



**CITY OF OAKLAND
OAKLAND POLICE COMMISSION**

Meeting Minutes

Thursday, August 23, 2018

6:30 PM

**City Hall, 1 Frank H. Ogawa Plaza, Hearing Room 1
Oakland, CA 94612**

I. Call to Order

Thomas Lloyd Smith

The meeting started at 6:30 p.m.

II. Roll Call and Determination of Quorum

Thomas Lloyd Smith

Commissioners Present: José Dorado, Mike Nisperos, Edwin Prather, and Thomas Smith. Quorum was met using Alternate Commissioner Maureen Benson.

Commissioner Late: R. Jackson.

Alternate Commissioner Present: Maureen Benson.

Alternate Commissioner Excused: Andrea Dooley.

Commissioners Excused: Mubarak Ahmad, Ginale Harris.

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.

Jean Howard Moses, said she is very impressed with the composition of the Police Commission, the diversity of viewpoints, and the commitment. The Commission has a very difficult job and face challenging circumstances including skepticism from the City administration and the public. Transparency and accountability is important. Prioritize in the evaluation when you come to Item 11 in the Agenda Packet.

Stephanie Daniels cited the mistrust of the police department and importance of Commission transparency. She asked that on Item 11 tonight that we listen to complaints and vote for full transparency.

Ashara Ekundayo regarding violence against girls, particularly against black girls and women, and sanctioned violence against black women by the police department. She asked the Commission to prioritize authenticity and transparency in its dealings and

investigation of the police force, keep in mind the safety and brilliance of citizens, and that this will bring forth a more just community for us all.

Laurie Leiber, representative of the East Bay Moms Demand Action a gun violence prevention group. She spoke of gun violence prevention in Oakland and is here to listen and learn what the Commission does and see how we can support the work that you are doing and work for a safer community for all of us.

Mimi Fox Melton, I do not believe that systems of policing serve our community. I do not have faith in the Oakland police or any police. I believe in the abolition of policing. You are what we have got to address the impropriety, dishonesty and corruption in Oakland PD. She been following this Commission's lack of progress and is watching the Commission.

Mary Vail –regarding community policing and the Community Police Advisory Board. We don't have a citywide policy yet in terms of the role of the CRO, NSC, Advisory Board – we need those roles clarified. Also, working together as a public body, working out differences, your functioning, etc. needs to be a priority in one of your next training subsets.

Oscar Fuentes, regarding Operation Cease Fire which seems to operate with no oversight. It looks like the possibility or potential of a massive surveillance system that in the process of monitoring people. A “snitch machine”. He asked that the Commission look into the matter and demand consistent regular monitoring of the program because it is a program with lots of money, potential for abuses and no one is looking at it.

Candice Wicks-Davis, works with Entertainment for Equity asking that during Agenda Item 11, any system designed to protect the people must be evaluated and assessed on a regular basis to be ensured that it is actually fulfilling the function for which it was designed. Tonight, I am asking that you prioritize an evaluation of the Chair.

Mary Howe, regarding Josh Pawlik. It was seven years ago when she first met Josh. Someone did call to get help for Josh and it resulted in his death. He was murdered by the police 40 minutes later. An entire block was blocked off so that there were no witnesses. They have not released bodycam footage. Behind a Bearcat armed with rifles, at least seven police officers, four who shot him, felt scared and threatened by someone who they even said was unconscious and unaware of their presence. This should not be the police response to a health issue. Disarming an unconscious person is so easy that I am willing to train the police; offer de-escalation training because the police reaction to health issues is escalation. We want to know what happened and see the bodycam footage. If they were right, prove it. We also want police response to change. This cannot be an acceptable response to an unconscious person – it is not the first time this has happened with OPD. It happened before with Tamaria Hog when he was unconscious in his car. You must hold police to a higher standard than anyone else because they are armed, trained, and paid money to protect and serve and resulting in the death of someone needing help, is completely heartbreaking and how anyone in this community is supposed to trust the police when they are not held accountable. The Commission is put in place to try and have some accountability and that is what she wants and that is what Josh's community wants.

Cathy Leonard, Oakland Neighborhoods for Equity, regarding August 3 (on First Friday), a member of the Richmond Bicycle/Pedestrian Advisory Commission and the owner of Rich City Rides, a nonprofit in the City of Richmond was arrested. He was stopped, had a speaker attached to the back of his bicycle while with several youths. How could he be arrested for refusing to identify himself but a ticket exists with all the

identifying information on him. He was an outstanding member of this community, known throughout the bicycle community in the Bay area. Richmond Mayor Tom Butts wrote a letter to our Mayor and to the District Attorney's Office asking them to drop the charges which have been dropped. We still don't know whether or not he will be charged. We need to show up in Court on August 31. A police officer lied. I believe that is grounds for termination. Why is he still working? Why has he not been suspended? Why has he not been relieved of duty? I want to know. I want an answer. Why are black men and black people being continually racially profiled in the City of Oakland? Why? Who will give me that answer? That police officer should be fired. I want some accountability and I want the Chief to explain to us why that man is still on duty? Why the City of Oakland taxpayers are still paying his salary?

Saleem Bey, long time resident of Oakland, he and his family moved here in 1968, long-time home owner until recently. You are not here for yourself; you were placed here by the people. The people voted in the super majority to change the Charter of the City just to seat you. Why? Because in the 1980's, they created the Citizens' Police Review Board after a heinous murder by OPD. Sounds familiar. After 20 years of showing forth the administration, closing cases, dissatisfaction by the public, obviously, the public was so dissatisfied that they had to change the Charter to get rid of the CPRB. The CPRB is your investigative arm as it stands right here which makes you legitimate for any type of investigations because the citizens voted to get rid of the CPRB. You Mr. Bey referenced Agenda Item 5 (IAD 13-1062) and 11. The bottom line is that your creditability is tied to your actions. A lot of people worked hard to make sure that this Commission was in position to take the place of the old CPRB. We are not going through the same actions of coming up here talking to you until we are blue, etc. and go sit down and nothing changes with the police department. We are here to hold you accountable. If you can't be accountable, go home now.

Renee Michelle Rob, Oakland native. She said everyone has said many points and wants to be the echo. It is a long time coming for change. She asks that you hear the people that have spoken for police violence; she has lost many people she knows to police violence.

IV. Approval of Draft Commission Meeting Minutes for July 26, 2018 and August 9, 2018

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

a. Discussion

Chair Smith said there are two sets of Minutes. He asked Mr. Rus if Mr. Finnell asked him to speak on his behalf regarding the Minutes. Mr. Rus said No.

Chair Smith said the set from July 26, 2018 is the same set of Minutes that we had before and the reason being we asked Mr. Finnell to do the update of the Minutes. He was not able to do the update at the Commission's request and that is why he invited him to explain the difficulty.

For clarification, Chair Smith stated that M. Benson is an Alternate Commissioner and when we started the meeting on time at 6:30 p.m., we only had four commissioners present so we added M. Benson to have a quorum. Commissioner Benson is in play for this meeting.

J. Dorado had a correction to the August 9, 2018 Minutes. He referenced Page 9; Lines 5, 6, 7 – Corrected to read: My response to that if you recall was that the culture in OPD does not need to be reformed, it needs to be destroyed and

rebuilt from the bottom up.

M. Nisperos had a correction to the August 9, 2018 Minutes. He referenced Item VIII(a), Page 14, Line 2 — Change: 56 repeats to 5 or 6 repeats.

b. Public Comment

Saleem Bey regarding staff's interpretation (CPRB) does not have any creditability at all – they closed multiple cases of his. They should not receive a pay check and should be fired and some should be in jail based on obstruction of justice since we are talking about criminal cases. He agrees, that if somebody is unable to read the Minutes or doesn't want to address the Minutes, go to the video and watch the video.

c. Action

MOTION (R. Jackson) defer the July 26, 2018 Minutes to our next Commission meeting when all the omissions/oversights/deletions/and or additions can be included and seconded (J. Dorado). The vote was Aye: 6 (Dorado, Jackson, Nisperos, Prather, Smith, and Benson). The motion passed unanimously. Commissioners M. Ahmad and G. Harris were excused.

MOTION (J. Dorado) to amend the August 9, 2018 Minutes as corrected by J. Dorado and M. Nisperos and seconded (R. Jackson). The vote was Aye: 5 (Dorado, Jackson, Nisperos, Prather, and Smith); Opposed: 0; Abstained: 1 (Benson). The motion passed. Commissioners M. Ahmad and G. Harris were excused.

V. Oakland Police Department Report (30 minutes)

Chief Anne Kirkpatrick will report on (1) the status of the investigation of the police involved shooting incident Joshua Pawlik on March 11 and (2) the status of the investigation of the in-custody death of Marcellus Toney on September 28, 2017. The Chief will also report any information that is publicly disclosable regarding the investigation of IAD 13-1062. The Chief will also discuss whether there is liquidated damages or similar provision in Dr. Eberhardt's contract.

a. Discussion

Chair Smith introduced Assistant Chief Armstrong.

AC Armstrong reported that he is here on behalf of Chief Kirkpatrick (out of town). He said there are four items that the police department is prepared to respond to. He asked the Commission which item they would like him to proceed with. Chair Smith stated that you can go in the order you choose or go by the way they are numbered in the Agenda.

(1) The status of the investigation of the police involved shooting incident of Joshua Pawlik on March 11.

AC Armstrong reported that it is not an update but pertains to the OIS investigation. We can't comment on the investigation now. There are three concurring investigations still in progress. The OPD's criminal investigation, the OPD's Internal Affairs investigation, and the District Attorney's investigation. Those investigations are continuing to move forward. Chief Kirkpatrick has provided a

monthly briefing on the progress of those investigations and we expect those investigations to be concluded prior to the end of 2018. Chair Smith asked is there no information that we can get on that or certain information that we can get? AC Armstrong said that any information that we would give out today would potentially compromise the investigation. We were instructed to not speak about any specifics regarding the investigation now.

R. Jackson would like to figure out how we can get to a place where we can understand the inertia – if we can get an overview of what it is – the process that you are going through is – to have three different investigations going on at the same time obviously sounds extremely cumbersome and from several different perspectives but to have the community looking for updates – we don't have them, we look like we are unsympathetic, but really what we are is ignorant to the facts because we have nothing. Is there a staged process by which you can provide us – tidbits, overviews, summaries, or anything – or is it just an all or nothing and if that is the case, then I recommend that we start trying to work on policies that help us understand what the process is and when we will have a creditable opportunity to review it. AC Armstrong said that after the investigation, there will be an Executive Review Board where a member of the Commission is a part – gets to sit in and can hear all the investigations and the findings from those investigations. At this time, any information that we would release publicly could potentially influence or compromise an investigation.

R. Jackson to follow up – with the Joshua Pawlik situation, his murder – she is trying to understand, waiting nine months to hear anything. We got to figure out how to do better.

E. Prather thanked AC Armstrong for coming. He stated that he read the media accounts of the incident. Have you reviewed the media accounts? AC Armstrong said no. E. Prather said there is a mention in one of the media accounts that the OPD shared or allowed Mr. Pawlik's mother to view the bodycam. Can you confirm if that happened or not? AC Armstrong said he can confirm that the mother requested a private viewing and that was provided. E. Prather said that there are instances in which exceptions are made to this policy of we cannot share any information outside to compromise our investigation? AC Armstrong said yes, in this instance, it has been our practice that when the immediate family member requests to have an opportunity to see the video that we were to provide that. E. Prather said he understands that and that is a good policy to share that information as soon as you can with an immediate family member. I did hear you mention that sharing information with the public does compromise your investigation which I also understand that as well. We are not necessarily the public – a little different than the public. I have a problem and I think my fellow Commissioners have a problem. The lion share of the information we are getting is from public comment and the media. Why is it that the media can tell me that an armored car was used, that officers had rifles behind the armored car, why can they tell me that he was unconscious and had a gun either next to his hand or in his hand? How is the media getting details and why is my reporting coming from the media? That is the frustrating part of this. That is what makes OPD look bad. It looks like you are stonewalling us when I am getting information from outside – what I want is just confirm the stuff that is in the public matter; can you give us a report? Can you give us a confidential report? Can you make something happen so that we can report to the public because this is an important issue and it is not okay and I think that you agree with this – it is not okay to just say wait? There is information that has been released somehow. Information has gone out and once it is out, you can't unring that bell – it is out there. OPD must understand that. You must understand that information is already out there. We got to at least confirm that or talk about

that. You got to share details with us. We got to find a way to make this happen.

E. Prather said that he is going to ask again, through the Chair, that the Chief show up next time and address these issues. I appreciate you being here to take the hits. You understand our problem. We are getting information from others; a very eloquent speaker tonight who talked about facts of the incident. It is way more than you are telling us. The media and the articles that are out there are talking about it in a way more detailed way than you are telling us. That is the problem, a perception problem. If part of our goal here is to make the OPD look more trustworthy, you must help us - be trustworthy and must give us information so that we can do our job. He asked AC Armstrong to respond to that.

AC Armstrong said that he completely understands your comments and understands the community's desire to know what happened and understands the Commission's desire to know what happened. It is important as a police department and as a law enforcement agency that is investigating the matter that we get all the facts before we release information, before we talk about things, before a thorough investigation has been completed. When we release the investigation, it will be at a place where the investigation is completed. We have examined and identified all the facts that were available to us. I think that is the appropriate time for us is when we have concluded the investigation as opposed to giving you piece information. We know that the public obviously is going to hear information that the media pushes out. There is nothing that we can control in that message. Our job is to collect all the facts, do a complete and thorough investigation and then provide that investigation to the Commission. That is the policy, the process. We can have conversations obviously with the Chief around changes if that is what the Commission is interested in but with the current policy, it says that our investigation is not released until it is complete.

E. Prather said that you understand the problem – when it is in the best interest of the department to get out immediate information – suddenly we are having a press conference the day after it happens, and you are disseminating information which is what you want. When you don't want to disseminate information, then we must wait until the completion of our investigation, take a while and so that is the heart of it. We got to deal with that issue and if the response of the department is hey now it is a policy issue that is okay and that is now on us and we will discuss it at our policy symposium or when we review these things and we will make it a legal issue, a policy issue and I get that. I just heard that there are exceptions to the rule of that we can't share information in certain circumstances because I understand from the media article that there was a protective order or agreement you would not share that information, let us see that, see the bodycam under the same arrangement. At least we can communicate to the public that we are meeting with the OPD, we can't talk about it, we are doing our job, we are on top of this issue. By taking those positions and not exercising the ability to have exceptions, then that leads to less confidence in the department and less appearance or trustworthiness. If that can happen, the message I would like you take back to the Chief is that we would like to see the bodycam and we know as a body that the bodycam was shown to the mom under certain circumstances and we would like that. If the answer is no, then the Chief will come and tell us no and we will deal with that appropriately at that time. That is one of the requests that he would like to make. It sounds like and I think you would confirm that did happen so that we know that it can happen.

R. Jackson said as AC Armstrong mentioned that is the certain protocol, I think that it is important that we consider an alternative protocol. I am not sure if it is appropriate now for me to make a motion that we work with the police chief to amend/adjust this process for disseminating information. We obviously don't want

to compromise the investigation. As Commission Prather so eloquently stated, we got to know more than everybody else knows, we are the last ones. We are supposed to be somewhere toward first or second. She appreciates folks coming here and providing details. She is outdone at what she is hearing but feel paralyzed to do anything about it. If the Commission is interested, she would like to make a motion that we work with the police chief to change fairly immediately and create an alternative release of information for cases for investigations.

J. Dorado added that he thinks it is more so a question of our working among ourselves and then having a discussion with OPD much like when they develop a policy. We should have that discussion amongst ourselves first, develop something, and then discuss it with OPD.

R. Jackson said that she has no problem with that but wanted to get out ahead so the police chief knows it is coming so that it will not be business as usual and then we can figure out amongst us who wants to be at that meeting. We understand that we can't all be there. She would like to consult with our counsel what the appropriate process moving forward is. Chair Smith asked Counsel Brown to respond.

Counsel Brown said that Commissioner Jackson asked her for legal advice which she will give in confidence because of the attorney/client privilege.

E. Prather said that we will talk about our process and procedure when we talk about our new agenda making process later in this meeting. It will become clear in how we can add that to the agenda and advance that issue.

M. Nisperos said in speaking as a former deputy district attorney and a former public defender, there is no clear path to opening an ongoing investigation. I think we need to get as much information as we can as is legally possible but we need to be wary. We are not an investigative agency. We are an oversight agency. We need to keep to our role. Does CPRA have an open investigation on this subject/particular incident?

Chair Smith asked Mr. Rus to respond. Mr. Rus reported that he believes there is an open investigation into this matter and that it is in part of Agenda Item 13 (case might be addressed).

M. Benson said that she knows that the goal is to complete these types of investigations within 180 days. Can you tell us why it is not projected to be completed within 180 days as is required by federal oversight? AC Armstrong said that there are different timelines for officer involved shooting investigations. During the training that we provide, we will give you a clear indication of how long those investigations take and as well as what the entire process looks like because I do think that to put it all in context when we provide that level of training, then you will better understand from A to Z how an investigation is conducted, what timelines we hold them to, and what the process looks like in terms of when it reaches the point of completion and enters the Executive Review Board process, and then the ultimate findings coming through the Chief of Police. M. Benson said that reiterates Commissioner Nisperos' point that we need to urgently complete our training and Commissioner Jackson's point – those are the stages that you are asking for. That should be very digestible information put forth to the communities so the community isn't sitting here thinking people are twiddling their thumbs. That would be helpful.

AC Armstrong continued with the OPD report.

(2) The status of the investigation of the in-custody death of Marcellus Toney on September 28, 2017. AC Armstrong reported that investigation - Executive Board

took place two weeks ago. This was the first Board where a member of the Commission sat on that Board and we expect that the final finding should be to the Chief within two weeks. The Chief will make the final sign off on the investigation.

Chair Smith asked once the investigation is completed, can we put it on the Agenda and receive a full report? AC Armstrong said yes, you can make that request.

M. Nisperos said that you will not get a full report because it is a personnel action; if it is a personnel action, you will receive nothing. AC Armstrong said that is why he is reluctant to say yes when he knows that there are things in the investigation clearly that we can't talk about publicly. We can work through counsel to determine what is the appropriate review that we can provide. Chair Smith asked if information can be given today? AC Armstrong said the investigation is continuing until the final finding. As you participated in the actual Board, once the Board comes up with a finding, it is an open investigation until the Chief closes the investigation.

R. Jackson asked Chair Smith if he sat in on that Board? Chair Smith said yes.

(3) Request for the department to speak on the Bey case (IAD 13-1062). AC Armstrong reported that we have been here a couple of times and we know that this is something that the Commission is very interested in but we have been advised by counsel that we cannot discuss this matter. This matter is currently under litigation. There is also a Protective Order that was given by the Judge that requires the parties to maintain confidentiality of the Internal Affairs file. We have consulted with counsel and that is what we have been advised by our City Attorney's office to not discuss that.

Chair Smith asked Counsel Brown for information. Counsel Brown reported that the matter is under federal litigation because she did some research and saw that there was an Order in federal court that was released. She said that is true. To the extent that it includes confidential personnel information, that would likely be the process that the federal judge would use to issue a Protective Order. That is the legal process that is generally used with respect to a public employee's personnel information.

M. Benson asked Counsel Brown what can we do? Counsel Brown said that has been mentioned frequently by the public, there is an oversight process that a coalition of concerned citizens drafted with respect to policy, with respect to training, with respect to procedures, and those are enumerated in the Enabling Legislation and in Measure LL. It is a conversation regarding what can be done that becomes more meaningful with the full training of the Commission and when we can have a candid conversation regarding how to dig into those items and get traction in making those oversight determinations, recommendations and accountability enforcement. I think that one of the things that we have on the Agenda today is the training process and that is important because knowing what you can do and how you can go about achieving that change and that impact requires there to be the shared knowledge that comes with the training.

(4) Question to discuss whether there is a liquidated damages or similar provision in Dr. Eberhardt's contract.

AC Armstrong reported that the contract does not contain a liquidated damages clause but it does contain a requirement that the City provide 30 days of Notice of Cancellation or Abandonment and allow the contractor to assemble the work in progress for the purpose of properly closing and filing a job. That is the language that is contained within the contract.

J. Dorado asked if any OPD officers stepped up to point out misconduct of fellow officers in the last two weeks? AC Armstrong said yes. J. Dorado asked for details. AC Armstrong said he is not allowed to discuss personnel matters.

Chair Smith thanked AC Armstrong for his report.

M. Nisperos wanted to make sure that he is clear on what he heard from Counsel Brown on the gravamen of the offense complained about by Mr. Bey is an investigation that was not conducted properly. Counsel Brown said that is what she has been able to discern from reading an Order by the judge regarding an Amendment of a Third Amended Complaint which was online without going into PACER and the detail that Mr. Bey has mentioned. M. Nisperos said that is what he is hearing from Mr. Bey and the remarks he is making. That being the gravamen, not being a Class 1 offense, we lack jurisdiction to order it to be reopened. Am I correct? Chair Smith said that Counsel Brown must do additional research and it may be the case that we do have jurisdiction if you found something different, right? Counsel Brown said that if I find something different, then what is in that Order she was able to find online, then she can report that back to the Commission. As she has read the Order, it is a complaint regarding prior investigations which is not a Class 1 offense. M. Nisperos said what he is hearing is that there is no complaint that it was a police officer who killed somebody. There is no complaint that somebody was killed while in custody. Those are the Class 1 offenses. I don't know why you are asking Counsel Brown to research when there is absolutely no evidence that those two things existed and there has been no claim that those two things existed.

Chair Smith said that we should ask Mr. Bey the direct question. M. Nisperos said thank you Mr. Bey. Is it your claim that a police officer killed your brother? Mr. Bey said no sir. Is it your claim that your brother died in custody? Mr. Bey said no sir. Chair Smith asked is that the only question that we need to ask to determine whether or not we have jurisdiction? Mr. Bey, said no, absolutely not. Chair Smith said this is a question for legal counsel. Counsel Brown said that what we are looking at is the Enabling legislation that has been passed that sets forth the duties and authority of the Police Commission. We have Section 2.45.070 (Functions and Duties of the Commission) and at Section L, it says direct the Agency (that would be CPRA) to investigate a serious incident when requested by the Mayor, City Administrator, and/or the City Council by an affirmative majority vote. Then we have Section M which says review the Agency's Dismissal and/or Administrative Closure of all complaints of misconduct involving Class 1 offenses including any agency investigative file regarding such complaints. Then at its digression, by 5 affirmative votes, direct the Agency to reopen the case and investigate the complaint. Mr. Nisperos asked questions regarding facts that would constitute a Class 1 offense.

Mr. Bey said that just so that you understand that IAD 13-1062 is a complaint against the police department for failure to investigate those cases. That complaint, a failure to purposely to investigate. It also includes compromising criminal cases as well as obstruction of justice. These are all Class 1 offenses. Not reporting the MOR, is a Class 1 offense. These things are wrapped up in 13-1062. Pick either anyone of those. There is an admission of a systemic failure to investigate in 13-1062 by the police which is Class 1 offense which then puts it inside of this Commission's purview. If the police admit that they did a Class 1 offense, what I am saying, that is just the tip of the iceberg. It is not just the failure to investigate, it's a purposeful compromise of criminal cases, it was closing criminal cases in 63 days. Have we answered the thing about a Class 1? It sounds like the Commission

is not listening to what he is saying about the whole complaint.

Chair Smith said you have given us enough information to take the next step which is that we need to talk about what we need to do from this point. We need to continue this discussion.

M. Nisperos said that he agrees with Chair Smith in referring the matter to Counsel Brown and ask for an opinion to come back. Would that opinion, being legal advice, have to take place in closed counsel? Counsel Brown said the legal advice would be confidential that she gives to the Commission. It doesn't have to be in closed session because the Brown Act identifies specific and narrow functions for closed session, none of which would be applicable here. It would likely be a Memorandum that you would have that would be confidential. M. Nisperos as attorney/client - as legal advice, would we be able to discuss it in open session? Counsel Brown said that you can identify what the determination was - whether or not it's something that is within your jurisdiction, but the content of the analysis would be the confidential part. Chair Smith stated that at a minimum we have an obligation to see that this falls within our jurisdiction.

MOTION (Chair Smith) to have Counsel Brown research this matter and find out whether or not it does fall within our jurisdiction so that we know whether or not we have the power to take action and seconded (M. Nisperos). The vote was Aye: 6 (Dorado, Jackson, Nisperos, Prather, Smith, and Benson). The motion passed unanimously. Commissioners M. Ahmad and G. Harris were excused.

Counsel Brown stated that the advice will go to the Commission (it will be Confidential Attorney/Client Privilege information) and the Commission can put on the Agenda whether or not it is within the jurisdiction.

Chair Smith thanked Counsel Brown.

b. Public Comment

Mary Howe was shocked to hear about the nine months of investigation of Joshua Pawlik. Why is it that it takes nine months when the only people to interview are the police themselves? The mother has not seen an autopsy or been given any details. I would ask that when you are talking about changing policies and procedures and protocols, that the kind of transparency around investigations and holding police accountable is also taken in account.

Natalie Cupps said that she spoke at the last meeting about Josh, a friend of hers. She is flabbergasted about the stonewalling. She is shocked that it is a personnel action that we cannot hear anything about it and feels that they are public employees and we are paying part of their salary, and if they are in trouble with the department and there is a personnel action against them, why that cannot be made public. She is left with a lot of questions. She appreciates the Commission.

Rashidah Grinage said To understand this whole lack of transparency, people need to understand the State Laws that require that so that we can change them. Even AB931 that would criminalize certain police-involved shootings is facing a very bleak future now based on the conversation she had with folks today who are working on that bill. A lot of these problems are State Law problems that need to be fixed at the State Law level. Oakland can't supersede that. She wants to make sure that what you have in place is that CPRA investigators, at least the Director, is informed immediately when there is an officer-involved shooting so that your investigators are on the scene immediately and can initiate your own independent

investigation immediately. She is concerned about the end product, namely when Internal Affairs reaches their conclusion about whether the shooting was justified or not, CPRA will also have reached its own finding and if they don't agree, then the Commission enters the scene in the form of the Discipline Committee. She is concerned that you may jeopardize your own role in making the final decision if the OPOA can show that you already were prejudiced during the investigation as it was unfolding before the findings were reached. She thinks that counsel needs to provide some training on this issue because she would hate to have this Commission make a final determination and then have it overturned in arbitration. She wants what everyone in the community wants but she wants it to be done in such a way that is correct and irreversible.

Cathy Leonard said we need to get out and vote. The police lobby is a strong lobby and they are making all these laws to protect themselves but they are not protecting us against them. She hears that the witness who photographed or videotaped the killing hasn't even been contacted by the police department. Stalling. It seems to her that in five months OPD could have done that and they haven't contacted the only nonpolice officer witness to this killing, that is a problem. What are they waiting for? For her to disappear and move outside the jurisdiction or die of unsuspected causes. Why hasn't OPD interviewed that witness? Do they plan on interviewing that witness? Those are questions that need to be asked of this police department.

Mary Vail regarding the Eberhardt Report related matter. The Mayor said specifically that some of the money for some of last year's activity, came from private sources. What is the funding source for that? On these major investigations I think there should be status reports, and you ask questions about what's been done, what's not, what the plan is going forward which will give you a lot more knowledge about what the department is doing. Instead of having this deal where they run out the clock, take 8 months, whatever and then you are given a result. That is not good. Closed session status reports just about the mechanics of the investigation, what has been done and what hasn't been done. Another thing you can do in closed session – about meeting deadlines – that is how they get a lot of their buddies off (sex predator OPD scandal). They did these pro forma investigations, did nothing, the clock ran out on discipline.

Lorelei Bosserman suggested scheduling closed session meetings with the Chief and make her be there. Also, remember that the Commission can fire her for cause (what qualifies this cause and figure that out in the closed session meetings). She hopes that CPRA is investigating the case that everyone is talking about and if there is a witness, she hopes that CPRA is finding them and interviewing them. She spoke about SB1421 and AB931 which are statewide (California). She asked that everyone research them, contact your representatives, and urge them to vote yes on these bills.

Saleem Bey said not all of 13-1062 is under seal. If you go to PACER, you will find that the judge did unseal some of it – enough that the public can see which means that you can see it. One of the documents that is unsealed is the one page closing letter that OPD gave us that we only had for three years. What he is looking for is to have 13-1062 agendaized so that we can go ahead and he can show you what the public can see and what the judge has opened. Also, wants to call out a straight up lie about OPD because his brother and he have been in depositions and we have been asking what is the status of our cases, where is the status of a case that was in 2005 which is 13 years old right now and when we asked what the status of the case was, we were told that it was police privilege and that they refused to answer. That is what the victim of the crime sitting across the table who had to sue them to bring

them in to ask about a case that has been languishing for 3 years. The reason I am here is because I am asking for independent oversight. I am not here to hear OPD say what they have been saying for the last 10-12 years about these cases and covering up all these cases. I am asking for this Commission to do their job and provide independent oversight for a case or cases that OPD has buried and is using the City Attorney and police privilege to not tell the victim of the crime. If you can tell the victim's mother things that you can't show the public, the victim of the crime should be able to at least know something about the crime. How is it that OPD can say this? How is it that OPD can get up here and say that we can't say anything about it? What you are talking about is an IAD case that is four years old now. It should have been completed four years ago. IAD cases are to be completed in 180 days. That should be a super red flag for this Commission.

Chair Smith asked Counsel Brown if we have the authority to be able to instruct the Community Police Review Agency to look into this case. Counsel Brown said that Mr. Pawlik's case is a Class 1. She understands the question. She wants to clarify the statements that were made because they compare both cases. They are not the same. This body has the authority to review Class 1 offenses if they are closed or if the review is closed, this body can ask that they be reopened. The understanding that she has of IAD 10-1362 is that it is a discrimination complaint and is not a Class 1 offense. Mr. Bey interrupted and said no. Counsel Brown asked that he let her finish, it is disrupting. Mr. Bey kept interrupting and he said wouldn't you want to be corrected. Counsel Brown said you can wait until I am finished. Mr. Bey said then complete what you are saying then. Counsel Brown said that she was asked a question by the Chair – IAD 13-1062, according to the Order that she read online, refers to a complaint regarding discrimination, regarding a past police investigation. There is a distinction between that case and the Class 1 offense that this body has in Agenda Item 5. This body does not have the authority to review a case or require CPRA, the Agency, to open and redo the investigation unless it is a Class 1 offense.

Mr. Bey said first, 13-1062 is an investigation of his brother's murder and my brother's attempted murder – both Class 1 offenses and the failure to investigate those murders which is obstruction of justice which is a Class 1 offense. Failure to report MOR violations is a Class 1 offense. The lawsuit is talking about two separate things. If you look at the NSA, it says that a civil suit and an investigation are two separate things. One cannot stop the other. One cannot trump the other. If you have the civil suit, that is a separate thing. The only reason we have a civil suit is because it took us three years to get more than one page of documentation from OPD as they closed the case. The case involves murder, attempted murder, obstruction of justice – this is what 13-1062 is all about. 13-1062 is the complaint about Sean Whent and he went covering up murders in the community. That is not a discrimination. The discrimination has to do with the lawsuit, those are two separate things. IAD 13-1062 – if it was read, it would say that it was systemic failure on the police department admitting systemic failure on the police department to investigate murder and attempted murder. Our issue is that after holding on to these cases and admitting to failure to investigate it, the police came back and told myself and my brother they had no case files and did no interviews in 13-1062. This is what we are asking for justice – the Commission has the ability to ask for an independent investigation and has an arm, the OIG, that could possibly oversee that and then you can oversee the transparency of that investigation and be the oversight body which is what we are asking for. Basically, what I am asking for is to be able to show you what the police are covering up. I won't reveal anything in confidential. Also, know that I just gave all the questions that were not asked up here to the Chief/Assistant Chief that was supposed to be asked about 13-1062.

Mr. Bey stated that there is no blanket of protection order. There is plenty of

documents that can be seen. The judge's most recent order specifically says what documents can be seen. You can see it; the public needs to see it; police need to have the sheet pulled off them for covering this up. Why is that these murder and attempted murder cases you can't tell the victims, the family of the victims – the status of the cases? Every time we go, the City Attorney is covering up – why is it that this happens to coincide directly with the Mayor's re-election? That is what I would like to know? I would like 13-1062 to be agendized so that you can see the documents that are available to the public because that is not correct – it is not sealed.

Chair Smith asked Counsel Brown – In your legal opinion, can we agendize this matter? Counsel Brown said right now, based upon the information that she has, it is not one of the items that can be reviewed within the Enabling legislation of this Commission because it is not a complaint regarding a Class 1 offense.

VI. Commission Policy Review Process

The Commission will review, discuss and formulate a policy review process. Alternate Commissioner Maureen Benson has submitted a draft proposal.

a. Discussion

Chair Smith stated that M. Benson will speak on the matter. Some Commissioners have expressed interest in setting up a policy review process. M. Benson took it upon herself to submit a proposal.

Tim Birch, OPD Research and Planning, said that he understands this is internal dialogue but he is in the audience and is available for clarification or assistance.

Chair Smith thanked T. Birch and appreciates it.

M. Benson thanked Chair Smith for placing this item on the Agenda. Referenced the Item 6 document in the Agenda Packet. She put together a draft document of something that could help us and roughly equates between 7-12 weeks in total. The basic of it is this: Someone presents a draft of a policy or the desire to begin to draft a policy, we gather thoughts, brainstorm, or give feedback on a draft of a policy, and then the Ad Hoc Committee would then go through the process of editing the policy or potentially the police department would go back and be responsive and then they would do that with, illuminate here – that they would do that with some kind of checklist that would actually give the folks the opportunity when we go back and review for the feedback. Does this cover what everybody said? Finally, again, with proper notice, legally, we can do this within 72 hours but in the email she sent this proposal to the Commissioners, say to the public that she cited some brain Science for divergent thinkers, an understanding that people process information at different speeds, some people need to have dialogue to process information, to be able to make some sense of things. Ms. Jackson and I have opportunity to work with a lot of youth in the community to get their feedback. We are all networked deeply in the community. She would love to submit this timeline with your feedback. Doing something like this where we have multiple drafts, particularly with guiding questions – what about this policy it is addressing? It is a contact list – include the Chair, CPRA Director. Then upon some deeper thinking, some of us realized that we have an opportunity to make this a more comprehensive policy. That is what spawned this – Gives us time to get out in the community and share these drafts and gather community feedback as well as honor the divergent thinkers on this Commission and let us process in different ways.

Chair Smith thanked M. Benson for putting this together.

M. Nisperos said that the ideas are good. A matter of practice in the Rules and Procedures Ad Hoc Committee, this is pretty much what goes on. We have been kicking around Item 11 for about two months now. He thanked her for informing him of the reference that was sent and he looked the man up and read other articles.

R. Jackson thanked her for her time and thoughtfulness. Coffees that we have had. The way that we arrive at different understandings is not always a line. Just to call it out and take the time to do it, is very helpful. Thank you.

E. Prather thanked M. Benson for putting this together. It is a good start. There are some things in here that we do not do. He does think that one of the things that he lamented about on the last policy that we looked at is that it didn't get referred right away for research. That was the piece that he wanted. I think when policies come through, he feels like he can read it and have a citizen's opinion about it; as a Police Commissioner, I think that people from different walks of life can have an opinion about it. In terms of best practices, what other counties, cities are doing in terms of what the rules or law is on that, not has to do that kind of research on a policy when it comes in. I would want to support anything that we have about reviewing policies, that it gets kicked to a research individual fellow right away at CPRA. That we get a memorandum that is generated that talks about it. That is stuff that we need to know and stuff that we didn't have in the last go around. I want to add that into this process. Automatically when we get a policy in, where OPD says, we want your opinion on this, without a vote, etc., it should automatically go to CPRA because they need as much time to prep a memorandum to come back so we have something to review because when you get it for the first time in a meeting, you also want to get the opinion of someone (may be the research analyst needs more time, etc.) but then you get the background, why the change is being made, etc. For us it is the first time we are looking at it. All of us walk through CPRA, we know that they are looking at a myriad of different issues at any given time and they suggest policy changes. They are on policy. We aren't necessarily on policy and we are not expected to – have day jobs, etc. The CPRA must be a vital research component and if they can't be, then we need to find a way to get that information. He suggested adding that to the process to be an automatic provision. Having research along with inclusion of the public and melding those two together to improve this policy would make it better.

R. Jackson agrees with E. Prather. When does CPRA get notified about investigations? When do they get these kinds of documents? We got to be focused in making sure that the bell is rung at the first possible moment so that all the different interactions that we must go through and the meetings and the distilling, etc. can happen.

E. Prather said that one of the things where we tripped ourselves last time was the timing/deadline. What is the day we got that, our deadline? A memorandum should clearly list – here is the date we got it, here is the date of action, here is our deadline, etc. so there is no mistaking. If we have it from the beginning as an automatic process and we get these memorandums that are policy review memorandums, that is only going to make us more organized which is something we need and it takes the burden off the Chair, Vice Chair, Executive Director of CPRA – it is then automatic. No one is responsible for reporting it to us – it is an automatic memorandum that gets generated and we get it at a meeting. Even if the memorandum said this is what we have so far, and at the next meeting you will get more. A process makes sense.

Chair Smith said to M. Benson that he is very glad that you took the initiative to put

this down on paper. He totally agrees with the research point. I think in terms of distribution – that Mr. Birch is there. If you get a policy to review/Executive Director of CPRA get the policy – that we know immediately that as soon as you sent that out, the ED of CPRA has it, he has got what must happen next, immediately goes to policy, whoever he chooses to do the policy review and do the analysis, they start the analysis, we get it the first meeting that follows or the meeting after that depending on the timing. He would like to see that automatic trigger process so we all get it plus the CPRA ED gets it and he has got the charge to make sure that he distributes it for analysis and he knows right away to start working on it to bring it back to the Committee. He wants to make sure that the process starts itself as soon as we get it and that way we get the maximum time to do this.

Mr. Birch said that he can do all the above. He must research with counsel in that my sending the entire body of document and what the Brown Act implications are. Chair Smith said that if you find that it is not, you need to include the ED of the CPRA to see that he gets a copy of this, and I think it should be fine. We can direct him to trigger the next steps and know that the process is happening.

Counsel Brown asked that Mr. Birch check with the Department.

M. Nisperos said that he has heard several references regarding using the Policy Analyst at the CPRA. It is his understanding that we are going to have our own Policy Analyst or maybe the Policy Analyst from CPRA is transferred over when we have an IG. Up until that point, we have no authority over the staff of CPRA, only the Executive Director.

E. Prather suggested to ask E. Benson to go back into the Draft to add this portion into the policy. He can help with wordsmithing, etc. and then we vote on it at the next meeting.

J. Dorado regarding outreach and the comments by the community – to the maximum extent possible, make sure that it is done multilingually (Outreach).

b. Public Comment

Rashidah Grinage said that she she would make sure that there is a timeline associated (time, meetings, what kind of processes will occur as you are moving though especially on the outreach portion). She asked if the Outreach Ad Hoc Committee has any specific strategies that are in place? Who is doing social media, canvassing, fliering, going to community meetings, reaching out to other groups that might be concerned, etc.? She suggested a work plan as a backup to this form that fills in some of those blanks to make it efficient.

Saleem Bey said to the Commissioners - no, a police officer did not murder his brother; no, a police officer did not shoot up his brother; but what we did find out was a police officer had an illicit relationship with the people who did commit those crimes. If a police officer is involved in those crimes, they can still be held accountable and those are murder and attempted murder and depravity are Class 1 offenses as well as covering it up which is obstruction of justice which is what part of our complaint is. The second half of his statement would be to Ms. Brown and ask her if she ever worked for the Oakland Unified School District. Counsel Brown stated that she did. I ask that Ms. Brown recuse herself from anything to do with him because when I had contracts with OUSD, it went through Contract Compliance and through Facilities and Ms. Brown was one of the people who worked on those contracts and delayed them. I ask that she wouldn't be the person – you would have to find someone else in his case to go and research these things

based on the fact that she has a prior relationship with myself and a company that we had.

M. Benson said that the feedback to the Item is adding a research component, an element to be able to ask the ED of CPRA for a memorandum related to research or best practice including the date of action needed, dates submitted, needing to add translation features to this for many languages. Also, following up with the vocations to the Outreach Committee regarding social media, canvassing, etc.

R. Jackson said that you captured just about everything. The comment about social media – we need to put the Social Media Policy back on the Agenda so that we can have an actual connection and alignment. Outreach Committee - through Outreach there was a recommendation around social media that has not been heard yet. It is not inside the Policy Committee yet and needs to be agendized so it can be a portion of the due diligence of the social media piece. M. Benson noted it.

Chair Smith said that we don't want to hold up this policy at the same time and want to make sure that it comes back to us at the next meeting.

J. Dorado asked that multilingually be placed somewhere.

c. Action, if any

None.

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

The Commission will review an OPD policy proposal concerning when to use probation and parole/PRCS searches for individuals on probation with certain court-imposed search clauses and individuals on parole/PRCS (Post-Release Community Supervision), who are subject to warrantless searches by law enforcement.

a. Discussion

Chair Smith introduced Tim Birch.

Tim Birch, OPD Research and Planning, stated that he is here with one of his staff, Officer Joe Turner (primary author of the probation and search policy), to answer questions relating to Items 7a and 7b in the Agenda Packet (specific policies on probation and parole searches).

Chair Smith asked for an overview of the policy and then follow up with the questions.

Tim Birch provided an overview in terms of philosophy. He reiterated why it is that this policy was developed. The Stanford Report came out (June 2016); strategies for change which listed the 50 recommendations. One of those recommendations was that the OPD look that we conduct searches in the field with a specific focus on probation and parole searches and the reason for the concern and recommendation is the disparate impact upon communities of color and the appearance of the searches particularly in communities of color and what that message provides to communities. This is not an NSA policy per se. We shared it with this body. This is a policy of concern and want to make sure that when we role this out we get it right. The underline thinking of this policy is an understanding that State law allows police officers in any jurisdiction in California to perform searches of

individuals on parole or individuals on probation with a search clause with essentially no cause. We are the first agency in the State that he knows of that is going down this road - What we are trying to do in the OPD is to instill a sense in officers who are working the street that just because they can do something doesn't necessarily mean they always should do something. What we are trying to message to the officers is before you decide to engage in that search, give it some thought. Think about community impacts, necessity of the search, potential outcomes of the search, and the return on investment that the search could or could not provide to you. That is what this policy is.

M. Benson asked if he could elaborate on what is meant by return on investment. Mr. Birch said we want officers to weigh in on the actions they are taking in performing a search, the impact of those actions on performing the search, and what the outcome could be. Thinking carefully through on the actions the officer may take.

E. Prather asked are you the main author of this document? M. Birch said essentially yes but officer Turner is the main author of this document and still works as a patrol officer on a regular basis and has a much greater understanding of what this policy means in practice. E. Prather explained his thought process on this. He asked who does the research that goes into this policy? T. Birch said that type of primary research is done by him. We look at what other available policies we can find - LAPD's policy, etc. E. Prather said the process could be improved. It is difficult for us to get something and have us consider it and then having all this information when we are to take a vote on it. His request is that it would be better for us to have all the information we can get in research, etc. that is done in the beginning of the process. Your work product shows that it is a well thought out document. To share with us your thought process in how you got to this, the research you did, etc.

R. Jackson appreciates the work. One of the things asked about is laying the ground work. She referenced A-3. Was there any thought to a greeting (community engagement)? She works in youth development - over and over when they engage officers is that officers go straight to the point. There is no hello or eye contact. When we look at interpreting about respectful manner sounds like, it can be done in a variety of ways. T. Birch said that he has thought about it and provided information relating to the matter. R. Jackson hopes that transitions to the 911 calls also because when people start reporting, they immediately start being interrogated - greeting is everything.

Chair Smith said the next part of the Agenda Item will be provided by Officer Joe Turner. Officer Turner understands that some questions were submitted (Item 7b in the Agenda Packet). He referenced Item 7a in the Agenda Packet, Page 2, B. (Requirements for Probation or Parole/PRC Searches) and addressed specific issues.

M. Nisperos apologized for the questions appearing informal (Item 7b in the Agenda Packet). This was sent out only to the Policy and Procedure Committee and this is our typical format for discussion; I am the author and normally I would have it in proper memorandum form if I wanted it distributed to the public and obviously been mistaken and here it is in the Agenda. Regarding probable cause like you were saying - there seems to be a growing trend among the judiciary to look at the harmless error if it is totality of the circumstances and it was an honest and reasonable mistake. The Courts have held that one officer can depend on the word of another officer in establishing probable cause. That is why my question is - Is it from one officer to another that he learned that which is perfectly okay and doesn't come under the exclusionary rule but still the courts look in issuing search warrants

most typically is whether or not the information is stale or whether it is recent. That depends on a lot of things and all I am saying in this question is – Do you give the officers any guidelines for determining, well maybe I better make sure using another source, using number 2 or using number 3 as you will see in the following paragraphs? Officer Turner responded and said yes we do and the guidance we do give is in training, etc.

M. Benson said I know that I am not alone having worked with many youth in this community who have been criminalized and have plea bargained for things they haven't done because they are facing significant amount of jail time, in fact I believe the statistics are well over 90% of the people in this country who take plea bargains which makes me sad because if people felt confident in the judicial system and they started engaging in trials, they would shut down the entire court system. I say that to say that you know that in the vain of the implicit bias conversations I think it is impossible even though we can give officers an opportunity to choose whether they search or not, it is impossible to not assume about somebody who is on parole or probation and it is impossible to not imagine that it escalates. Someone's concern that the person might be more dangerous. She asked is what would it take to treat people on parole or probation with the same rights that we are afforded for those of us who are not on parole or probation? She appreciates this and it is critical for everyone who is working on this policy to be well versed in the new Jim Crow by Michelle Alexander – should be read. We should be engaging in community work, if you haven't. If you have, please do tell us because that should be commended. People who are on parole or probation or working with people on parole/probation, in the creation of this policy. I know that we have created this City as a Sanctuary City. I don't know a lot of young people in this community that escape getting on parole or probation without getting checks and be put back in prison/incarcerated. She appreciates this. We need to be looking at what the end piece is. What would it take for us to not just leave it to the discretion of police officers who are going to assume these people are criminals and sometimes they are, sometimes people have had a trial without disputable evidence who committed a crime, but many times these people particularly young, black and brown, poor people in Oakland are taking plea deals because that is the best option they have and they haven't done anything and these are the kids that are on parole and probation that are then going to be then over policed and these kids sometimes need to carry weapons to get to and from home and school and then are going to get put back and locked up because they violated their parole, because I have a knife in my pocket because someone is out to get me. These are very real situations that are happening. What it would be like to afford these people who are on parole and probation the same rights I have – you can't search me without probable cause?

Officer Turner said that he understands where she is coming from. There are a couple of things – He has read the new Jim Crow book. The question is sort of above our pay grades in terms of what can we as the OPD say or do about it in terms of change to our legal system? You are talking about a lot of things that are because of say the plea bargains, etc. We don't have any control over what the DA does or does not do. We can't tell whether a plea bargain, etc. - the DA had a very strong case or whether it was something where that person decided to make a choice. We do have a few sections in the policy. He referenced A – 2 (Procedural Justice Consideration) and spoke about the section. He mentioned that Jim Chanin did consult with the OPD. Officer Turner referenced B – 2, Page 2 (Rationale for Probation or Parole/PRCS Searches), and then spoke about paragraph 2.

Commissioner Jackson asked what kinds of consequences - if an officer does not have the fresh information about someone's status and acts upon that? Officer Turner said that there could be many consequences and spoke about them.

E. Prather - question he asked Mr. Birch and the Chief at the last meeting. His background in this is that I am aware that every federal criminal conviction includes a search clause, it is punitive, and for years and decades police departments have been using that search clause against citizens. Being on probation or parole with the search clause is worse than being in jail because it does strip away your rights as a citizen and PCs out the window. He appreciates the effort and attempt to try change the culture behind what it used to be and what it should be used for and he sees a lot of progress in that in differentiating between low level drugs search clauses as opposed to weapons or a violent crime, probation or parole. Is this the policy that is transformative and that is the Chief's word? Chief said the policies are going to be transformative is because the only way we are going to get change in the department is change the mindset and it has got to be transformative. Is this that police? I will ask that you and Mr. Birch answer that question. That is the policy we need. We are not going to change the entire justice system. That is not going away. The way we treat search clauses is obviously a way we can help that and change the culture.

Officer Turner said that this is that transformative policy and gave comments. Tim Birch reiterated that there is no other agency in California that we are aware of that has anything like this policy. Most agencies in this State operate under the practice that if somebody is on parole or probation with a search clause, that individual is going to be searched – period – because they can be. This is an attempt to reform our culture and again, the point is to get officers to think – do you need to do this, is this the right time, what will be the impacts to the individual you may or may not search, impacts to the community that is watching you search this individual – that is what we are trying to do here is change the culture to help officers understand that just because they can, doesn't mean they should.

M. Benson disagrees that what would be transformative is to remove the option. The fact that it says ... return on investment ... is framed from optics and if you engage, which I have not heard you speak to yet and maybe you have, but if you are engaged with communities and organizations that are working recidivism and working in communities that are on parole or probation, that having some freedom to just be treated like yes, you have to ask if I am on parole or probation but you still have to have probable cause. If you pulled that, we are not going to do that, that would be transformative. I would take away the option from police officers.

M. Benson said it is very important that we bring that back to the Chief (transformative policy). One of the conversations that she has had with the Chief recently is how we address the issues of inequity when white people, particularly white people who live in the hills are not over policed or searched or not asked those questions. The reason she is making this suggestion and that you seriously consider is a significant step towards equity – it's understanding that we have systemic racism and systemic over policing and I am glad that you read the new Jim Crow. It is a way to acknowledge that a disproportionate amount of black and brown and poor people are on parole and probation and people who look like me never get checked. The Chief even said in her own words - I know people in the hills are committing lots of crime but we don't have a mechanism in place to be equitably searching in that way. She wants to invite you all to go back to the table and to consider that you have acknowledged that it is transformative and to begin to explore that as a means and maybe talk to Dr. Eberhardt about it, since she is on contract. To deeply radically take on equity and not be in the top three in the State but how about we be number 1 in the country.

Further questions were asked by R. Jackson, M. Nisperos, and J. Dorado and Officer Turner responded.

Chair Smith added that we have been asked for our feedback on this policy and so we have a chance to offer what suggestions we choose and that is one that we agree on we can offer that suggestion and see how far it goes. At a minimum it is good to have that dialogue and do think that it is a fair question to ask the Chief because I believe that would be transformative and would restore the rights of an individual to the point that they were before their offense. It is probably a question that is better asked of the Chief.

M. Nisperos mentioned that there was something due on this by September 7 and that is the reason he drafted something for the Ad Hoc Committee.

Chair Smith asked Mr. Birch to respond. He said that sounds correct. Obviously, he will look for the date now. The point to that email was to say to the Commission that this is a policy that is not actually in the Commission's jurisdiction but here again, is an opportunity to provide the excellent input that you have provided tonight and to just put a date on it so that we can continue to move forward on the policy. That is where we are at. Procedurally it will be interesting because this is the first time this has happened as far as he knows with the Commission. What we all are going to have to figure out is as we move forward, what we need in writing, what we are going to be able to move forward on that was provided verbally this evening, etc. Whatever date was in the email and he believes it was September 7 that we would hope that whatever input the Commission has we would be able to receive by that date so we can continue to move forward on this very important policy.

Chair Smith asked if that date could be pushed back so we get a chance to deliver something in writing. What is the flexibility for that? Our next meeting is September 13 and obviously, we had the discussion today and there is a lot of interest in this policy and a lot of perspectives we shared. Mr. Birch said the Charter states that if you want a response in writing from us, you can request such a thing. Mr. Birch said September 13. Chair Smith said the day after that would be better. Mr. Birch said he will work with him on a date.

b. Public Comment

Rashidah Grinage referenced Item 7a, Page 1, under Command Intent; A – 1 (Purpose of Probation and Parole/PRCS Searches) – Such searches shall not be Arbitrary; Capricious; or Harassing. There is no mention of race. That is what we have determined to be a very deciding factor based on kinds of racial indicators not only Dr. Eberhardt's work but the other study that was just shown where we rank very poorly, especially in public safety and racial indicators. She referenced Item 7a, Page 3, regarding Ceasefire – The individual is connected to a crime-reduction strategy (such as Ceasefire ...). I am wondering how that impacts the officer's judgment about whether or not to conduct the search. Would that be something participants favor or would that be incentive to search. I am not quite sure that is interpreted by the officers. I think there is no question if we look at Dr. Eberhardt's stop data and having had a conversation last night with Captain Bolton about deployment strategies and who gets stopped and why they are stopped, it is clear that there are presumptions being made about who to stop and if those presumptions are based on intelligence or rumor like a lot of what we see on Next Door, then we have a problem because it is only black people that get rumored to be suspicious and therefore are susceptible to being stopped based on that so called intelligence. She suggested that this policy be examined within the framework of racial disparities as a whole and certainly in the context of Dr. Eberhardt's work. She thinks we have defined a subclass of citizenry based on their parole or probation

status which is not acceptable.

c. Action, if any

None.

VIII. Ad Hoc Committee to Update of Rules of Procedure

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

a. Discussion

Chair Smith asked M. Nisperos or E. Prather to give a report. E. Prather reported that the Rules and Procedures Committee met again. To update everyone from the last meeting, we discussed a policy where we were going to have a form, an agenda matter suggestion list. The one change that the Committee was unanimous on was that we take up creating the agenda during a Commission meeting in open session. Our recommendation as is embodied in this rule change is that we do it as a Commission, at least in the first meeting of each month, and that we will create the agenda from priority items, items that have timing issues and that need to be handled and are ready to be handled and that there are also other items that Commissioners can put forward to be on the agenda and that agenda be created right there.

R. Jackson – her recollection of our last meeting – Ms. Olugbala raised the point that there are some delineated distinctions for the Rules Committee, for Council. She wondered how this differentiates from her recommendation. There is already something in place, we just didn't know about it. If it works well, why change it.

E. Prather said the City Council has a Rules Committee that has a separate meeting to create the Agenda for the City Council. We did consider that and the thought of an additional meeting was not one we thought we would support. The thought behind this is we like the transparency and there is a credit to our current Chair for making Agendas and keeping Commissioners on task and on point, but that is a huge workload. To have it in open session where every Commissioner gets input into it and matters make the agenda by a majority vote, seems the most fair and open and to do it that way. That is the process we are supporting. He mentioned that where the Committee differs is that one member of the Committee wants the Chair to have less authority to edit the meeting agenda after it is created. The way this is written, the Chair finalizes agenda plans after the agenda is created based on things like is the speaker ready to present on a certain issue, are there timing issues, does something else come before the Commission that needs to be heard immediately that it is still within the Brown Act rules for distribution of materials. Then there is a flexibility to do that. One of our members feels that giving the Chair that flexibility is not appropriate so we do not have consensus on that issue. The two members of the Committee that agree with the current language which is the way we have written it and we indicated that we would share that other position also.

E. Prather asked M. Nisperos to explain the issues since he is part of the Committee. We all need to agree on the agenda and it should be what we agree on, and only be changed for emergencies and on time constraints. Sitting Commissioners should finalize the agenda at each meeting. I believe there are some of us who believe that is what the language does.

E Prather, referenced Item 14a in the Agenda Packet. The form would be available

to any person, police officer, city official, member of the public. They could fill out the Agenda Matter Submission Form. It must be endorsed, supported, or offered by a sitting Commissioner. Anyone could fill out a form - submit an agenda item, write a summary about the agenda item, and submit the form. We would keep a pending list of the things, by majority vote, that get approved from the form.

R. Jackson said she likes most of this policy. There is a lot of thought that came into it especially now that we have a special form. She likes that we as a body are working together to determine the agenda. Why not just let it be that way? We are all together putting something forth and then we could all together pull it out if it doesn't work.

E. Prather said that we agree with that wholeheartedly in terms of having it be an open and transparent process that we created and we create the agenda. For example, in looking ahead to Agenda Item 14, that this body will create the agenda for the next meeting. That is what is anticipated in Item 14 from tonight until the Brown Act distribution goes out, there may be a matter that comes up that we need to address, needs to be heard, or something needs to change. Our thought was to write in that flexibility to allow for that change.

R, Jackson asked might we consider that given that kind of circumstances, something could be added but not subtracted?

E Prather the thought in the way it is written is that priority items are priority items that stay but if we are going to have a seven-hour meeting because we add something, it should be in the discretion of the Chair to adjust the agenda and that is literally only the circumstance the Committee has considered in how the agenda would change. We are talking about something in a hypothetical I would say that 98% of the time, what the agenda is – is the agenda that gets done. I have never made an agenda so I don't know what happens between tonight and 10 days until the packet goes out for the next meeting but I would think that there could be a circumstance where there is something that needs to be heard.

M. Nisperos said that if this is important than you can certainly amend what we have proposed here to say - Any item that is cut or removed from an agenda, must be placed on the following meeting's agenda so that it doesn't get lost.

Chair Smith said that what the committee put together is great. We should mention that the public gets to comment during Public Comment on every agenda, which is great. I would like to put agenda setting on the agenda every meeting, unless we can't fit it because of time. For me, I consider it to be incredibly helpful. There are a lot of competing items that are good items to be on the agenda but we won't figure out what the priority is unless everyone is engaged in the dialogue at the same time. I consider this – one of the most important items on the agenda because this will create the pathway for us to work together and it also let the struggle happen between issues that are important

M. Benson appreciates the work. Rather than get into minutia technical situation where we are hypothesizing on what can happen, for her in addition to the values of transparency and public input, is checks and balances. Maybe it isn't that one person makes that decision in that there be an Ad Hoc Committee that processes those things so you have a couple of people to do those small things we are anticipating and then they have a report that we open and say this was the agenda, we moved these three things, here is why, and these will be the following dates. To me this is more process wise and think it is important to have checks and balances. One person the Chair could make that report but to have a few people engage in

solutions around that. The second thing is once we get through all of this and realize how much agenda items we have, how many trainings we are behind, we might have to entertain meeting more frequently – at least to get caught up and get ahead of these things. She suggested making that more public would entertain us in how we get through that instead of having potentially nine-hour meetings twice a month.

R. Jackson mentioned that having more than ten agenda items does not make sense in any given night no matter what. That is not a committee situation; but from an efficiency perspective so that they aren't nine hours, barring the fact that we can get ourselves together for an additional meeting, she has a tough time getting to two meetings a night.

Chair Smith said thank you. This policy is a major leap forward, it is transformative, and something that we can be happy about.

E. Prather appreciates M. Benson's suggestion - transparency and checks and balances. He would amend Item 14, really item 8, instead of having it be the Chair – what we are talking about, it is going to be a rare circumstance where it happens so if we are talking about an Ad Hoc Agenda Committee of three people, the Chair plus to two others, then the Chair whoever it may be, this is not about this year, it is about many years from now. The Chair checks in with two people and says we must do this, etc. and it is a check and it is a balance. It is not on one person.

Chair Smith said this is welcome change. What has happened since we started this is that he has done everything possible to try make sure that we could get a roll out of the gate and it has been an enormous amount of work.

Chair Smith had a concern in that it is a repeating process and recurring.

E. Prather said it is not recurring. The meeting agenda will be finalized at the open session meeting and only if there is a problem, will we have to go to a three-person Ad Hoc Agenda Committee to make an adjustment. It is the Chair going to two other individuals and saying we have got these issues – it is the Chair's protection, it's the Chair's check off, but now you get three people involved in that process. Chair Smith said that he agrees.

b. Public Comment

No public comment.

c. Action, if any

MOTION (E. Prather) that we adopt a new Rule 2.15 Agenda Items as reflected in your Packet as Item 14b and that certain edits be made to that Rule that the last paragraph, Page 1, we will strike the sentence beginning "As such, the Commission Chair shall be responsible for finalizing meeting agendas prior to their dissemination." The next sentence will also be stricken "The Chair must consider the potential timing and exigency of any agenda item." The final sentence of that paragraph will read: "The Chair and two other rotating sitting Commissioners shall finalize meeting agendas in the interest of maintaining meetings of reasonable length and efficacy, meeting and complying with external time constraints and otherwise advancing the best interests of the Commission." He moved that we adopt and implement this policy. Chair Smith seconded. The vote was Aye: 6 (Dorado, Jackson, Nisperos, Prather, Smith, and Benson). The motion passed

unanimously. Commissioners M. Ahmad and G. Harris were excused.

MOTION (E. Prather) that we adopt the Agenda Matter Submission Form that is reflected in your Packet as Item 14a in the Packet and that it be implemented for use at the next meeting and be added to the website as soon as practical.

Seconded Chair Smith. The vote was Aye: 6 (Dorado, Jackson, Nisperos, Prather, Smith, and Benson). The motion passed unanimously. Commissioners M. Ahmad and G. Harris were excused.

E. Prather thanked M. Nisperos and G. Harris for their work in this matter.

IX. Recess (6 Minutes)

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 asked M. Nisperos to speak on that process. M. Nisperos reported that this morning he and the Chair met with members of the City Administrator's staff and the HR Director - by telephone. We took the Rubric that he had previously submitted and the one that we obtained from Commissioner Benson (contacted NACOLE) and then they were blended. We have asked their staff to look at their questions that were proposed as well and the materials that are received from Commissioner Benson and place those questions under the different Rubric topics. That will be brought back at the next meeting for you and the public's review, comments, and suggestions. From that, we will take in all that information. The Personnel Committee will meet and make the final refinement of the questions, bearing in mind that the interviews will last 45 minutes. Each of the Rubrics you will see a suggested rating for you to evaluate and make comment. In the meantime, we have given direction to City staff to look at those applications (190 approximately). Some of them are obviously totally unqualified. (graduated from high school two years ago and working at Safeway and saws the Job Announcement and filled out the Application. Looking at the two paragraphs that deal with necessary qualifications, eliminates those applications which are obviously and patently unqualified. Chair Smith said that we have agreed to do that. We must be responsible for this process and need to be sure that no one gets eliminated that we wouldn't want to eliminate - legally (so we retain discretion to do that). M. Nisperos said it will narrow the field to about 30-40. Then from those, we will look at who are the most likely candidates that we could interview so that we could come back to the Commission with a recommendation of no more than ten or between 5-8 for the Commission as a whole to interview and then narrow down to nominations of 2-3 nominations to be submitted to the City Administrator. It is an extended process but I think we have a handle on it now. Since we will be doing so much of this and the questions are going to be in public, it is our thinking that whatever the questionnaire of the Rubric that it must be sent out to all the applicants that will be interviewed because some or all the applicants may look/be present at the meeting, or watch the meeting online and know what the questions are in advance and therefore unfair to the others not to have the same level playing field.

Chair Smith said he will go to public comment and then do the discussion.

M. Benson thanked M. Nisperos and the entire Committee for receiving the

feedback information that she sent – it wasn't hard to ask (NACOLE) and a justice organization in Chicago that had some great essay questions, etc.

M. Nisperos said that we did select one of the essay questions which we will use. We are still debating how far in advance to provide that question to make sure we have an original answer, etc.

b. Public Comment

Saleem Bey gave comments that currently, the Commission's investigative arm is directly linked to the City Administrator. The City Administrator is paying their salaries, their upward mobility, and that doesn't just apply to the Director. If you are going to have a new director, make sure that you get new investigators. The investigators come from the outside. You can't keep putting a head in front of something that is broken. If you are asking for non-biased transparent investigations, right now your investigative arm is illegitimate because the City of Oakland population said it was illegitimate. If it was legitimate, they wouldn't have voted in the super majority to get rid of them. Instead of getting rid of them they just morphed into your investigative arm. At this point, don't just stop at the Director. Make sure that it is all the way up and down the line that you have independent people who don't have or behold or have taken money from the City of Oakland.

Rashidah Grinage regarding the process. She hasn't heard what you plan to do once you reach your final lists. How many you have and what happens then. Who do you intend to involve other than yourselves? Have you identified stakeholders, a process? I have yet to hear you discuss this and is looking forward to that discussion.

c. Action, if any

None.

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

The Commission will 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 we talked a bit about the Retreat in the past. Now we have an opportunity to prioritize some of the agenda items.

R. Jackson said one thing we need to agree on is the content; the other thing is that we need to agree on when we are going to do this because we need be able to get facilitators to come. He suggested doing the content first. Chair Smith asked for content suggestions.

M. Benson suggested leaving work early one day and we might be able to do an extended meeting.

R. Jackson said that A. Dooley left a delineated series of trainings that we were most behind on in terms of trying to prioritize some of those within the retreat. She asked for dates because it hinged on facilitators, preparation, etc. She was going to do some team development, norms, how we work together as a unit,

activities that tell you about yourself, etc.

M. Benson said there are four areas that we have to agendaize things: Work items (we have a process now for agendaizing); legal mandates (which we have accountability for and urgency); trainings; retreat suggestions. She would propose a calendar that would knock out all four of these items (Ad Hoc Committee) – what is important to folks so we can put them in order and do some of the outreach, processes, etc. We are willing to do the legwork; take that on which is separate from the agenda items.

M. Nisperos mentioned the trainings; 3304 is important; there could be something big on the Police Officers Bill of Rights in 2020.

Chair Smith asked for a proposal. A prioritization exercise and good for public transparency. Show briefly what the activity will look like and then come back next time and have these broken into categories.

R. Jackson said the only date now is the furthest date out or to do another Doodle Poll. In terms of the four areas, what we are probably going to end up is about 12 hours of work. It is possible that we could do 4 hours on a Thursday, another 4 hours on a Thursday, and 4 hours on Saturday. We need to calendar this all before the end of the year.

b. Public Comment

No public comment.

c. Action, if any

None.

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

The Commission will discuss scheduling discipline committee training and training on City of Oakland employment policies and procedures.

a. Discussion

Chair Smith said that the one thing we got in terms of information back from the Oakland City Attorney was on the Disciplinary Training. I don't know if anyone can attend the times they offered. R. Jackson and M. Benson agreed to be available August 28 (9 a.m. – 5:00 p.m.). We need to have a third person join to make it viable. Chair Smith asked for a third person to attend. Nobody responded. He suggested that they attend the August 28 training and maybe somebody will drop in at the last minute; if not, that is two people that completed the training. Then we can circle back. M. Benson said they can't exceed three people so in other words you are making a fourth training. He asked J. Dorado if he is considering attending and when would you know? J. Dorado said that he will know by tomorrow. Let R. Jackson and M. Benson know if he can join them. Then you can decide whether to go for two or put it off. M. Benson said that the rest of the dates aren't until October – we could knock out three of the dates in early October.

Training with the City Administrator – Chair Smith said that he heard from S. Hom

that they are considering that matter and haven't scheduled anything yet. Counsel Brown hasn't heard any additional training and glad that they are going to give the Commission that training.

b. Public Comment

No public comment.

c. Action, if any

MOTION (R. Jackson) that we continue the meeting past 10:30 p.m. with a hard stop at 11:00 p.m. and seconded (J. Dorado). The vote was Aye: 6 (Dorado, Jackson, Nisperos, Prather, Smith, and Benson). The motion passed unanimously. Commissioners M. Ahmad and G. Harris were excused.

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

Interim Director 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

Chair Smith asked Mr. Rus to give a report. Mr. Rus reviewed Items 13a (Cases that were closed between July 23, 2018 and August 20, 2018 which were eight cases and Item 13b which is important and is an action item (Request to Continue Investigating the Following Complaints) – Changes to the Agency; what the Agency is authorized to investigate.

Mr. Rus said there are some misconduct issues with the OPD that aren't necessarily the subject of public complaints (officer involved shootings, even class 1 issues). If they are not subject of a public complaint, in the plain language of LL and the Ordinance says that we are able to investigate those if they are subject of a public complaint. Past practice in the CPRB is that we investigated those whether or not they were; we could open our own investigations if we found misconduct. We can do that with the authority of the Commission to be able to undertake those investigations. There are three that are in progress that are held over. There are an additional four or five listed that are proposed for investigations – some may have even begun but we need authority to pursue those investigations to their conclusion - do this with need your approval.

Chair Smith asked Counsel Brown to respond. Counsel Brown said what you are asking for in accordance with Section L of the Enabling Ordinance. Mr. Rus said the Charter section is 603(f)1 (the Agency shall also investigate other possible police misconduct or failure to act, whether or not the subject of a public complaint, as directed by the Commission. *Id.* Counsel Brown asked if that is from Measure LL. She said that if that is put on the agenda so that the public knows that they are going to take a vote because they vote as a Commission as a body and then they could make that direction, but we didn't have that included in the agenda this time so the vote would not be valid (a Brown Act violation). Mr. Rus didn't realize it was an action item; that it was in the packet. It is timely and we cannot continue (some of these are early 2017 so we may be getting near the end and can't close the case if we don't have the authority to investigate). Counsel Brown will give us the

exact language we will need to put in so that we can consider this Item at the next meeting.

M. Benson asked about Item 13a or a question for Counsel Brown. This report does not give me substantial information for me to do anything. Where are we with this? Chair Smith said that last time that he heard from Mr. Finnell was that he told him that he got advice from CPRA Counsel who told him he should not give us the report in the form that we requested. We need for Mr. Finnell to come back and explain what the issue was.

M. Nisperos suggested that rather than go through Mr. Finnell, who is just going to go back to his Counsel, if we could ask Counsel Brown if she could meet and confer with CPRA Counsel and come back with her recommendation. Chair Smith asked Counsel Brown to do this. Mr. Rus said that it is his understanding that those negotiations also include the City Attorney because the liability issues are on the City and not on CPRA (Agency).

b. Public Comment

Rashidah Grinage the CPRA used to provide in every packet a running list of all pending case investigations whether or not they were filed with CPRA or filed with IAD and were copied to CPRA and which ones were tolled, when filed to keep track of the 3304, the name of the investigator working on the case, giving a one sentence of the description of the allegations, etc. That was the practice. Not sure why it has been discontinued would be helpful for that practice to carry over into CPRA or reason it can't or shouldn't. She suggested that you inquire about this matter – why this practice was discontinued.

Saleem Bey spoke to the independence of the investigator arm, getting a report from. They have their own attorney; you have no connection of what that attorney tells the investigative arm, etc. They are still the investigative arm of the City – City Attorney. Someone responded and said it is not true. Your investigative arm should be under the same purview – let's have it resolved internally and independently.

Mr. Rus spoke about public complaints. One of the things he did was lodge a public complaint. It came through the Vice Chair. It didn't go through the CPRA because of our history of the CPRB and the fact that they closed cases that then subsequently were found to be sustained by the police department. If you are not going to do anything about your investigative arm underneath the City, that goes to your credibility. Back to his public complaint. It should go through the whole process. It should not be dismissed out of hand. It should not go to be judged by an attorney that was most recently working for the City Attorney's Office while our cases were in there.

R. Jackson doesn't remember any organization chart regarding legal counsel. She doesn't understand why we can't get the report that we are asking for. Chair Smith said the first step will be that Counsel Brown go to the CPRA, etc. to get information regarding a report. If after those efforts we can't get the report, we need to figure out how we will handle that and work around it. It is a real weakness in our ability to be effective.

c. Action, if any

None.

XIV. 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.

a. Discussion

The Commission engaged in dialogue and set the next agenda. Chair Smith read the items that will be placed on the agenda.

Determination of IAD 13-1062

Commission Policy Review Process

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

Executive Director Recruiting Process (Review Rubrics again)

OPC Retreat II and prioritization of agenda items

Authorization to continue the investigation of cases formally under CPRB

Ad Hoc Committee - Coming back with the process on how we review policy

Administrative Analyst

b. Public Comment

Rashidah Grinage said that it seems to her that you have a pending item about your Administrative Analyst. There was no update on this agenda and you had asked for action taken by September 15. I would assume that by September 12 – your next meeting – there would be some information about whether or not that hiring is forthcoming or not and that you might want to put on that agenda an update and status report from Ms. Hom or from Ms. Landreth. Chair Smith said that we can add that to the agenda setting items. We will add it to the Executive Director item and cover the Administrative Analyst position in the same item.

Saleem Bey gave comments. He disagrees with the process by which you are evaluating his case and as an example You are not reopening something. You're looking at something the police department already admitted that is incomplete. The second thing is under IAD 13-1062, a says a finding of sustained has been determined. This finding is applied to the Oakland Police Department as the individual subject officers and your immediate supervisor are no longer employed by OPD. What that says is that this is not about an individual officer. There are individual officers in there – you can redact their names – they are only in a few different places. This is saying that the police department is applying this sustained finding to the entire police department – the entire police department is your purview, is the people that you have authority over. If they are saying 13-1062 is applied to the department and the fact that you won't listen to the public that you won't listen to the things that are available to the public about 13-1062, it is incorrect to just give a blanket everything is under seal. That is the line of the City Attorney's Office. If you ever looked at the actual case, you will see that the judge said that there are certain things that cannot be sealed. Therefore, what you are saying about being sealed, that is one thing and that is incorrect. There are things that this Commission can see about this case. With all these incorrect things that I am pointing out, I don't feel comfortable with you giving it to someone who has already shown that they ruled against it and didn't even have complete information about it. We are talking about justice.

c. Action, if any

None.

XV. Adjournment

MOTION to adjourn (R. Jackson) and seconded (J. Dorado). The vote was Aye: 5 (Dorado, Jackson, Prather, Smith, and Benson). The motion passed.

The meeting was adjourned at 11:20 p.m.