

# MISSING EXECUTED LEGISLATION FORM

Resolution / Ordinance Number: 88167  
City Council Meeting Date: JUN 16 2020  
Agenda Item No.: 27  
Recorded Vote: 8 Ayes

## Status of Resolution/Ordinance:

- Filed without signature       No signed version will be filed  
 Council amended legislation       No signed version will be filed

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Notes (if any)

As Amended: 1st further Resolved of the Legislature,  
inserting "A pattern of un-sustained complaints"  
in the first paragraph.

**DRAFT**

City Attorney's Office

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

**INTRODUCED BY VICE MAYOR LARRY REID, COUNCILMEMBERS  
NOEL GALLO, LYNETTE GIBSON MCELHANEY AND LOREN TAYLOR**

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**RESOLUTION (1) ESTABLISHING A ZERO TOLERANCE POLICY FOR RACIST PRACTICES, BEHAVIORS, AND ACTIONS WITHIN THE OAKLAND POLICE DEPARTMENT AND ALL CITY DEPARTMENTS, AGENCIES AND DIVISIONS, AND UNITS; (2) URGING THE CIVIL SERVICE COMMISSION, PURSUANT TO ITS JURISDICTION, TO ADOPT RULES REQUIRING THE DISQUALIFICATION OF ANY APPLICANT FOR EMPLOYMENT FOR SPECIFIED REASONS, INCLUDING BUT NOT LIMITED TO THE UNIFORMED RANKS OF THE OAKLAND POLICE DEPARTMENT; AND (3) DIRECTING THE CITY ADMINISTRATOR NOT TO HIRE, AND TO FIRE POLICE OFFICERS AND OTHER EMPLOYEES FOR SUCH SPECIFIED REASONS**

**WHEREAS**, the City of Oakland is committed to providing a work environment that is safe and inclusive for all City employees; and

**WHEREAS**, racist, practices, behaviors, and actions threaten the health, safety, and well being of City employees and residents; and

**WHEREAS**, on May 25, 2020, George Floyd a peaceful and unarmed Black Man, was killed by a Minneapolis Police Officer who callously kneeled on his neck for over eight minutes while he struggled to breathe and that same officer had 17 prior complaints against him and multiple officer involved shootings but was permitted to remain on the police force; and

**WHEREAS**, the public execution of George Floyd set in motion international protests and calls for increased accountability and transformation of American policing to establish public trust, improve the relationship between people of color and the police

and to eradicate anti-blackness in law enforcement in every community, including in Oakland; and

**WHEREAS**, the Oakland Police Department is entrusted with keeping all community members in Oakland safe and enforcing laws; and

**WHEREAS**, all Oakland residents equally deserve to feel safe when interacting with police and should be able to trust that the officers tasked with protecting them have no prior history of excessive force, racial bias, or other significant misconduct; and

**WHEREAS**, modern police departments originated from Slave patrols and Night Watches, that were used to control the free movement and behaviors of African, Native American and other non-Anglo immigrants, establishing centuries of racism, bias, and disparate treatment in policing of Black and Brown communities; and

**WHEREAS**, as early as the 1920s when the Klu Klux Klan was still active in the city of Oakland, city leaders recruited white Southerners to the Oakland Police Department, establishing within the department a culture of controlling the Black population so much so that in 1966 the Black Panther Party for Self Defense organized and decried the Oakland police as an occupying force in the Black community; and

**WHEREAS**, in a 2006 bulletin, the FBI detailed the threat of white nationalists and skinheads infiltrating police in order to disrupt investigations against fellow members and recruit other supremacists. The bulletin was released during a period of scandal for many law enforcement agencies throughout the country, including a neo-Nazi gang formed by members of the Los Angeles County Sheriff's Department who harassed Black and LatinX communities. Similar investigations revealed officers and entire agencies with hate group ties in Illinois, Ohio and Texas; and

**WHEREAS**, the City of Oakland created the Department of Race and Equity to ensure that the City's policies, programs and practices identify and redress inequity where racial disparities exist and to uphold the City's values of fostering diversity, inclusion and equity; and

**WHEREAS**, on November 8, 2016, the citizens of the City of Oakland voted to approve Measure LL thereby creating a civilian Police Commission to oversee OPD's policies and practices and Community Police Review Agency (CPRA)s investigations of police misconduct complaints; and

**WHEREAS**, the City's 2018 Equity indicators report revealed Overall score of 33.5 out of 100 and a score of 17.5 out of 100 in the area of Public Safety; and

**WHEREAS**, the Oakland Black Officers Association (OBOA) has been advocating on behalf of its members for 50 years and according to the OBOA the level of distrust in the internal affairs and discipline process impacts every officer of every race, and is reflective of challenges in departmental leadership and the culture within

the organization; and

**WHEREAS**, as the OBOA noted that if Black Officers are being treated unfairly internally, then it would be difficult for Oakland residents to have confidence that officers will treat them fairly; and

**WHEREAS**, in March 2019, the Oakland Police Department contracted risk management consulting firm Hillard Heintze due to concerns brought forward from within the Oakland Police Department regarding racial disparities related to internal officer discipline; and

**WHEREAS**, on Friday May 15, 2020, the Oakland Police Department released the findings of the discipline disparity study conducted by Hillard Heintze to review the discipline process and administrative investigation of misconduct complaints for sworn personnel of all ranks, Police Officer Trainees in the Academy, and probationary officers in the Field Training Program for the five-year period from January 1, 2014, through December 31, 2018 identified racial disparities in the Oakland Police Department; and

**WHEREAS**, a the Hilliard Heintze report indicated that Black officers were found to be nearly 40% more likely to have misconduct complaints sustained compared to officers of other races and significant disparities also existed for Black officer trainees in the Basic Police Academy and Field Training Unit; and

**WHEREAS**, Mayor Schaaf shared her deep disappointment in the findings of the Hillard Heintze study and the Police Department referred to the findings as "unacceptable" in its response; and

**WHEREAS**, in light of the study Oakland Police Department affirmed its commitment to engage in an aggressive process designed to identify and mitigate the disparities, and advance internal equity, diversity, and procedural justice and affirmed its commitment to evaluating their recruitment and hiring processes, taking innovative steps to reduce implicit bias, collecting data about who we pull over and why, and partnering with the Police Commission to enact measurable and lasting change through policy and culture; and

**WHEREAS**, the Oakland Police Department has partnered with the City's Race and Equity Director Darleen Flynn to conduct a Race and Equity Impact Analysis on the Department's disciplinary process and the Academy and Field Training program and through the analysis will work to identify what aspects of the investigative process may be leading to disparate outcomes and design an action plan to remedy racial or gender disparities to cover areas not addressed by the Hillard Heintze recommendations ; and

**WHEREAS**, members of the public cannot fully trust law enforcement officers or feel safe if they are uncertain whether an officer with whom they interact had a prior history of significant misconduct or abuse; and

**WHEREAS**, there is a national crisis over repeated instances of police brutality and killings of Black people and persons of color that is rooted in the longstanding history of racial bias in policing nationwide, especially towards Black people; and

**WHEREAS**, the City Council aspires to hold the Oakland Police Department and all employees across the City of Oakland to the highest standard of professionalism and integrity; and now therefore, be it

**RESOLVED**, we declare Oakland to be a zero-tolerance employer for City employees with respect to racist practices, behaviors, actions, and/or association and affiliation with white supremacist groups, organizations or cells and, be it

**FURTHER RESOLVED**, we urge the Civil Service Commission pursuant to its jurisdiction to adopt rules requiring the disqualification of any applicant for employment in the Oakland Police Department and all city departments, agencies and divisions, and units if:

- (1) The applicant has been the subject of a sustained finding or two unsustained complaints by different complainants against the applicant by any law enforcement agency or investigative or oversight agency, following an investigation and opportunity for administrative appeal by the applicant, that the applicant, while employed as a peace officer, engaged in serious misconduct, which includes but is not limited to the following: use of excessive force, racial bias, sexual assault discrimination against any person or group based on race, gender, religion, nationality, or sexual orientation, or dishonesty, directly related to the reporting of, or investigation of misconduct by another peace officer or custodial officer, including, but not limited to, any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence; or
- (2) The applicant resigned or retired from their employment as a peace officer in any jurisdiction during the pendency of a disciplinary proceeding related to alleged serious misconduct by the applicant where while they were employed as a peace officer, and the proceeding was suspended or terminated as a result of the applicant's resignation or retirement, until such a time that the applicant has been exonerated for the pending allegation.

**FURTHER RESOLVED**, the City Council directs the City Administrator not to hire, and to fire police officers and other employees for racist, practices, behaviors, and actions including those that demonstrate alt-right, neo-nazi, and racist conduct except when such action is limited due to the City's Civil Service Rules.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND  
PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

Asha Reed  
Interim City Clerk and  
Clerk of the Council of the  
City of Oakland, California