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Approved as to Form and Legality



City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. 88167 C.M.S.

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

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) IN ACCORDANCE WITH HIS/HER POWER AND MANDATORY DUTY UNDER CITY CHARTER SECTION 504, THE CITY ADMINISTRATOR SHALL EXECUTE AND ENFORCE THE COUNCIL'S ZERO TOLERANCE POLICY NOT TO HIRE, AND TO FIRE POLICE OFFICERS AND OTHER EMPLOYEES FOR SPECIFIED REASONS; and (3) URGING THE CIVIL SERVICEBOARD, PURSUANT TO ITS JURISDICTION, TO ADOPT RULES REQUIRING THE DISQUALIFICATION OF ANY APPLICANT FOR EMPLOYMENT FOR SUCH SPECIFIED REASONS, INCLUDING BUT NOT LIMITED TO THE UNIFORMED RANKS OF THE OAKLAND POLICE DEPARTMENT

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 serious 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

WHEREAS, pursuant to Charter section 504(a), the City Administrator has the power and a mandatory duty to execute and enforce laws, ordinances and policies of the Council; now, therefore, be it

RESOLVED: That the City Council hereby establishes and declares the City of Oakland's zero-tolerance policy 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: That in accordance with City Charter section 504(a) and Chapter 2.08 of the Oakland Municipal Code (the "Personnel Ordinance"), including but not limited to section 2.08.060 of the Oakland Municipal Code, the City Administrator shall execute and enforce the City of Oakland's zero-tolerance policy for racist, practices, behaviors, and actions of City employees in all personnel decisions including, hiring and firing, except when such action is limited due to the City's Civil Service Rules or applicable law; and execution and enforcement of the zero-tolerance policy, shall include but not be limited to requesting information regarding sustained findings and unsustained complaints of Serious Misconduct, as defined below, as well as resignations or retirement during the pendency of an investigation into a complaint of Serious Misconduct; and be it

FURTHER RESOLVED: That the City Council urges the Civil Service Board, 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 a pattern of 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; including but not limited to the misconduct covered by Senate Bill 1421 ("Serious Misconduct"); 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.

IN COUNCIL, OAKLAND, CALIFORNIA,

JUN 16 2020

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR,
THAO AND PRESIDENT KAPLAN 4 8

NOES - 0
ABSENT - 0
ABSTENTION - 0

ATTEST:



ASHA REED

Acting City Clerk and Clerk of the Council of
the City of Oakland, California