



OAKLAND POLICE COMMISSION

AGENDA

March 8, 2018

6:30 PM

City Council Chamber, 3rd Floor

1 Frank H. Ogawa Plaza, Oakland California

- I. **Call to Order**
(Thomas Lloyd Smith)
- II. **Roll Call and Determination of Quorum**
(Thomas Lloyd Smith)
- III. **Open Forum (2 minutes per speaker)**
Thomas Lloyd Smith will call the public speakers.
- IV. **Discussion—Oakland Police Department Report**
Chief of Police, Anne Kirkpatrick will provide an update on: OPD body camera policies including criteria or standards for private or limited sharing of body camera videos with families or other groups; process and appeal process, if any, for the public to see body camera video of an open criminal investigation and any pending legislation accelerating the timeline for release of body camera videos available to the public; Commission participation in potential revisions to OPD disciplinary policy; Coordination between OPD and OUSD regarding school safety issues, and an overview of the Citizens Police Academy.
 - a. Discussion
 - b. Public Comment
- V. **Discussion—Executive Director, Community Police Review Agency**
Stephanie Hom will give an update on the executive director recruiting process for the Community Police Review Agency. The Commission will discuss plans for candidate outreach and recruiting.
 - a. Discussion
 - b. Public Comment
- VI. **Discussion—Proposal for Ad Hoc Committees and/or Standing Committees**
Thomas Lloyd Smith will discuss a proposal for Commission committees on (1) policies and procedures (including draft enabling ordinance), (2) discipline, (3) personnel recruitment and hiring, (4) community outreach, and (5) budget. The Commission proposal will discuss ad hoc and standing committees.
 - a. Discussion
 - b. Public Comment
 - c. Action

VII. Action—Reporting Relationship for the Director of the Community Police Review Agency
The Commission will discuss and determine the reporting relationship between the CPRA Director and the Commission.

- a. Discussion
- b. Public Comment
- c. Action

VIII. Recess (6 minutes)

IX. Action—U.S. Immigration and Customs Enforcement (ICE)

Edwin Prather will propose that the Commission sponsor a letter aimed at proactive strategies to reduce confusion and disruption caused by U.S. Immigration and Customs Enforcement involvement in immigrant communities.

- a. Discussion
- b. Public Comment
- c. Action

X. Discussion—Oakland Police Commission Enabling Ordinance

Deputy City Attorney Allison Dibley will update the Commission on the status of the enabling ordinance including relevant information from the open session of City Council on March 6, 2018. The Commission will discuss ad hoc committee's role in making comments in response to the enabling ordinance and the recommended edits to the Measure LL enabling legislation submitted by the Coalition for Police Accountability.

- a. Discussion
- b. Public Comment

XI. Adjournment



This meeting location is wheelchair accessible. To request disability-related accommodations or to request an ASL, Cantonese, Mandarin or Spanish interpreter, please email afinnell@oaklandnet.com or call (510) 238-7401 or TDD/TTY (510) 238-2007 at least five working days before the meeting. Please refrain from wearing scented products to this meeting as a courtesy to attendees with chemical sensitivities.

Esta reunión es accesible para sillas de ruedas. Si desea solicitar adaptaciones relacionadas con discapacidades, o para pedir un intérprete de en español, Cantonés, Mandarín o de lenguaje de señas (ASL) por favor envíe un correo electrónico a afinnell@oaklandnet.com o llame al 510-238-7401 o 510-238-2007 por lo menos cinco días hábiles antes de la reunión. Se le pide de favor que no use perfumes a esta reunión como cortesía para los que tienen sensibilidad a los productos químicos. Gracias.

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

ITEM 9

March 9, 2018

DRAFT v.1 – 3.3.18

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

Dear Oakland City Council Members,

Over the past few weeks, our federal government has increased the intensity of its focus on immigration issues in our country. The San Francisco Chronicle and East Bay Times both recently reported that 232 people were arrested during a four-day U.S. Immigration and Customs Enforcement (ICE) operation in Northern California, specifically in response to California's sanctuary policies, which restrict local cooperation with deportation efforts. The Chronicle's report that ICE's position that it will have to "double down in California and would be forced to make arrests in communities because of their inability to pick up individuals from local jails" is significantly troubling. It appears that the City of Oakland is the front line, nationally, for these issues.

One issue that is of particular concern to the Police Commission is that some ICE agents have been reportedly identifying themselves as police officers. ICE agents, unlike other federal agencies, wear jackets and vests bearing the words "POLICE ICE" or even just "POLICE". ICE agents are also reportedly identifying themselves as police officers when they knock on doors in search of undocumented immigrants or conduct stops in public through racially profiling residents. A federal bill is currently being debated in the Congress which would amend a section of the Immigration and Nationality Act to ban ICE agents from identifying themselves as police or police officers.

Our Commission extensively discussed and debated these issues and on March 8, 2018, voted [unanimously] to recommend to the City Council that it send a letter to ICE demanding that ICE agents not identify themselves as police or police officers in Oakland. While the notion that ICE agents would identify themselves as police officers is, on its face, not unethical, the practice creates a host of issues for Oakland.

The Oakland Police Department carries out substantial efforts to earn the community's trust and the Police Commission is dedicated to improving the citizens' confidence in the OPD and policing efforts in Oakland. If ICE agents identify themselves as police officers, it erodes some of the public's relationship with our local police. Some of our citizens may feel that they cannot trust the police and may question their ability to report or be witnesses against criminal activity. If ICE agents fail to identify themselves properly as federal agents, some may also believe that they intend to deceive the public by impersonating the police or are carrying out their jobs in an ethically improper manner that cuts directly against the City of Oakland's efforts to keep our immigrant residents safer, which should not be tolerated.

The purpose of a letter to ICE would be to raise this issue with ICE on behalf of Oakland and to identify this issue for the citizens of our city. If the City Council adopts this position, the Police Commission will work with various non-profit agencies to communicate the message to our immigrant and non-English speaking communities that ICE is not the Oakland Police Department and that ICE agents are not working for or with our police force. We are committed to improving the relationships between these communities and our police force, as well as instilling even greater confidence in the OPD.

We have prepared a simple draft letter for your consideration. Please do not hesitate to contact us with any questions or concerns.

Very truly yours,

Oakland Police Commission

attachment

cc: Oakland Mayor Libby Schaaf

Department of Homeland Security
SAC San Francisco
630 Sansome Street Room 890
San Francisco, CA 94111

Dear Department of Homeland Security Official,

The City of Oakland has recently received notice of United States Immigration and Customs Enforcement (ICE) agents identifying themselves as police officers in the course of conducting immigration investigations and carrying out enforcement actions. The purpose of this letter is to urge in the strongest possible terms that ICE not engage in these activities in our city.

The City of Oakland is proud to have an abundance of diverse residents including but not limited to those of African-American, Hispanic, Chinese, Vietnamese, Cambodian and Laotian decent. The Oakland Police Department and the Oakland Police Commission are working hard to improve the relationships between these communities and our police.

The Oakland Police Department works directly with immigrant communities to encourage them to cooperate with the police without fear of deportation. When ICE agents identify themselves as police officers and fail to properly identify themselves as federal agents, some members of the public may be deceived or suspect that they are impersonating the police and carrying out their jobs in an ethically improper manner that cuts directly against the City of Oakland's efforts to keep our immigrant residents safer.

While we see little need for ICE agents to enter into our jurisdiction without an emergency situation, if the need should arise, we urge ICE agents to properly identify themselves as federal agents and specifically state that they are not Oakland Police Officers.

Thank you in advance for your compliance with our request.

Sincerely,

The City Council for the City of Oakland



MEMORANDUM

TO: Oakland Police Commission and Oakland City Council

FROM: Coalition for Police Accountability

RE: Edits to Measure LL Enabling Legislation

Date: March 6, 2018

Section	Page #	Comments
2.45.030 Selection Panel.	5	F. We have asked the Selection Panel to create language here but we have shared the following observations and suggestions: The selection panel shall receive training in interview process, assessment and selection of applicants. Criteria and target goals should be established during this training. The City Administration and/or Commission staff should provide guidelines/ best practices for selection process – i.e., example of matrixes that are used in hiring, etc. how to establish consensus about priorities, values, ranking, etc. Training on Measure LL shall occur first so that it is clear what range of experience, knowledge and skills sets would best contribute to the delivery of the effectiveness of the Commission's functioning.
2.25.040 Bylaws and Rules.	5	"to the extent a proposal raises an issue which under the Meyers Milias Brown Act (Cal. Gov't Code section 3500, et. seq.) relates to a mandatory subject of bargaining Union(s) shall be notified."



<p>2.45.050 Designation of Alternates as Voting Members.</p>	<p>5</p>	<p>The Chair may, in his or her discretion, allow an Alternate to serve on the Discipline Committee and grant voting rights. Mandatory language, i.e. The Chair... shall, designate..."</p> <p>Clarify whether, since Alternates have no voting rights, they can be assigned to a Discipline Committee (which we think is desirable). If not, the Ordinance should stipulate that if a voting member is not able to serve on an assigned Discipline Committee, an Alternate should be able to fill in and vote.</p>
<p>2.45.070 - Functions & Duties of the Commission.</p>	<p>6</p>	<p>C. The last sentence states that the "... Chief who shall respond in writing." The Chief shall respond within thirty (30) days from the date of the request.</p> <p>D. Reject the requirement that the budget deadline be moved from January to April, consider the timing of the budget. The Mayor works on the budget in February. It should be no later than March 15th.</p> <p>F. 4. Add how many officers took the training and how many officers successfully completed the training."</p> <p>G. The "requests for comments and observations [from the City Admin and other City staff]" be "strictly voluntary should be changed to mandatory.</p> <p>H. Adding the code section is unnecessary.</p> <p>M. Add: make sure language conforms with the Federal court order which emanated from the Celeste Guap case. May not conform to the current NSA requirements/changes in policy with regard to referring cases to the D.A. And why allow 48 hours for notification to Commission and Agency after Serious Incident?</p> <p>O. Privacy Advisory Commission should be added to CPAB reporting.</p>



<p>2.45.070 - Functions & Duties of the Commission.</p> <p><i>continued</i></p>		<p>R. The Chair shall place on the agenda for each Commission meeting a report from the Police Department. The report and answers to the Commission's questions shall be delivered by the Chief, who shall attend in person unless excused by the Chair.</p> <p>Add new section; "Shall request that the Chief of Police attend every Police Commission meeting, unless the Chair excuses the Chief for good cause." The "good cause" must be stated on the record. In the event the Chief cannot attend the meetings, the Chief shall send a sworn officer in her stead and that person must be equipped with sufficient information to respond to information requested by the Police Commission.</p> <p>Notwithstanding the above, the Chief must personally attend all Police Commission meetings.</p>
<p>2.45.130 Establishment of the Discipline Committee.</p>	<p>14</p>	<p>B. Membership in the Discipline Committees shall rotate for each police office discipline or termination case, as determined by the Chairperson of the Committee. Subject to reversal by a majority vote of the members of the Commission, no Discipline Committee shall be composed of more than one member who was a Mayoral appointee.</p>
<p>2.45.140 – Discipline.</p>	<p>14</p>	<p>G. Delete the last sentence of this subsection.</p>
<p>2.45.180 - Staff Assistance.</p>	<p>15</p>	<p>B. Staff position should be Administrative Analyst II classification.</p> <p>D. <u>Pursuant to City Charter Section 604 (e) the full-time equivalent non-City Attorney legal advisor position assigned by the City Attorney after consultation with the Chair shall be divided into two part time positions: a one-half or two-thirds time position with specific responsibilities for providing legal services to the Agency related to investigations and discipline, and a one-half or one-third time position as legal advisor to the Commission. The legal advisor to the Agency and the legal advisor to the Commission shall report to and be supervised by the Commission. Neither the legal advisor to the Agency nor the legal advisor to the Commission shall report to or be supervised by the City Attorney or any Deputy City Attorney. Pursuant to City Charter Section 401(6), the City Attorney shall act as counsel to the Agency and the Commission in any litigation brought against either in their official capacity and shall provide legal advice only upon request of the Commission.</u></p>



<p>2.45.190 Commissioner Training. 2.45.190 Commissioner Training. <i>continued</i></p>	<p>17</p>	<p><u>We suggest the Commission provide language for this section, but we share our thoughts below:</u></p> <p><u>Prior to appointment, Commissioners shall receive training as follows:</u></p> <p>A. Become familiar with the following:</p> <ol style="list-style-type: none">1. City Charter section 604, Chapters 2.45 and 2.46 of the Oakland Municipal Code,2. California's Public Records Act (Gov't. Code section 6250, et seq.) <p>B. Receive training in:</p> <ol style="list-style-type: none">1. The legal requirements of California's Political Reform Act (California Gov't. Code section 1000, et seq.),2. Oakland's Conflict of Interest Code (Oakland Municipal Code Chapter 3.16),3. California Brown Act (Cal. Gov't Code section 54950, et. seq.), and4. Oakland's Sunshine Ordinance (Oakland Municipal Code Chapter 2.20) <p>C. Receive training in the legal requirements for maintaining the confidentiality of personnel records and other confidential documents or information.</p> <p>Within twelve (12) months of appointment, Commissioners and Alternates shall:</p> <p>A. Receive training in basic principles of constitutional due process and administrative hearing procedures.</p> <p>B. Receive training on the Negotiated Settlement Agreement in the case of <u><i>Delphine Allen, et al v. City of Oakland</i></u>, and all related court orders for so long as they remain in effect. <u>This training will include at least one presentation by plaintiffs' attorneys in the aforementioned case.</u></p> <p>C. Receive information regarding constitutional civil rights guaranteed to all citizens as such rights are affected by law enforcement. <u>Such training will be provided by either a civil rights attorney or</u></p>
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<p>2.45.190 Commissioner Training.</p> <p><i>continued</i></p>		<p><u>an organization which advocates for civil rights, such as the ACLU, and may include issues such as racial profiling, search and seizure, crowd control, evidence classified as public records and surveillance techniques.</u></p> <p>D. <u>Receive training in the NACOLE "Core Competencies" for practitioners of Civilian Oversight.</u> A review and assessment of training schedule shall take place after three (3) months of each Commissioner's appointment. The City Administrator shall correct and implement any training sessions not completed.</p> <p>Training in the OPOA MOU is not relevant to the Commission's functions and duties with the possible exception of Chapter 910.</p>
<p>2.46.030 – Functions and Duties.</p>	<p>19</p>	<p>D. Required subpoena only when voluntary timely response required in OPD Manual of Rules has been violated.</p> <p>E. Insert the word "shall" so that there is no discretion. In addition to the video interviews of subject officers, testimony by witness officer(s) must also be videorecorded.</p> <p>H. Add a new subsection as follows: 10. The past discipline record of the officer being investigated for past similar offenses.</p>
<p>2.46.060 Mediation Program.</p>	<p>22</p>	<p>No change required assuming agreement with OPOA.</p>