



OAKLAND POLICE COMMISSION

SPECIAL MEETING AGENDA

June 10, 2021

5:30 PM

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

Pursuant to the Governor's Executive Order N-29-20, members of the Police Commission, as well as the Commission's Counsel and Community Police Review Agency staff, will participate via phone/video conference, and no physical teleconference locations are required.



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PUBLIC PARTICIPATION

The Oakland Police Commission encourages public participation in the online board meetings. The public may observe and/or participate in this meeting in several ways.

OBSERVE:

- To observe, the public may view the televised video conference by viewing KTOP channel 10 on Xfinity (Comcast) or ATT Channel 99 and locating City of Oakland KTOP – Channel 10
- To observe the meeting by video conference, please click on this link: <https://us02web.zoom.us/j/81602954037> at the noticed meeting time. Instructions on how to join a meeting by video conference are available at: <https://support.zoom.us/hc/en-us/articles/201362193>, which is a webpage entitled "Joining a Meeting"
- To listen to the meeting by phone, please call the numbers below at the noticed meeting time: Dial (for higher quality, dial a number based on your current location):

+1 669 900 9128 or +1 346 248 7799 or +1 253 215 8782 or +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592
Webinar ID: 816 0295 4037

After calling any of these phone numbers, if you are asked for a participant ID or code, press #. Instructions on how to join a meeting by phone are available at: <https://support.zoom.us/hc/en-us/articles/201362663>, which is a webpage entitled "Joining a Meeting By Phone."

PROVIDE PUBLIC COMMENT: There are three ways to make public comment within the time allotted for public comment on an eligible Agenda item.

- Comment in advance. To send your comment directly to the Commission and staff BEFORE the meeting starts, please send your comment, along with your full name and agenda item number you are commenting on, to jrus@oaklandca.gov. Please note that e-Comment **submissions close at 4:30 pm**. All submitted public comment will be provided to the Commissioners prior to the meeting.
- By Video Conference. To comment by Zoom video conference, click the "Raise Your Hand" button to request to speak when Public Comment is being taken on an eligible agenda item at the beginning of the meeting. You will then be unmuted, during your turn, and allowed to participate in public comment. After the allotted time, you will then be re-muted. Instructions on how to "Raise Your Hand" are available at: <https://support.zoom.us/hc/en-us/articles/205566129>, which is a webpage entitled "Raise Hand In Webinar."
- By Phone. To comment by phone, please call on one of the above listed phone numbers. You will be prompted to "Raise Your Hand" by pressing STAR-NINE ("*9") to request to speak when Public Comment is being taken on an eligible agenda item at the beginning of the meeting. Once it is your turn, you will be unmuted and allowed to make your comment. After the allotted time, you will be re-muted. Instructions of how to raise your hand by phone are available at: <https://support.zoom.us/hc/en-us/articles/201362663>, which is a webpage entitled "Joining a Meeting by Phone."

If you have any questions about these protocols, please e-mail jrus@oaklandca.gov.



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

Chair Regina Jackson

Roll Call: Vice Chair José Dorado; Commissioner Henry Gage, III; Commissioner Sergio Garcia; Commissioner Brenda Harbin-Forte; Chair Regina Jackson; Commissioner David Jordan; Commissioner Tyfahra Milele; Alternate Commissioner Jesse Hsieh; Alternate Commissioner Marsha Peterson

II. **Public Comment on Closed Session Items**

THE OAKLAND POLICE COMMISSION WILL ADJOURN TO CLOSED SESSION AND WILL REPORT ON ANY FINAL DECISIONS DURING THE POLICE COMMISSION'S OPEN SESSION MEETING AGENDA.

III. **Closed Session**

CONFERENCE WITH LABOR NEGOTIATOR
(Government Code Section 54957.6)

District's Negotiator: Ian Appleyard
Employee Organization: Oakland Police Officers' Association

PUBLIC EMPLOYEE EVALUATION – CPRA EXECUTIVE DIRECTOR
(Government Code Section 54957(b))

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

IV. **Call to Order and Re-Determination of Quorum**

Chair Regina Jackson

V. **Report out of Closed Session**

- a. The Commission will report on any actions taken during Closed Session, as required by law.

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

Scheduled to begin at 7:30 pm, given the Closed Session. If Closed Session is not finished by 7:30 pm, the Commission will pause closed session to take Open Forum comments at 7:30 pm, and then adjourn back to Closed Session if still needed. After ascertaining how many members of the public wish to speak, Chair Regina Jackson will invite the public to speak on any items not on the agenda but may be of interest to the public, and that are within the subject matter jurisdiction of the Commission. Comments on specific agenda items will not be heard during Open Forum but must be reserved until the agenda item is called. The Chair has the right to reduce speaking time to 1

minute if the number of speakers would cause this Open Forum to extend beyond 15 minutes. Any speakers not able to address the Commission during this Open Forum will be given priority to speak during Open Forum Part 2, at the end of the agenda.

VII. Update from Police Chief

OPD Chief Armstrong will provide an update on the Department. Topics discussed in the update may include crime statistics; a preview of topics which may be placed on a future agenda; responses to community member questions sent in advance to the Police Commission Chair; and specific topics requested in advance by Commissioners. ***This is a recurring item.*** ([Attachment 7](#)).

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

VIII. After Action Report

To the extent permitted by state and local law, the Commission will receive a report from OPD Chief Armstrong regarding the Police Department's responses to the protests of May 29 through June 1. ***This is a new item.*** ([Attachment 8](#)).

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

IX. Part 1 of 2 Requested Trainings: Brown Act and Sunshine Ordinance

The Commission will receive training on the City of Oakland's Sunshine Ordinance and the Ralph M. Brown Act. ***This is a new item.***

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

X. Meeting Minutes Approval

The Commission will vote to approve minutes from May 27 and June 3, 2021. ***This is a recurring item.*** ([Attachment 10](#)).

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

XI. Committee Reports

Representatives from Standing and Ad Hoc Committees will provide updates on their work. ***This is a recurring item.***

Military Police Equipment

(Commissioners Gage, Jackson, Jordan)

The Military Police Equipment Ad Hoc Committee is tasked with drafting, revising, and lobbying for passage of a city ordinance to regulate the acquisition and use of militarized equipment by the Oakland Police Department

Missing Persons Policy

(Commissioners Jackson, Jordan)

The Missing Persons Ad Hoc Committee is tasked with reviewing and updating the OPDs missing persons policy, to ensure that it is in line with the standards of constitutional policing

and evolving community values. The resulting policy will be presented for review and approval to the full Police Commission with the intent that it be formally adopted as the guiding policy for the investigation of missing persons by the OPD.

Rules of Procedure

(Commissioners Gage, Garcia, Harbin-Forte)

The Rules Committee has been formed to examine the organization and operation of the Commission, make recommendations designed to strengthen the Commission, Improve the Commission's relationships with governmental partners, and better enable the Commission to fulfill its Charter-mandated oversight duties.

White Supremacists and Other Extremist Groups

(Commissioners Dorado, Harbin-Forte, Jackson)

The purpose of the Oakland Police Commission Ad Hoc Committee on White Supremacy is to ensure the Commission's oversight of the Oakland Police Department and the Chief of Police is properly focused on identifying and eradicating white supremacist infiltration of local law enforcement agencies, including in Oakland.

The ad hoc's charge is to elevate the visibility of this issue, which is long overdue, and to ensure the Department is prepared, informed, and proactive about identifying and eradicating any links to white supremacy within our Department.

Because a police department shapes a city's culture in countless ways, the ad hoc's long term goal is to root out the evil of White Supremacy in both our Police Department and all across our City for the safety of all Oakland residents and Police Officers.

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

XII. Open Forum Part 2 (2 minutes per speaker)

Chair Regina Jackson will invite public speakers to speak on items that were not on the agenda, and that are within the subject matter jurisdiction of the Commission, with priority given to speakers who were unable to address the Commission during Open Forum at the beginning of the meeting. Speakers who made comments during Open Forum Part 1 will not be permitted to make comments during this Open Forum. Comments previously made during public comment on agenda items may not be repeated during this Open Forum. The Chair has the right to reduce speaking time to 1 minute for reasons the Chair will state on the record. ***This is a recurring item.***

XIII. Agenda Setting and Prioritization of Upcoming Agenda Items

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

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

XIV. Adjournment



Weekly Crime Report — Citywide

31 May – 06 Jun., 2021

Part 1 Crimes <i>All totals include attempts except homicides.</i>	Weekly Total	YTD 2019	YTD 2020	YTD 2021	YTD % Change 2020 vs. 2021	3-Year YTD Average	YTD 2021 vs. 3-Year YTD Average
Violent Crime Index (homicide, aggravated assault, rape, robbery)	94	2,427	2,492	2,781	12%	2,567	8%
Homicide – 187(a)PC	-	32	29	54	86%	38	41%
Homicide – All Other *	-	2	2	3	50%	2	29%
Aggravated Assault	55	1,171	1,296	1,514	17%	1,327	14%
Assault with a firearm – 245(a)(2)PC	9	116	153	265	73%	178	49%
Subtotal - Homicides + Firearm Assault	9	150	184	322	75%	219	47%
Shooting occupied home or vehicle – 246PC	11	109	141	248	76%	166	49%
Shooting unoccupied home or vehicle – 247(b)PC	2	56	70	119	70%	82	46%
Non-firearm aggravated assaults	33	890	932	882	-5%	901	-2%
Rape	1	86	99	45	-55%	77	-41%
Robbery	38	1,138	1,068	1,168	9%	1,125	4%
Firearm	13	383	304	466	53%	384	21%
Knife	-	51	93	54	-42%	66	-18%
Strong-arm	12	520	491	363	-26%	458	-21%
Other dangerous weapon	1	39	30	33	10%	34	-3%
Residential robbery – 212.5(a)PC	2	44	44	40	-9%	43	-6%
Carjacking – 215(a) PC	10	101	106	212	100%	140	52%
Burglary	26	5,634	5,053	3,188	-37%	4,625	-31%
Auto	17	4,553	3,827	2,477	-35%	3,619	-32%
Residential	7	748	585	414	-29%	582	-29%
Commercial	2	270	520	205	-61%	332	-38%
Other (Includes boats, aircraft, and so on)	-	52	88	67	-24%	69	-3%
Unknown	-	11	33	25	-24%	23	9%
Motor Vehicle Theft	112	2,788	3,684	3,664	-1%	3,379	8%
Larceny	36	2,903	3,080	2,209	-28%	2,731	-19%
Arson	5	53	76	83	9%	71	17%
Total	273	13,807	14,387	11,928	-17%	13,374	-11%

THIS REPORT IS HIERARCHY BASED. CRIME TOTALS REFLECT ONE OFFENSE (THE MOST SEVERE) PER INCIDENT.

These statistics are drawn from the Oakland Police Dept. database. They are unaudited and not used to figure the crime numbers reported to the FBI's Uniform Crime Reporting (UCR) program. This report is run by the date the crimes occurred. Statistics can be affected by late reporting, the geocoding process, or the reclassification or unbounding of crimes. Because crime reporting and data entry can run behind, all crimes may not be recorded.

* Justified, accidental, foetal, or manslaughter by negligence. Traffic collision fatalities are not included in this report.
 PNC = Percentage not calculated — [Percentage cannot be calculated.](#)
 All data extracted via Coplink Analytics.



2021 Year-to-Date Recovered Guns

Recoveries through 06 Jun., 2021

Grand Total 484

Crime Recoveries	
Felony	251
Felony - Violent	107
Homicide	13
Infraction	
Misdemeanor	16
Total	387

Crime Gun Types	Felony	Felony - Violent	Homicide	Infraction	Misdemeanor	Total
Machine Gun		2				2
Other	1					1
Pistol	201	89	8		13	311
Revolver	7	4	2		1	14
Rifle	29	10	1		2	42
Sawed Off	3					3
Shotgun	8		1			9
Sub-Machinegun						0
Unknown/Unstated	2	2	1			5
Total	251	107	13	0	16	387

Non-Criminal Recoveries	
Death Investigation	14
Found Property	51
SafeKeeping	32
Total	97

Non-Criminal Gun Types	Death Investigation	Found Property	SafeKeeping	Total
Machine Gun				0
Other				0
Pistol	8	20	13	41
Revolver	5	11	10	26
Rifle		6	6	12
Sawed Off		1		1
Shotgun	1	7	3	11
Sub-Machinegun				0
Unknown/Unstated		6		6
Total	14	51	32	97



Week: 31 May to 06 Jun., 2021

Weekly Total 34

Crime Recoveries	This Week	Last Week	+/- Change	% Change
Felony	9	16	-7	-44%
Felony - Violent	12	6	6	100%
Homicide	0	1	-1	-100%
Infraction	0	0	0	PNC
Misdemeanor	0	1	-1	-100%
Total	21	24	-3	-13%

Other Recoveries	This Week	Last Week	+/- Change	% Change
Death Investigation	2	1	1	100%
Found Property	8	2	6	300%
Safekeeping	3	4	-1	-25%
Total	13	7	6	86%

PNC = Percentage not calculated
[Percentage cannot be calculated.](#)



2021 vs. 2020 — Year-to-Date Recovered Guns

Recoveries through 06 Jun.

Gun Recoveries	2020	2021	Difference	YTD % Change 2019 vs. 2020
Grand Total	503	484	-19	-4%

Crime Recoveries	2020	2021	Difference	YTD % Change 2019 vs. 2020
Felony	246	251	5	2%
Felony - Violent	100	107	7	7%
Homicide	25	13	-12	-48%
Infraction	0	0	0	PNC
Misdemeanor	19	16	-3	-16%
Total	390	387	-3	-1%

Non-Criminal Recoveries	2020	2021	Difference	YTD % Change 2019 vs. 2020
Death Investigation	10	14	4	40%
Found Property	39	51	12	31%
SafeKeeping	64	32	-32	-50%
Total	113	97	-16	-14%

PNC = Percentage not calculated
[*Percentage cannot be calculated.*](#)



MEMORANDUM

TO: Regina Jackson
Chair, Oakland Police Commission

FROM: LeRonne Armstrong
Chief of Police

SUBJECT: 2020 George Floyd Protest Force
Review Board Outcome Summary

DATE: June 8, 2021

PURPOSE

The homicide of Mr. George Floyd occurred on May 25, 2020 while in the custody of the Minneapolis Police Department. Demonstrations, marches, and protests first began in the Minneapolis area before spreading nationwide. On May 28, 2020, the City of Oakland saw its first demonstration with peaceful protest and peaceful acts of civil disobedience which did not necessitate Oakland Police Department (OPD) crowd management or enforcement action of any kind. However, on and between the dates of May 29, 2020 and June 1, 2020, OPD sustained four consecutive operational periods of planned crowd management and control operations. Events and incidents during these four days ranged from peaceful protests, demonstrations, and marches to contemporaneous or proximate incidents of crime, violence, vandalism, and looting. OPD responses and actions during these four days of operations resulted in arrests, allegations of misconduct, and reported uses of force including the use of chemical munitions.

As required by policy as well as by the principles of professional policing practices that demand transparency and accountability to the community we serve, the purpose of this report is to provide a summary of the subsequent reviews, investigations, and determinations resulting from each of the four operational periods.

BACKGROUND

Each operational period resulted in various types and levels of known, documented, and investigated instances of force. After each day's operation, a single use of force investigator was assigned to cause and collect reports and evidence for the day's events. A single use of force investigation was ultimately completed for each day, the results of which were reviewed and approved by chains of command up to and including a Captain of Police. OPD Departmental General Order K-4 groups and defines types of force within four force levels ranging from Level 1 (uses of force resulting in or likely to create death or serious bodily injury) to Level 4 (lesser degrees of force such as firearm pointing, weaponless defense techniques, or control holds). Defined levels of force determine investigative requirements and pathways of review. Each operational period resulted in at least one investigated Level 2 use of force, the findings for which are not final until a Force Review Board (FRB) is completed and a resulting report is signed by the Chief of Police. The purpose of an FRB is to analyze and assess compliance findings and the related performance of OPD members more thoroughly. An FRB Chairperson provides concluding recommendations to the Chief of Police for review and approval.

Each operational period also resulted in known, documented, and investigated allegations of misconduct. All allegations of misconduct associated with each operation were accepted and ultimately investigated pursuant to Department General Order M-03 and the law. Included in these

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investigated complaints of misconduct were allegations made within a Federal Class Action Complaint, Case No. 20-cv-03866-JSC, which was filed on October 20, 2020. To more objectively investigate allegations found in litigation and other sources, an independent investigator was charged with the authority to investigate the actions and decisions of commanders assigned to Incident Command System positions during the four operational periods. The resulting investigation was completed concurrently with the Community Police Review Agency (CPRA). When available and applicable, investigations regarding uses of force during the four operational periods were presented to each Force Review Board along with the completed use of force investigations.

A separate Force Review Board was held to review the circumstances of each of the four operational periods between May 29, 2020 and June 1, 2020. Due to the nature of events and need to provide the upmost levels of accountability, the Department's normal protocol for holding FRBs was altered. Firstly, a chairperson was appointed at the rank of Deputy Chief for each Board; secondly, all Level 3 chemical munitions deployments were formally reviewed in addition to the Level 2 uses of force. Each of the four Force Review Boards, either by unanimous or majority vote, then presented concluding recommendations in an FRB Report to the Chief of Police. Determinations were then approved or decided as to whether uses of force were compliant, as applicable, with Department policies, procedures and training when considering objectively reasonable standards and the law.

The below charts provide a summary of each operational period's total number and type of misconduct complaints, misconduct allegations, total number of assessed Level 2 uses of force, total number of assessed Level 3 chemical munition uses of force, and the resulting compliance findings as recommended by the FRB reports and approved by the Chief of Police.

Date	Cases	Total		Force		Conduct		Search Seizure		Care of Property	
		Allegations	Sustained	Allegations	Sustained	Allegations	Sustained	Allegations	Sustained	Allegations	Sustained
5/29/2021	11	84	7	39	1	2	2	14		4	
5/30/2021	5	12	2	8		2	2				
5/31/2021	6	81	12	25		4		15		3	3
6/1/2021	18	121	18	54	15	7		18	1	1	1

Date	UOF Investigation				Force Review Board				Out of Compliance	
	Total	Level 2	Level 3	Level 4	Total Reviewed	Level 2	Deployed Munitions	Directed Munitions	Chemical Munitions	Other Force
5/29/2021	179	3	151	25	149	3	128	18	1	
5/30/2021	106	5	82	19	85	5	75	5		
5/31/2021	96	4	14	78	15	4	11			
6/1/2021	75	2	30	43	34	2	32		32	

FORCE REVIEW BOARD SUMMARIES AND FINDINGS

29 May 20: Force Review Board 20F-0832

On 28 May 20, OPD learned of a demonstration planned to be held in Oakland on 29 May 20. One of the most trafficked Instagram posts for the planned demonstration self-titled the event, "Fuck the Police (FTP) – Vengeance for George Floyd Minneapolis Solidarity Demo." The post's background photo showed an individual in front of a burning retail establishment.

On the evening of 29 May 20, thousands of protesters began arriving to the downtown area. During the daylight hours the protest remained mostly peaceful; however, beginning at about 7:56pm, acts

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of violence and vandalism began and were sustained at multiple locations throughout the evening. The most severe crimes noted were numerous bottles, bricks, rocks, fireworks, and Molotov Cocktails thrown by multiple people seeking to injure police officers during lawful performance of their duties. Two Federal Protective Service Officers were shot proximate to the main assembly areas and contemporaneous with protest activity. Chemical munitions were used near and at the shooting scene in effort to safely respond, secure and protect the crime scene. Officer David Patrick Underwood was murdered during the first day of protest; however, the circumstances were later determined to be not directly related to the protests.

Chemical agents were used in exigent circumstances at multiple locations to prevent the commission of a crime, specifically imminent assaults on officers or other persons, and chemical munitions were directed and approved by commanders and supervisors for these circumstances as well. All related incidents concluded at approximately 3:15am, May 30, 2020. A total of eight Oakland Police Officers were injured during this operational period.

One hundred fifty-two uses of force were formally reviewed by the Force Review Board. Three (3) uses of force were Level 2 uses of force (personal weapon strikes to a person's head), and one hundred forty-nine (149) uses of force were Level 3 uses of force. Of these 149 Level 3 uses of force, one hundred twenty-eight (128) were individual chemical munition deployments. An additional eighteen (18) Level 3 uses of force were listed and evaluated separately to address the direction given by a supervisor or commander to deploy chemical munitions. The Force Review Board determined that all uses of force, except for one chemical munition deployment, were in-compliance. The chemical munition deployment determined to be out of compliance was deployed at a vehicle under the officer's mistaken belief that a vehicle marking round – which would otherwise not have been a reported and investigated use of force – was loaded into the munition's launcher. The error in use was self-reported and disclosed by the involved officer. The officer's intent was to mark the vehicle for later identification and arrest of the suspect. Although the vehicle was being used as means of escape by a suspect who had thrown a rock at an officer, the chemical munition round use was not justified by exigency or approval as required. This use of force was determined to be out of compliance. The Chief of Police concurred with all compliance findings.

30 May 20: Force Review Board 20F-0835

On 30 May 20, the second operational period of protests, numerous events were known to have been planned for protest, demonstration, or gathering in and near the City of Oakland. Although the day began with largely peaceful assemblies and protests, violence, vandalism, and looting grew more prevalent through the evening hours. In all, chemical munitions were used at 13 locations at different times throughout the operational period. All chemical agent deployments were used to counter exigent circumstances associated to active looting, vandalism, or assaults on officers with bottles, rocks, or other objects including explosive fireworks, and Molotov cocktail.

Eighty-five (85) uses of force were formally reviewed by the Force Review Board. Seventy-five (75) uses of force were individual Level 3 chemical munition deployments, and five (5) of those uses of force entailed authorizations to deploy by a supervisor or commander. Five (5) Level 2 uses of force (personal weapon strikes to a subject's head) were also evaluated in full by the Board. The FRB determined that all uses of force were in-compliance. The Chief of Police concurred with all compliance findings.

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31 May 20: Force Review Board 20F-0850

May 31, 2020 was the third consecutive operational period of crowd management and control operations. Officers monitored peaceful gatherings of hundreds of persons at Frank Ogawa Plaza and a peaceful car caravan consisting of more than 1,000 vehicles was held without notable incident. At about 5:30pm an attempt was made to detain a vehicle driver for having driven unsafely in circles near and in the intersection of 14th Street and Broadway. The vehicle driver failed to comply and ultimately ended up fleeing the vehicle on foot after driving his vehicle onto the pedestrian sidewalk on 14th Street. Persons nearby interfered with officers' attempts to detain the subject as he intimated possession of a concealed firearm and yelled at officers to shoot him. An officer from a partner agency broadcasted that the subject was armed with a firearm. Additional officers were called to the scene to assist. With respect to all chemical munition deployments at or near the intersection of 14th Street and Broadway during this arrest, nine (9) deployments of chemical munitions occurred within a small period of time – approximately between 5:40pm and 5:45pm – and nearly simultaneously in many instances based on exigent circumstances. Obstruction, assaults, and threat of arresting officers being surrounded continued while attempting to safely make an arrest of an individual believed to be in possession of a firearm. Additionally, four (4) Level 2 uses of force (one personal weapon strike to the head and three uses of baton) were used by officers to counter the actions of individuals intent on assaulting officers or otherwise directly interfering at the scene of the arrest.

Two (2) additional Level 3 chemical munition deployments occurred shortly after midnight, 1 Jun 20, as a small team of officers responded to a scene of active retail looting. The size of the crowd and presence of several suspects believed to be armed was not conducive to the officers' ability to safely make arrests. Suspects were interrupted in the act of looting or burglary and began to flee upon the arrival of officers. The exigencies involved and scene management caused a tactic of using a low-level of force to gain psychological and tactical advantage to deal with the involved exigencies.

Fifteen (15) uses of force were formally reviewed by the Board. Eleven (11) Level 3 chemical munition deployments, three (3) Level 2 uses of baton, and one (1) Level 2 personal weapon strike to the head. The FRB determined that all uses of force were in-compliance. The Chief of Police concurred with all compliance findings.

1 Jun 20: 20F-0852

The June 1, 2020, Mobile Field Force operational period began with a peaceful march and assembly of 10,000 – 15,000 persons from Oakland Technical High to Frank Ogawa Plaza (FOP). Most of the crowd splintered into several different groups at the natural conclusion of the main demonstration. One of these groups, consisting of about 1,000 persons, marched south along Broadway towards the Police Administration Building where they were met by a skirmish line of OPD officers and ACSO deputies who were positioned along the southside of 8th St & Broadway (one block north of the PAB). Water bottles were thrown at the line of officers, a propelled firework was ignited, and the police radio channel was used to broadcast a report of someone within the crowd believed to be armed with a Molotov cocktail. Based on these exigencies, chemical munitions were deployed to counter the attacks or imminent attacks on officers, and to deny access to locations from which attacks were imminent. Chemical munitions were deployed based on exigency at different times and locations ranging from at or near 8th St. and Broadway to 14th St. and Broadway. Two Level 2 use of force (personal weapon strikes to the head) were used to counter two separate physical assaults and battery of officers.

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The Force Review Board, by majority vote, determined that all deployments of chemical agents were either not proportional uses of force, did not meet reasonable force standards of *Graham v. Connor*, were not compliant with Departmental Order K-3, or did not follow all requirements set forth by OPD Training Bulletin III-G governing use of chemical agents.

Thirty-four (34) uses of force were formally reviewed by the Force review Board. Two (2) Level 2 Uses of force (one personal weapon hand strike to head and one takedown resulting in injury) and thirty-two (32) uses of chemical munitions were formally evaluated by the Force Review Board. The Force Review Board determined each reported and investigated Level 2 use of force was in-compliance and that each use of chemical munitions on this date were out-of-compliance with existing law or policy. The Chief of Police concurred with these findings.

CONCLUSION

As a learning organization, the Oakland Police Department is committed to the continuous growth and development of our members and our Department. After action reviews facilitate development and are intended to analyze events to determine what happened, why it happened, what was done well, and how it can be done better, essentially identifying lessons learned and training opportunities. Shortly following the George Floyd protests in May and June 2020, the Department published a preliminary Crowd Control After-Action Report.

Since the publication of the report, the Department conducted in depth investigations and reviews into the Police Department's response to the protests, particularly the events that occurred from May 29th, 2020 to June 1st, 2020. The Department's follow-up included use of force investigations, use of force board reviews, and internal affairs investigations conducted by internal and external investigators. In addition to the Department's follow-up, the Community Police Review Agency (CPRA) conducted investigations and reviews.

Further, in addition to the reviews, the Department received an amended preliminary injunction order from Chief Magistrate Judge Joseph Spero of the United States District Court, Northern District of California on October 28th, 2020. The order outlined requirements for the Department during protests and demonstrations.

While the clear majority of the George Floyd demonstrations were peaceful, there were some protests that included agitators and opportunists who engaged in violence, vandalism, arson, and looting. Despite the challenging and unprecedented nature of the events, the members of the Department maintained composure and responded professionally, facilitating First Amendment protected activity and responding to criminal behavior. Although the Department's overall performance was noteworthy, the investigations and reviews identified some performance deficiencies and opportunities for improvement. Though there were no crowd management policy failures, there were failures to follow policy. In addition to the accountability measures listed earlier, the Department identified the following overarching opportunities and have taken the following actions to enhance future performance:

Opportunities for Improvement

- Mobile Field Force personnel should avoid independent actions without a clearly defined exigency, particularly with the use of chemical agents or the pursuit of individual(s).
- Crowd Management training should incorporate the importance of slow and methodical arrests involving encircled groups or passive resisters.

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- Training should reinforce that the assigned Incident Commander should be at a location that allows for real time situational awareness without becoming involved in the incident, particularly during multiple, simultaneous actions.
- The Department should provide specialized training and experiences to prepare staff for critical Incident Command System (ICS) roles during crowd management events.
- The Department should develop protocols for communicating required information (policies, prohibited munitions, and briefings) to mutual aid partners prior to an event and for a planned operation. The communication should include a concise document that consolidates the required mutual aid information from the various relevant policies (DGO L-3, TB III-G, TB III-H, etc.) to handout to mutual aid agencies.
- The Department should develop protocols for the personnel assigned to the Staging site. The protocols should include mutual aid check-in, munition inspection, briefings, deployment, and demobilization (check-out). The Staging site should include crowd control munition subject matter experts for the munition inspections.
- The Department should avoid placing outside agencies on front line positions during demonstrations.
- The Department should develop protocols and training for the use of Mutual Aid Liaisons (Pathfinders) to include responsibilities and reporting requirements.
- Tango team supervisors should avoid deploying chemical munitions and focus on supervising and directing tango team members in the deployment of munitions. During exigent circumstances, authorization by supervisors/commanders to use chemical munitions should be based on the specific articulable facts at the time of authorization. Supervisors and commanders are not allowed to provide pre-authorization.

Follow-up Actions:

- In July 2020, the Department published lineup and PowerDMS training to staff on the US District Court Preliminary Injunction ordered by Chief Magistrate Judge Spero. Topics included:
 - The scope of the Order;
 - Use and restrictions of chemical agents and less-lethal munitions;
 - Prohibited crowd control munitions;
 - Mutual Aid;
 - Officers wearing identifying information;
 - Offices activating PDRDs per policy and while engaged in active policing activities at demonstrations;
 - Officers wearing face masks and gloves; and
 - The prohibition of using motorcycles and vehicles for crowd dispersal
- In October 2020, the Department provided Crowd Control update training to commanders and tango team leaders. The training was provided by Department command staff, Plaintiff's Attorney Mr. Jim Chanin, and City Attorney David Pereda. The topics included: The Department's crowd control history; Department policy, the Preliminary Injunction, and legal aspects.

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- In May 2021, the Department provided Crowd Control training to command staff at the quarterly Command Retreat. The training was provided by Plaintiff's Attorney Mr. Jim Chanin, Assistant Chief Darren Allison, and Deputy Chief Chris Bolton. The training included the following topics: The Department's crowd control history; Department policy; assessment and planning; tactics; use of force and chemical munitions; incident commander responsibilities for mutual aid (as outlined in the Amended Preliminary Injunction).
- The Department has incorporated additional Mutual Aid oversight. In addition to the Staging Manager, the Department will staff a Mutual Aid commander to oversee the activity of deployed mutual aid agencies in the area of operations and a Mutual Aid coordinator at the EOC to track mutual aid data (uses of force, arrests, injuries, etc.).
- To enhance tango team supervision, the Department will utilize smaller teams with a smaller span of control (one sergeant and three officers). The Department will deploy one tango team per Mobile Field Force (MFF) company unless authorized by the Incident Commander. The tango teams will be supervised by a tango team commander and utilized to support the MFF personnel. Unless directed by the Incident Commander, the tango teams will not be deployed for other crowd control assignments. Further, the Department will ensure that tango team members have relief teams when staffing multiple operational periods during consecutive demonstrations.
- The Department will ensure that all command personnel complete the required Incident Command System courses (IS100/200/700/800 and ICS 300/400). The courses will provide training on effectively managing emergency incidents or planned events and will cover the roles and responsibilities of ICS components.
- In the Operations Plan or other supporting documents, the Department will provide detailed direction for Staging Managers. Additionally, the Department will provide guidance for communicating required information (policies, prohibited munitions, and briefings) to mutual aid partners prior to a planned operation.
- The Department will develop specific training for Mutual Aid liaison officers (Pathfinders) including expectations and responsibilities.

Respectfully submitted,



LeRonne Armstrong
Chief of Police
Oakland Police Department



OAKLAND POLICE COMMISSION SPECIAL MEETING MINUTES - DRAFT

May 27, 2021
5:30 PM

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

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

Chair Regina Jackson

Commissioners Present: José Dorado, Henry Gage, III, Brenda Harbin-Forte, Regina Jackson, David Jordan, and Tyfahra Milele. Quorum was met.

Commissioners Excused: Sergio Garcia

Alternate Commissioners Present: Jesse Hsieh and Marsha Peterson

Counsel for this meeting: Conor Kennedy

The meeting began at 5:30 pm.

II. Public Comment on Closed Session Items

Comments were provided by the following public speakers:

Assata Olugbala

Saleem Bey

The Commission adjourned to closed session. The open session portion of the meeting commenced at 7:31 pm.

III. Closed Session

PUBLIC EMPLOYEE EVALUATION – CPRA EXECUTIVE DIRECTOR

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

IV. Call to Order and Re-Determination of Quorum

Chair Regina Jackson

Commissioners Present: José Dorado, Henry Gage, III, Brenda Harbin-Forte, Regina Jackson, David Jordan, and Tyfahra Milele. Quorum was met.

Commissioners Excused: Sergio Garcia

Alternate Commissioners Present: Jesse Hsieh and Marsha Peterson

Counsel for this meeting: Conor Kennedy

V. Report out of Closed Session

There were no reportable actions taken.

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

Comments were provided by the following public speakers:

Assata Olugbala

Saleem Bey

VII. Welcome New Alternate Commissioner – Jesse Hsieh

The Commission welcomed and introduced Jesse Hsieh as a member of the Police Commission.

Comments were provided by the following public speakers:

Assata Olugbala

Rashidah Grinage

No action was taken on this item.

VIII. Update from Police Chief

OPD Chief Armstrong provided an update on the Department. Topics included violent crime and sideshow activity.

Comments were provided by the following public speakers:

Assata Olugbala

Reisa Jaffe

Jasmine Fallstich

No action was taken on this item.

IX. Report on and Review of CPRA Pending Cases, Completed Investigations, Staffing, and Recent Activities

Executive Director John Alden reported on the Agency's pending cases, completed investigations, staffing, and recent activities.

Comments were provided by the following public speakers:

Assata Olugbala

Anne Janks

Rashidah Grinage

No action was taken on this item.

X. Formal Request for Commissioner Access to Personnel Information

The Commission approved a formal request for certain confidential personnel records.

Comments were provided by the following public speakers:

Assata Olugbala

John Bey

A motion was made by Brenda Harbin-Forte, seconded by José Dorado, to approve the formal request. The motion carried by the following vote:

Aye: Dorado, Gage, Harbin-Forte, Jackson, Jordan, and Milele

No: 0

XI. Police Commission Code of Conduct Policy

The Commission reviewed, and voted to approve, a new Code of Conduct presented by the Rules Committee.

Comments were provided by the following public speakers:

Nino Parker

Reisa Jaffe

Assata Olugbala

Kevin Cantu

John Bey

A motion was made by Henry Gage III, seconded by Brenda Harbin Forte, to adopt the proposed Police Commission Code of Conduct Policy.

A substitute motion was made by Tyfahra Milele, seconded by Regina Jackson, to postpone the vote to the next meeting to allow the Rules Committee to make edits.

The substitute motion failed by the following vote:

Aye: Milele, Jackson

No: Dorado, Gage, Harbin-Forte, Jordan

Tyfahra Milele offered a friendly Amendment to add a section to the whereas section stating “whereas this code is intended as a statement of the expectations of Commissioner behavior, not

as a pretext for discipline by the Commission, or evidence in support of removal of a commissioner.”

The movers of the original motion accepted the amendment, and the motion as amended carried by the following vote:

Aye: Dorado, Gage, Harbin-Forte, Jordan

No: Milele, Jackson

XII. OPD Internal Affairs Division (IAD) Manual Draft Review

The IAD Manual Ad Hoc Committee presented a draft of the IAD manual for the Commission to review.

Comments were provided by the following public speakers:

Assata Olugbala

Anne Janks

A motion was made by Henry Gage III, seconded by David Jordan, to adopt the proposed IAD policy and procedures manual.

The motion carried by the following vote:

Aye: Dorado, Gage, Harbin-Forte, Jordan, Milele, Jackson

No: 0

XIII. Meeting Minutes Approval

The Commission voted to approve minutes from April 22 and May 13, 2021.

Comments were provided by the following public speakers:

x9997

A motion was made by Henry Gage III, seconded by Tyfahra Milele to approve the minutes from April 22, 2021.

The motion carried by the following vote:

Aye: Dorado, Gage, Harbin-Forte, Jordan, Milele, Jackson

No: 0

Henry Gage III offered an edit to the May 13 minutes to change the section on committee reports to include the Commission’s controlled equipment ordinance, not the bearcat ordinance.

A motion was made by Henry Gage III, seconded by Tyfahra Milele to approve the minutes from May 13, 2021 with the edits supplied by Henry Gage.

The motion carried by the following vote:

Aye: Gage, Harbin-Forte, Jordan, Milele, Jackson
No: 0
Abstain: Dorado

A motion was made by Jose Dorado, seconded by Henry Gage III to extend the meeting 30 minutes.

The motion carried by the following vote:
Aye: Dorado, Gage, Harbin-Forte, Jordan, Milele, Jackson
No: 0

XIV. Committee Reports

Representatives from Standing and Ad Hoc Committees provided updates on their work.

Inspector General Search
(Commissioners Gage, Jackson, Jordan)

Missing Persons Policy
(Commissioners Jackson, Jordan)

OBOA Allegations Investigation
(Commissioners Harbin-Forte, Jackson)

Police Chief Goals and Evaluation
(Commissioners Garcia, Milele, Peterson)

White Supremacists and Other Extremist Groups
(Commissioners Dorado, Harbin-Forte, Jackson)

Comments were provided by the following public speakers:

Reisa Jaffe
Anne Janks
Assata Olugbala
Kevin Cantu

No action was taken on this item.

XV. Open Forum Part 2

No comments were provided on this item

XVI. Agenda Setting and Prioritization of Upcoming Agenda Items

The Commission engaged in a working session to discuss and determine agenda items for upcoming Commission meetings:

Comments were provided by the following public speakers:

Assata Olugbala

Rashidah Grinage

Anne Janks

XVII. Adjournment

A motion was made by Jose Dorado, seconded by Brenda Harbin-Forte, to adjourn the meeting at 10:52 p.m.

The motion carried by the following vote:

Aye: Dorado, Gage, Harbin-Forte, Jordan, Milele, Jackson

No: 0



OAKLAND POLICE COMMISSION SPECIAL BUDGET HEARING - DRAFT

June 3, 2021
5:30 PM

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

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

Chair Regina Jackson

Commissioners Present: José Dorado, Brenda Harbin-Forte, Regina Jackson, and Tyfahra Milele.
Commissioners Excused: Sergio Garcia, David Jordan, Henry Gage III

Alternate Commissioners Present: Jesse Hsieh, Marsha Peterson

Chair Jackson raised Commissioner Hsieh to voting member to establish quorum.
Quorum was met.

Counsel for this meeting: Conor Kennedy

The meeting began at 6:30 pm.

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

Commissioner Marsha Peterson Joined at 6:35 p.m.

Comments were provided by the following public speakers:

Maureen Benson
Shawn Lee
Michelle Lazaneo
Assata Olugbala
Mary Veil
Reisa Jaffe

III. **Hearing on the Oakland Police Department Budget and Action on Recommendations to City Council.**

The Commission received a presentation on the Oakland Police Departments portion of the Mayor's Proposed City Budget for FY21-23 from Kiona Suttle, Deputy Director of the Bureau of Services, and Assistant Chief Darren Allison. Commissioners asked questions of OPD representatives, and engaged in a conversation around several items including Department recruitment, overtime, and costs associated with various Department investigative functions. Commission Chair Regina Jackson will set up a Budget Ad Hoc Committee for the Commission and will contact the City of Oakland Finance Department to engage

Comments were provided by the following public speakers:

Shawn Lee
Preston Turner
Maureen Benson
Rashidah Grinage
Reisa Jaffe
Mary Veil
Jennifer Findlay
Assata Olugbala
Bruce Schmiechen

A motion was made by Regina Jackson, seconded by Jose Dorado, to continue hearing to a date to be determined in the next 2-3 weeks.

The motion was adopted:

Aye: Dorado, Harbin-Forte, Hsieh, Jackson
No: 0

IV. Prioritization of OPD Policies for Review

The Commission discussed and prioritized OPD policies for further Commission review.

Comments were provided by the following public speakers:

Preston Turner
Shawn Lee
Bruce Shmiechen
Kevin Cantu
Michelle Lazaneo
Assata Olugbala

A motion was made by Tyfahra Milele, seconded by Jose Dorado, to make a document ranking Commission policy priorities for review and input from all Commissioners.

The motion was adopted:

Aye: Dorado, Hsieh, Harbin-Forte, Milele, Jackson

V. Recommendations for Community Engagement

Commissioner David Jordan joined the meeting and presented recommendations for community outreach, and processes and mechanisms for the Commission to engage the community in policy development and other Commission priorities. The Commission discussed the engagement plan and how these recommendations could fit within existing Commission rules and practices.

Comments were provided by the following public speakers:

Assata Olugbala

Anne Janks
Rashidah Grinage

No action was taken on this item.

VI. Open Forum Part 2

There were no public comments on this item.

No action was taken on this item.

VII. Adjournment

A motion was made by Brenda Harbin-Forte, seconded by Jesse Hsieh, to adjourn the meeting at 9:44 p.m.

The motion carried by the following vote:

Aye: Dorado, Harbin-Forte, Hsieh, Milele, Jackson

No: 0