/Deadline	Scheduled	Lead Commissioner(s), if any
Performance Reviews of CPRA Director and OPD Chief	1/1/2018	Conduct performance reviews of the Agency Director and the Chief	The Commission must determine the performance criteria for evaluating the Chief and the Agency Director, and communicate those criteria to the Chief and the Agency Director one full year before conducting the evaluation. The Commission may, in its discretion decide to solicit and consider, as part of its evaluation, comments and observations from the City Administrator and other City staff who are familiar with the Agency Director's or the Chiefs job performance. Responses to the Commission's requests for comments and observations shall be strictly voluntary.	High	Annually; Criteria for evaluation due 1 year prior to review		
Contracting Policies and Procedures Training	6/21/2019	Per Ordinance 13547, the Commission must receive training in Contracting Policies and Procedures	The City Administrator's office will deliver the training.	High		9/12/2019	
Report from OPD Regarding Found/Confiscated Items	7/12/2019	OPD Chief Kirkpatrick will report on the Department's policy for disposition of found/confiscated items.	This came about through a question from Nino Parker. The Chief offered to present a report at a future meeting.	Medium		9/12/2019	
City Auditor's Office to Present Performance and Financial Audit of Commission		City Auditor to conduct a performance audit and a financial audit of the Commission and the Agency	No later than two (2) years after the City Council has confirmed the first set of Commissioners and alternates, the City Auditor shall conduct a performance audit and a financial audit of the Commission and the Agency. Nothing herein shall limit the City Auditor's authority to conduct future performance and financial audits of the Commission and the Agency.	Medium	December, 2019		
Public Hearing on OPD Budget	1/1/2018	Conduct at least one public hearing on the Police Department's budget	Tentative release date of Mayor's proposed budget is May 1st of each year.	Medium	Biennial, per budget cycle	Fall, 2019	

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Pending Agenda Matter	Date Placed on List	Duties/Deliverables	Additional Information/Details	Priority Level	Timeline/Deadline	Scheduled	Lead Commissioner(s), if any
Ad-Hoc Discipline Committees for Each Discipline or Termination Case	1/1/2018	Discipline Committees may not decide disputes until the following training is completed: * Department operations, policies and procedures, including but not limited to discipline procedures for Misconduct, and * Training described in section 2.45.190(A) through (F) of the enabling ordinance	Establish on an as-needed basis	Medium			
Brian Hoefler case: review video	10/11/2018		Response to allegation was officer was Just and Honorable, when allegations were the officer was untrue. All of the issues, despite what the officer said, was a deportation matter. Chief stated that people were charged with crimes, when they were not.	Medium			
Community Policing Task Force/Summit	1/24/2019			Medium			Dorado
CPAB Report			Oakland Municipal Code §2.45.070 (O) Receive any and all reports prepared by the Community Policing Advisory Board (hereinafter referred to as "CPAB") and consider acting upon any of the CPAB's recommendations for promoting community policing efforts and developing solutions for promoting and sustaining a relationship of trust and cooperation between the Department and the community.	Medium			

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Desk Audit of CPRA Staff by Human Resources	5/17/2019	The Commission would like to request that Human Resources do a desk audit for every job position in the CPRA.	This will enable the Police Commission to engage in a reorganization of the CPRA.	Medium			
Finalize Bylaws and	1/24/2019			Medium			Prather
Follow up on Najiri Smith Case	10/10/2018		Community members representing Najiri claim the officer lied re. the time of interaction, which makes the citation (loud music after 10pm) invalid. They claimed he was engaged by OPD around 9.10pm.	Medium			
Need for an easy to read process to determine if Commission can open or re-open an investigation	10/2/2018		We've been hearing a lot from community members about concerns about what the commission's power actually is. We've passed a few motions to ask for legal advice on whether we have the authority to open an investigation, but an easy to read flow chart or checklist format might be easier to digest by the community. We are suggesting a flow chart for what our parameters are and resources for where we can send people if we can't help them.	Medium			
Offsite Meetings	1/1/2018	Meet in locations other than City Hall	The offsite meetings must include an agenda item titled "Community Roundtable" or something similar, and the Commission must consider inviting individuals and groups familiar with the issues involved in building and maintaining trust between the community and the Department. (OMC § 2.45.090(B).)	Medium	Annually; at least twice each year		Ahmad, Dorado, Jackson
OPD Social Media Protocol/Policy	7/1/2019		This is as a follow up to a request made by the family of a missing person.	Medium			

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Public Hearing on Use of Excessive Force	4/22/2019		Work with Coalition on Police Accountability on presenting a public hearing on use of excessive force.	Medium			
Receive a Report from the Ad Hoc Committee on CPRA Appellate Process	6/13/2019	Once the Commission has an outside counsel, work with them on determining an appellate process	When a draft process is determined, bring to the Commission for a vote.	Medium			Prather
Report Regarding OPD Chief's Report	1/1/2018	Submit a report to the Mayor, City Council and the public regarding the Chief's report in addition to other matters relevant to the functions and duties of the Commission	The Chief's report needs to be completed first.	Medium	Annually; once per year		
Reports from OPD on such issues as response times, murder case closure rates, hiring and discipline status report (general number for public hearing), any comp stat data they are using, privacy issues, human trafficking work, use of force stats, homelessness issues, towing cars of people	10/6/2018			Medium			
Review budget and resources of IAD	10/10/2018		In our discipline training we learned that many "lower level" investigations are outsourced to direct supervisors and sergeants. We spoke with leaders in IAD and they agreed that it would be helpful to double investigators and stop outsourcing to supervisors/sgts. Commissioners have also wondered about an increase civilian investigators. Do we have jurisdiction over this?	Medium			

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Pending Agenda Matter	Date Placed on List	Duties/Deliverables	Additional Information/Details	Priority Level	Timeline/Deadline	Scheduled	Lead Commissioner(s), if any
Review Commission's Agenda Setting Policy	4/25/2019			Medium			
Review Commission's Code of Conduct Policy	4/25/2019			Medium			Prather
Review Commission's Outreach Policy	4/25/2019			Medium			
Review taser policy per outcome of Marcellus Toney	10/10/2018		In the report we were given, we were told that officers have choice as to where to deploy a taser. Commission to review these policies and make recommendations and/or find if there is connection to NSA.	Medium			
Revise employment contracts with CPRA and Commission legal counsels	10/10/2018		The employment contract posted on the Commission's website does not comport with the specifications of the Ordinance. As it stands, the Commission counsel reports directly to the City Attorney's Office, not the Commission. The Commission has yet to see the CPRA attorney's contract, but it, too, may be problematic.	Medium			
Supervision policies	10/2/2018		Review existing policy (if any) and take testimony/evidence from experts and community about best practices for supervisory accountability. Draft policy changes as needed. In addition, IG should conduct study of supervisor discipline practices. In other words, how often are supervisors held accountable for the misconduct of their subordinates.	Medium			
What are the outstanding issues in meet and confer and what is the status of the M&C on the	10/6/2018		Need report from police chief and city attorney. Also need status report about collective bargaining process that is expected to begin soon.	Medium			

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Social Media Communication Responsibilities and Coordination	7/30/2019		Decide on social media guidelines regarding responsibilities and coordination	Medium			
Amendment of DGO C-1 (Grooming & Appearance Policy)	10/10/2018		DGO C-1 is an OPD policy that outlines standards for personal appearance. This policy should be amended to use more inclusive language, and to avoid promoting appearance requirements that are merely aesthetic concerns, rather than defensible business needs of the police department.	Low			
Annual Report	1/1/2018	Submit Commission's first annual report to the Mayor, City Council and the public		Low	4/17/2020		Prather, Smith
Assessing responsiveness capabilities	10/6/2018		Review OPD policies or training regarding how to assess if an individual whom police encounter may have a disability that impairs the ability to respond to their commands.	Low			
Consider creating a list of ways to be engaged with OPD so that Commission can clearly state what issues should be addressed.	2/6/2019			Low			
CPRA report on app	10/10/2018		Report from staff on usage of app.	Low			

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Creation of Form Regarding Inspector General's Job Performance	1/1/2018	Create a form for Commissioners to use in providing annual comments, observations and assessments to the City Administrator regarding the Inspector General's job performance. Each Commissioner shall complete the form individually and submit his or her completed form to the City Administrator confidentially.	To be done once Inspector General position is filled.	Low			
De-escalation Policy	1/1/2018		Review existing policy (if any) and take testimony/evidence from experts and community about best practices for de-escalation. Draft policy changes as needed.	Low			
Discipline: based on review of MOU	10/6/2018		How often is Civil Service used v. arbitration? How long does each process take? What are the contributing factors for the length of the process? How often are timelines not met at every level? How often is conflict resolution process used? How long is it taking to get through it? Is there a permanent arbitration list? What is contemplated if there's no permanent list? How often are settlement discussions held at step 5? How many cases settle? Is there a panel for Immediate dispute resolution? How many Caloca appeals? How many are granted? What happened to the recommendations in the Second Swanson report?	Low			

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Discipline: Second Swanson Report recommendations – have these been implemented?	10/6/2018		Supervisor discipline Process for recommending improvements to policies, procedures and training, and to track and implement recommendations Tracking officer training and the content of training Comparable discipline imposed – database of discipline imposed, demonstrate following guidelines IAD civilian oversight for continuity in IAD Improved discovery processes Permanent arbitration panel implemented from MOU OPD internal counsel Two attorneys in OCA that support OPD disciplines and arbitration (why not use CPRA attorney who knows the detailed investigation and is already paid for?) Reports on how OCA is supporting OPD in discipline matters and reports on arbitration Public report on police discipline from mayor's office (Why not from CPRA? The history is that it was included in the annual CPRB report provided to City Council.) OIG audit includes key metrics on standards of discipline	Low			
Do Not Call list issues – cops whose untruthfulness prevents them from	10/6/2018		This is impacted by SB1421 and will require legal analysis.	Low			
Feedback from Youth on CPRA app	10/10/2018		We want to get some feedback from youth as to what ideas, concerns, questions they have about its usability. We've already cleared a process with CPRA, just wanted to get this on the list of items to calendar in the future (ideally early 2019)	Low			

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Modify Code of Conduct from Ethics Commission for Police Commission	10/2/2018		On code of conduct for commissioners there is currently a code that was developed by the Ethics Commission. It is pretty solid, so perhaps we should use portions of it and add a process for engagement with city staff and community.	Low			
OPD Data and Reporting			Oakland Municipal Code §2.45.070(P) Review and comment on the Department's police and/or practice of publishing Department data sets and reports regarding various Department activities, submit its comments to the Chief, and request the Chief to consider its recommendations and respond to the comments in writing.	Low			
Outreach Committee: work with Mayor's Office and City Admin	10/10/2018			Low			
Outreach Plan Discussion, including use of social media	10/6/2018			Low			
Overtime Usage by OPD (cost and impact on personnel health + moonlighting for AC Transit)	1/1/2018		Request Office of Inspector General conduct study of overtime usage and "moonlighting" practices.	Low			
Policy on Tasers			Policy on the discretion of tasers, review with Cunningham	Low			

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Process to review allegations of misconduct by a commissioner	10/2/2018		Maureen Benson has named concerns/allegations about a sitting commissioner since early in 2018, but no process exists which allows for transparency or a way to have those concerns reviewed. It was suggested to hold a hearing where anyone making allegations presents evidence, the person named has an opportunity to respond and then the commission decides if there's sanctions or not. *Suggestion from Regina Jackson: we should design a form...check box for the allegation...provide narrative to explain...hearing within 4 weeks?	Low			Jackson
Promotions of officers who have committed	10/6/2018			Low			
Proposal For Staff Positions for Commission and CPRA	1/1/2018	Provide the City Administrator with its proposal for staff positions needed for Commission and Agency to fulfill its functions and duties		Low	Ongoing as appropriate		

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Proposed Budget re: OPD Training and Education for Sworn Employees on Management of Job-Related Stress	1/1/2018	Prepare for submission to the Mayor a proposed budget regarding training and education for Department sworn employees regarding management of job-related stress. (See Trauma Informed Policing Plan)	Review and comment on the education and training the Department provides its sworn employees regarding the management of job-related stress, and regarding the signs and symptoms of posttraumatic stress disorder, drug and alcohol abuse, and other job-related mental and emotional health issues. The Commission shall provide any recommendations for more or different education and training to the Chief who shall respond in writing consistent with section 604(b)(6) of the Oakland City Charter. Prepare and deliver to the Mayor, the City Administrator and the Chief by April 15 of each year, or such other date as set by the Mayor, a proposed budget for providing the education and training identified in subsection (C) above.	Low	4/15/2020		
Protocol on how OPC handles serious	10/6/2018			Low			
Protocol on how to handle issues that are	10/6/2018			Low			
Public Hearings on OPD Policies, Rules, Practices, Customs, General Orders	1/1/2018	Conduct public hearings on Department policies, rules, practices, customs, and General Orders; CPRA suggests reviewing Body Camera Policy	Coalition for Police Accountability is helping with this.	Low	Annually; at least once per year		Dorado
Recommendations for increasing communication between CPRA and IAD (ensure prompt forwarding of complaints from IAD to	10/6/2018		Review of existing communication practices and information sharing protocols between departments, need recommendations from stakeholders about whether a policy is needed.	Low			

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Request City Attorney Reports	1/1/2018	Request the City Attorney submit semi-annual reports to the Commission and the City Council	<p>Oakland Municipal Code 2.45.070(l). Request the City Attorney submit semi-annual reports to the Commission and City Council which shall include a listing and summary of:</p> <ol style="list-style-type: none"> 1. To the extent permitted by applicable law, the discipline decisions that were appealed to arbitration; 2. Arbitration decisions or other related results; 3. The ways in which it has supported the police discipline process; and 4. Significant recent developments in police discipline. <p>The City Attorney's semi-annual reports shall not disclose any information in violation of State and local law regarding the confidentiality of personnel records, including but not limited to California Penal Code 832.7</p>	Low	Semi-annually		Smith