



OAKLAND POLICE COMMISSION SPECIAL MEETING TRANSCRIPT

November 18, 2021

Chair Jackson: Good evening, and welcome to the meeting of the Oakland Police Commission, November 17th. It is now 5:33, and I'm calling the meeting to order. Let us take roll. So first... This is such a trip, I don't always have Dorado first.

Commission staff: I'm sorry, Chair, let me share the screen with the slides, my bad.

Chair Jackson: That's okay.

Commission staff: There you go.

Regina Jackson: Okay, so Vice Chair Milele.

Vice Chair Milele: Present.

Regina Jackson: Thank you. Commissioner Gage.

Comm. Gage: Present.

Chair Jackson: Thank you. Commissioner Garcia.

Comm. Garcia: Present.

Chair Jackson: Thank you. Commissioner Harbin-Forte.

Comm. Harbin-Forte: Present.

Chair Jackson: I'm not sure if Commissioner Howell has joined yet.

Comm. Howell: Here.

Chair Jackson: Oh, there he is. Sorry, first you weren't there and now you are. Thank you. Commissioner Jordan.

Comm. Jordan: Present.

Chair Jackson: Thank you. Commissioner Hsieh.

Comm. Hsieh: Present.

Chair Jackson: Thank you. And Commissioner Peterson. And we hope she will get promoted. And as chair, I'm here. So we have a quorum, and I'd like to advance to asking for a public comment on the closed session item. Rania, can you take it away please?



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Commission staff: Absolutely. Thank you, Chair Jackson, and good evening everyone. Members of the public wishing to make public comment on this item, the closed session item, please raise your hand and I'll call on you in the order that they've appeared.

Chair, I see one hand already. Two, actually. Ms. Assata Olugbala, I see you first. Give me one second, Ms. Olugbala, and I will get the timer going. All right, Ms. Olugbala, I have unmuted you. When you are ready, please start.

Assata Olugbala: Thank you, ma'am. I am thoroughly confused about legality issues today. In closed session of the council, Maureen Sacks versus city of Oakland, Oakland Police Department, John Alden, Ed Reiskin, Libby Schaaf; Maureen Sacks called in to explain something she figured was not being shared with the council related to this lawsuit. And it was that she had made arrangements with the city attorney for a settlement, and it was our understanding that the settlement was never brought to the council by the city attorney. So I'm sure you're going to get wind of this at some point, you may already know about it. But the past history of how the city attorney doesn't favorably work with this commission seems to be evident in this particular situation. However, she did go in some deep detail about the lawsuit has to do with the bid process that was not followed correctly. So I hope whoever is representing you legally is not guiding you down to issues like a lawsuit, because that should not have happened with the independent legal counsel that you have. Thank you for the time.

Commission staff: Thank you, Ms. Olugbala. Next caller, caller ending in 1779. When you're ready, I'm unmuting you. Please go ahead. Caller ending in 1779.

Mary Vail: Yes, this is Mary Vail resident of district five. And I want to comment on item [inaudible] for tonight's closed session, the ongoing consideration of who you will appoint as the commission's independent IG. This is a precedent setting and important matter. I understand one of the finalists is a member of the Oakland Police Department, and would urge you not to appoint that candidate for several important reasons. It's like the PUC picking someone who's a utility executive as their public advocate or their internal auditor. It's just not appropriate, and particularly for a first appointment. Also, the department already has an IG, albeit one working under the supervision of the compliance director. So it would be duplicative.

Finally, no matter how extraordinary this candidate is, they're from within a department with a serious, powerful culture around race, around sex, around white supremacy, and also around resistance to reform, which was demonstrated yet again in the Instagram matter. That person, someone from the department, the department's culture will have special influence or control, power over them. Because you just don't cross these days third rail issues, particularly around accountability and performance, in OPD, without risk of



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backlash and extreme risk of being compromised. So I'd urge you to select one of the other finalists instead of that individual. Thank you.

Commission staff: Thank you, Ms. Vail. Chair Jackson, seeing no more hands, back to you.

Chair Jackson: Okay, thank you very much. So at this point, we are going to close this meeting and go into closed session. We anticipate that based upon the items that are needed to be discussed, that we will return at approximately 7:00 PM. If we are to return earlier, I will communicate with Rania. And certainly if we think we're going to be delayed beyond seven, we will also communicate with Rania. But seven o'clock is the time that we are shooting for. Thank you very much for your attendance.

Commission Meeting reconvenes at XXX

Chair Jackson: Back to order and re determine our quorum. Commissioner Gage. Are you here?

Comm. Gage: Yes. Present.

Chair Jackson: Thank you. Commissioner Garcia, are you here? I'll come back to him. Commissioner Harbin-Forte.

Comm. Harbin-Forte Present.

Chair Jackson: Thank you. Commissioner Howell. Come back to him. Commissioner Jordan.

Comm. Jordan: Present.

Chair Jackson: Thank you. Commissioner Milele. Okay. Commissioner Garcia. Okay. We do not yet have a quorum. Okay. Commissioner Vice Chair, Milele.

Vice Chair Milele: Present.

Chair Jackson: Thank you. And let's see. Commissioner Howell. And Garcia. Okay. We do have a quorum and are hoping that both commissioners Garcia and Howell will rejoin us. While there's nothing to report out, I did want to make two important points to briefly respond to public comments from our last commission meeting. First, I wanted to respond to public comments related to the commission's work and our process for the upcoming inspector general selection. My own perspective, and this is my personal perspective, is that there was some unfair and severe criticism from members of the public. The commission is particularly proud of the [inaudible] committee's efforts on the inspector general, the crucial contributions to this upcoming milestone in the commission's short history reflects some of the commission's best work. My response, which is from my heart is that a great deal of thoughtful planning and a great number of



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volunteer hours have been invested into the police commissions inspector general forum.

And it's in the spirit of continuing to work with community hand in hand that I'll reiterate my call to community for more understanding and more empathy. I believe that the public needs to understand that we're up here doing our very best, and I want to put it plainly. Criticism that is not constructive is simply not helpful. My hope is our people will join our public forums and the spirit of constructive criticism and we're useful constructive support. With that said, the police commission will always remain a public forum that invites members of the public to exercise their freedom of expression and their freedom to criticize. Having said that, the dozens and dozens of hours that go into this commission work is not light. And if you want to help out, please do, join our ad hocs, but give us constructive work to process.

And as a final note, I want to respond to public comments that have historically been about my efforts to support the chief in his work, reforming the department. As a community leader myself, I'll always encourage change agents. And I will always encourage change of this department. I believe in offering more support rather than less, whenever I see the opportunity for progress and transformation, but just because you hear support does not mean that there aren't opportunities that I take to constructively criticize and or support ideas or offer resources. You may not always see everything. Just recognize that in the spirit of transformation, when people are doing the work, the good work to change culture, you should be supportive. And the little steps that are taken toward progress. That's my two cents and I will move forward with the agenda. Thank you.

Commission staff: Thank you, Chair Jackson. Just to note, Commissioner Howell joined and I was able to promote him. Commissioner Garcia is having tech issues but is hopefully about to join as well.

Chair Jackson: Okay, excellent. Thank you very much for getting them... Well, at least getting Commissioner Howell to the other side.

Commission Staff: Forgive me. It seems gremlins are in the computer. And to the public, we've reached open forum, part one. If you would like to give public comment on the open forum, please raise your hand and I will call on you in the order that they are received. Chair Jackson, I'm just waiting. I'm just going to give it a minute. Members of the public wishing to make public comment for this open forum, part one, please raise your hand and I'll call on you. Okay. No hands raised Chair Jackson.

Chair Jackson: All right. Very good. Thank you. Let's see the agenda then. This is a bittersweet agenda item, number five, selection of alternate commissioner to fill a vacancy.



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I would, before we take this action, want to give Commissioner Garcia both an opportunity to address the public and fellow commissioner's opportunity to thank him for his service.

Commission staff: He's on with you now.

Chair Jackson Excellent.

Comm. Garcia: Thank you, Chair Jackson. Had some technical issues of getting on this last meeting. As I stated in my resignation letter, I did not make this decision lightly. It's been a challenging year as it has been for many of us. And I just want to say that I'm deeply grateful for having the opportunity to engage in this meaningful work with this fabulous commission over the past year. I think that it's been rewarding to work with people toward a common purpose, and as we all know, substantial work remains in implementing the vision of measure LL. We all want the police department where officers are accountable. I think the commission has made important strides for making sure that OPD recognizes that racism, white supremacy and misogyny run deep, within all police departments, including Oakland's Police Department. And that leaders need to commit to eradicating each of these from police culture in Oakland.

I'm looking forward to continuing to support, to work at the commission as a community participant going forward, including the important work to address the community's demand for effective non militarized anti-racist policing in Oakland. Thank you, Madam Chair for your leadership. Wish you all the best, and it's been an incredible journey with you. Thank you.

Chair Jackson: Thank you, Commissioner Garcia. I do want to say that when you first came on, I was very excited and the work that you've contributed thus far has been incredibly important. I do hope that we are not going to lose you as an independent volunteer either for a future ad hoc or for some other meaningful contribution, just not in the way of every two weeks. I'm looking forward to seeing your contributions toward the commission and support of our much larger challenge as you have spoken around racial justice and certainly militarized equipment. And I invite any of the other commissioners to share well wishes or personal anecdotes [inaudible]. I saw a hand up, I think Commissioner Harbin-Forte, but then it left. Yes, Commissioner Harbin-Forte.

Vice Chair Milele: [crosstalk]. Thank you, Chair Jackson. I want to wish Sergio the absolute very best. Commissioner Garcia, it has been an honor and a pleasure to work with you on the rules committee. Your contributions were always incredibly important and insightful. The guidance you gave and the reminders of our roles were just so incredibly appreciated. I want to wish you the best of luck and I hope you don't go far. We'll be calling on you. Thank you.



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- Chair Jackson: Thank you. And I see Commissioner Hsieh; and Vice Chair Milele.
- Comm. Hsieh: Thank you, Chair. Commissioner Garcia. You were in the panel that I first interviewed on with the selection panel, you and Vice Chair Milele. I can't think that there would be a better choice besides myself. I truly value the work that you have done and brought to the commission. I do think that you have been an outspoken advocate for racial justice on this commission, and I think yours is an incredibly important voice. And I know that the work that you're doing now, in other aspects, not just on this commission, but furthering racial justice are just as important. And you're going to do great work wherever you are. We hope to continue working with you. Thank you so much.
- Chair Jackson: I see Vice Chair Milele and commissioner Peterson.
- Vice Chair Milele: Yeah. I just want to add, you and I, Commissioner Garcia, we joined together at the same time. I'm especially sad to see you go. I have enjoyed working together on our chief goals ad hoc. Your comments are always very insightful and thoughtful, and I definitely see you standing up for racial justice in all of what you do. I'm sure that that won't end. And I look forward to interacting with you again.
- Chair Jackson: Commissioner Peterson.
- Comm. Peterson: Yes. I just want to say thank you as well for your work on the chief's performance goals, the ad hoc. And I do wish you well, I wish we had more time to work together, but I'm sure our paths will cross again in the future. Take care.
- Chair Jackson: Commissioner Gage.
- Comm. Gage: Thank you, Chair. Commissioner Garcia, thank you for your service. It's been a pleasure working with you. I'm sorry to see you go. And I truly wish you the best. We're living in some interesting and challenging times, and it's certainly understandable to want to prioritize ones time as best as one can. Thank you for the time you spent working on behalf of the city. And I hope we are not seeing the last of you tonight.
- Chair Jackson: Is there anyone else on the panel that would like to speak? Otherwise, we will move ahead to our selection process. Okay. I see no more hands up. Okay. We have a vacancy to fill with... Excuse me. Commissioner Gage. Excuse me, Garcia. Sorry.
- Comm. Garcia: I just want to say thank you all for those incredibly thoughtful comments and this is not goodbye. I'm not going anywhere. I'm still here in Oakland and I'm looking forward to working with you all as a member of the public. Thank you so much.



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- Chair Jackson: Thank you very much, Commissioner Garcia. My apologies, I ran to the next subject too quickly. Appreciate you. Our next act is to fill the seat of the Commissioner Garcia by one of the alternate commissioners. And I am happy to take nominations for either or both or... How would you all like to move forward? Commissioner Harbin-Forte.
- Comm. Harbin-Forte Yes. My question is really one of process and I think the last vacancy we had was a mayor's vacancy. And I think that we agreed that we would not try to do like for like, and that the person going in ended up being the more senior of the two alternates. I'm hoping that we can go with that same process tonight and that we can select the more senior. I'd also like to have us formalize what we did with filling the last vacancy. And if it perhaps takes tabling this, so that we can get some rules in place, but I would like for us not to feel that we have to compare and contrast the eligible candidates. If we do it on a seniority basis, that would be a fair way of doing it. And we would always know basically, who's next in line. We wouldn't have to feel as though we are rejecting one candidate over another.
- And I think that for the collegiality of the commission, that should be a process that we established and we already have precedence for that, based on filling commissioner Jackson's vacancy. I'm not sure what the process is or should be, but I would move that the process be that we fill the vacancy... We consider filling the vacancies and in the future vacancies, based simply on seniority on the commission.
- Chair Jackson: Okay. And what is the will of the rest of the commissioners? I totally understand it. I see a hand from Commissioner Jordan.
- Comm. Jordan: Yeah. I think that that is a way to go. That was not necessarily my understanding about how that worked out last time. And if I remember correctly, there was actually... Both alternates were nominated. I think, yes, it would be great to go through life with never having felt judged or measured against another person or any of that. I don't think that my being appointed to this seat was based purely on seniority. And from my perspective, that's not how I'd like to continue this moving forward. And to that end, I'd like to actually nominate Commissioner Hsieh.
- Chair Jackson: Okay. Is there a second for Commissioner Hsieh?
- Comm. Garcia: I second.
- Chair Jackson: Okay. It's been properly moved and seconded. Although commissioner Harbin-Forte did not specify, I believe I want to ask for a nomination of Marsha Peterson who is the slightly more senior commissioner.



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Comm. Harbin-Forte: Yeah. Yes. My comments had to... And I'm wondering even almost if we should just table the selection and try to work out a process or procedure, because I think that it would behoove us to not have the alternate commissioners feel that they have to compete against each other. And I will say that with respect to the last vacancy, I voted on seniority lines because Commissioner Jordan had more time on the commission. But it was not a rejection of Commissioner Peterson. I think it would be helpful if we were to take some time to think about what a fair process is, fulfilling the vacancies and put something in place so that, in future commissions and future vacancies, we will always know that it's just going to be the most senior person. That way there's no, this person is better, this commission is better or anything other than sort or comparing contributions.

If it's appropriate and we may need, I'd move that we even table the selection until perhaps the next meeting and try to work on a procedure. And also even in terms of now, do we take all nominations now from the floor nominations and sections? Let's do this. I don't know whether we need Connor, I guess, on rule of order, on terms of whether or not there can be a motion to table at this point when there's been a motion and a second of what the appropriate procedure is. But I really would not like for us to do this tonight.

Chair Jackson: And to your point, we have two incredibly qualified people. And I understand that point, Connor given the fact that we have a motion that has been properly seconded, do we go to public comment and then have more discussion? Or what do we do?

Commission Counsel: Thank you, Chair. I think what I'm hearing from Commissioner Harbin-Forte is what would be described as a motion to be postponed indefinitely. I would recommend that you see if there is a second to that motion. And if there is, you take Commissioner Harbin-Forte's motion first. If it passes, then the effect is to "Table this item until the next meeting." If after Commissioner Harbin-Forte's motion, if it does not pass, then, yes I think you can continue to take nominations for Commissioner Peterson. And if there is one, see if there's a second, you can go to both of the alternates, if they want to give brief speeches. Go to public comment and then take a vote. So I just want to reiterate the immediate next step. I would ask if there is a second to what I think is Commissioner Harbin-Forte's motion to postpone indefinitely, subject to any correction that she wants to make or clarification to what I've just advised.

Chair Jackson: Okay. Thank you very much, Connor. Is there a second to Commissioner Harbin-Forte's motion and I see hands up that have already spoken, but didn't put their hands down. So I cannot tell at this point, if these are new hands. I see Commissioner Peterson's hand up, Commissioner Garcia's hand up and Commissioner Gage's hand up. Now I just see Commissioner Garcia and Gage



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and Commissioner Peter... Okay, her hand keeps going up and down. So I have Commissioner Garcia and Commissioner Gage.

Comm. Garcia: I don't want to make this out of order. I think Connor has spoken so-

Chair Jackson: Okay.

Comm. Garcia: ... Just defer my comment for now until we see if we get a second.

Chair Jackson: Okay. All right. So you are not seconding at this point. Commissioner Gage?

Comm. Gage: Thank you Chair. I'm in the same position as Commissioner Garcia. I'll defer comment until...

Chair Jackson: Okay. So it sounds like maybe since there isn't second, we should go to public comment.

Comm. Garcia: I can second, Chair Jackson.

Chair Jackson: Thank you. All right, so it has been moved and seconded. We need to go to public comment before we can vote on that first motion to table. So Rania, if you can take us there, please.

Commission staff: Absolutely. Thank you Chair Jackson. Members of the public wishing to make public comment on this item, please raise your hand and I will call on you in the order that they appear. Give me one second, I will also start the timer for us. (silence) Thank you for your patience. I see five hands up, Ms. Rashidah Grinage you are first up. I have unmuted you my end, when you're ready.

Rashidah Grinage: Thank you. First of all, I wanted to commend Commissioner Garcia' for his work on the commission, I was very sad to learn that he was resigning. I know I speak for many who felt that his contributions were extremely important and valuable, so very sad that he is resigning. On the issue of replacement, I think another way to approach it rather than seniority is the nominating selection in terms of whether or not the candidate was... Or the commissioner was appointed by the Selection Panel or the Mayor. I think it's important to keep a balance on the Commission in accordance with the original design of Measure LL. And so I think that people who were appointed by the Selection Panel should be replaced by a nominee-

Commission staff: We've lost your Rashidah. Chair Jackson, I'm just noting that Ms. Grinage was halfway through and she has clicked off. So moving on, Anne Janks when you're ready, I've unmuted you.



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Anne Janks:

Good evening. First of all, I wanted to thank Commissioner Garcia for his time and the work that he's done on the Commission. And I wanted to remind him that there is a robust tradition of former Commissioners continuing to help both with outreach on policing issues in the community and occasionally even on Ad Hoc. And I hope that in that more kind of limited time duration, we'll see him again on Commission work, but thank you very much.

Secondly, in watching the Commission, we've had some extraordinary Mayoral appointments, and I think it's often not really possible to tell by watching the Commission, who's a Mayoral appointee and who's a Selection Panel appointee sometimes. But nonetheless, that structure is really important to the community's understanding of the Commission and the community's trust of the Commission. And I think that the precedent of replacing a Selection Panel appointed Commissioner with a Mayoral appointed Commissioner, and then that means the Mayor gets to appoint another alternate, would not serve the community's trust. I also just don't want to set a precedent that says we're always going to go by seniority for the reasons that I've already stated. I think this has to be a case by case situation, and I hope that, that'll be considered. Thank you very much.

Commission staff:

Thank you Ms. Janks. Reisa Jaffe, you're up next. When you're ready Reisa.

Reisa Jaffe:

Yes. Thank you so much. I too want to thank Commissioner Garcia for your service. I have no opinion on the people who are being... My comment is general. I am seriously concerned about the idea of it being based only on seniority. That should absolutely not be the criteria that is used. I have the same concerns that have been expressed about replacing a Selection Panel with a Mayoral, that should never happen. Also, we've seen this... When people apply for jobs, some people are good interviewers and then some people aren't, but their capacity to do the job is not necessarily clear. And then when you actually are doing the job, so there's an opportunity when a person is actually now being here, to weigh what has their input been. So all things being equal, there are other factors and maybe seniority is part of it. But I do think the Selection Panel versus the Mayoral Panel is a factor that needs to be considered. I just really hope that you'll not land on seniority as the factor. That just should not be it. Thank you.

Commission staff:

Thank you, Reisa. Oscar Yassin, I see you're up next. When you're ready, I've unmuted you my end.

Oscar Yassin:

Thank you. Can you hear me?

Commission staff:

I can.



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Oscar Yassin:

Yeah, I want to say basically what everyone else is saying, but I want to go a little further. The Charter... The Measures is very clear that there's supposed to be a balance three to four, but we have to recognize that that balance, Mayoral to community was a concession. People wanted an all civilian... All community appointed Commission and that couldn't happen because of the power structure and the way it exists. And so that was a concession. If you were ever going to err, err on the side of the community. That was the intent, was to have a community driven Commission.

I also want to argue strenuously against the idea of experience and seniority being something to desire and to create in the Commission. No one should be on that Commission for longer than one term. It creates a power vacuum, a power drag, an imbalance, where people who have been on longer, understand the rules better and can push their way through and make their sort of vision, the one that gets moved forward. That's not good. That's not what this Commission is about. This Commission is a citizens... It's a residence commission and it's meant to give everyone a chance, a shot at being able to influence things for a brief time and not to become a static member of a body like that. Where they begin to sort of feel like they are a commissioner by trade and not by just appointment. Thank you.

Commission staff: Thank you Mr. Yassin. Mariano Contreras, when you're ready, I've unmuted you my end.

Mariano Contreras: Yes, thank you. And also many, many thanks to Commissioner Garcia for his service on the Commission. I too am saddened that he had to resign. But I truly understand the work that he's doing elsewhere and that affects our brown community. In terms of the replacement procedure, I also agree with the previous speaker Oscar, that the original... The Measure LL had stated very clearly after a concession, that there would be four representatives selected by the public community Selection Panel and three Mayoral appointees. What was left kind of unclear was the process for replacement, but [inaudible], there was always the practice of replacing a select... Community select with another community select. And that's the way the practice has taken place, which respects the original intent to Measure LL. So I really hope that tonight you look at what 83% of the voters who voted for it and that we respect that process. Thank you so much.

Commission staff: Thank you, Mariano. Ms. Assata Olugbala, I see you up next. Oh my God. Let me start the timer again. Ms. Olugbala, when you're ready, I've unmuted you.

Assata Olugbala: Yes. I don't see any difference between the Mayor's appointees and the Selection Panel appointees. I've seen a tremendously flawed Selection Panel. I've been in many of their meetings and I've seen the sabotage by the Coalition



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for Police Accountability on Ginale Harris and Omar Farmer. Luckily he's been appointed to one of the Police Commissions. Very good.

But I don't see no difference between these people. If... I'm more upset with the Selection Panel, the so-called independent, and how they've been so prejudice in the selection process that I don't support them at all. I don't see any difference. And the way that it's been unfair to Ginale Harris, particularly who is still wanting to be on it. Ginale Harris would never resign. Ain't been here, but a hot second, and people talking about your work and what you've done. I don't want to stay on that too long, but I'm glad you're going. Because Ginale Harris should be sitting up there and all this debate about the Mayor's appointee. What's the difference? Show me a define example, how there's been a difference of Commissioners based on they've been appointed by the Mayor or selected by the Selection Panel. I don't see it.

And if you're going to do it, you going to have somebody else resign. Watch and see. Somebody else is going to resign soon. This man is stepping away. Ain't did nothing and you all acting like he's been a participant. Ginale Harris would never do that.

Commission staff: Thank you, Ms. Olugbala. Up next, Bruce Schmiechen. When you're ready, I've muted you.

Bruce Schmiechen: Thank you. Yeah, I think it's... First of all, I do want to thank Commissioner Garcia and I understand... You know, I have to say, I have enormous respect for everybody who served on this and I've had criticisms of some, but in terms of public service, in terms of the difficulty of the position, in terms of the work, it's an extraordinary ask for people to serve. And I really, really appreciate everyone who's stepped up and... As well as folks who've decided that life is forcing them to change and they can't serve and any longer. But that's... And so thank you.

But I think that in terms of the succession process, it's real clear that there was a clear intent in Measure LL. The Selection Panel... I think, we see a new Commissioner, the Selection Panel chose Commissioner Howell, who I'm really looking forward to his contributions and I think it's a tribute to the Selection Panel that they made that choice. But I think it's real clear in terms of the intent of Measure LL that there be at the minimum, because it was a compromise as was referred to, a balance on the Commission between Mayoral appointees and Selection Panel appointees. And I think it's absolutely essential to the Measure that was 82% supported, that the spirit of that Measure clearly is to try to maintain that balance. And so I think it's real clear what should be done. Thank you so much.

Commission staff: Thank you, Mr. Schmiechen. Up next JTU Phone. I've unmuted you when you're ready.



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Jennifer Tu:

Thank you. This is Jennifer Tu from district four and I wanted to echo the previous speakers in thanking Commissioner Garcia for his service. And I wanted to take a moment to encourage all the Commissioners to exercise your discretion and continue to hold that ability to use your discretion in situations like selecting... In selecting a new Commissioner. There may be situations that come up that we can't predict today beyond the Measure LL Mayoral versus Committee selection, which is definitely a fair point. But beyond that, you might even find yourself wanting to balance for gender, for race, for where someone is, whether or not someone is a lawyer or not. And so I just really want to encourage the Commission to retain your ability to make decisions in a contextualized way. Thank you.

Commission staff:

Thank you, Jennifer. And finally, Cathy Leonard when you are ready, you've been unmuted.

Cathy Leonard:

Good evening, everyone. I pretty much agree with what has been said so far in terms of having a balance between Mayoral appointments and Selection Committee appointments. Basing... Excuse me, basing selection just on seniority, I just don't think that's a fair process. We should look at the candidates or you should look at the candidates and decide who's the best person to fill that next seat. That's the way it should be done. We should adhere to the spirit of Measure LL. And also I'll say for, I don't know how many times I have to say this, the people on the Selection Committee, there were four who voted against Ginale Harris. The people who were members of the Coalition for Police Accountability, they don't have votes. They're not on the Steering Committee. That's like saying that I'm a member of Kaiser and anything that Kaiser does, I've got to be held accountable for it. It doesn't make any sense at all. So let's not vote on the basis of seniority. Let's put... Base it on qualifications and move forward. Thank you so much. Good night.

Commission staff:

Thank you, Ms. Leonard. Chair Jackson, seeing no more hands raised, it's back to you.

Chair Jackson:

Okay. Thank you very much. So at this point, we need to vote on the recommendation to or the... Excuse me, the motion to table this item. And so I would like to go through the Commissioners' votes. Commissioner Gage? Do you vote to table this item?

Comm. Gage:

Apologies Chair, I believe Commissioner Harbin-Forte is trying to get your attention.

Chair Jackson:

Okay. But we have a properly motioned and second on the tabling. So is Commissioner Harbin-Forte, are you trying to change something?



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Comm. Harbin-Forte: I am just trying to clarify something that the misinformation that is out there regarding the balance, because the balance under Measure LL is three Mayors appointees and four Selection Panel appointees. This would result in five Selection Panel appointees and two Mayor's appointees. So I agree with everything... With everyone that we should stay with the spirit of Measure LL. It was passed by 83% of the voters. And those 83% said three Mayor, four Selection Panel. It didn't say five Selection Panel. Had we followed the procedure of doing like-for-like at the last fill... When we filled a vacancy, Commissioner Peterson would already be on the Commission and Commissioner Jordan would not be on the Commission. The only way to rectify that now would be for Commissioner Peterson to go on because she should have been on before. The other reason I'm select... I'm suggesting we table, is we should really figure out what is the fair procedure.

If we agree that it's going to be like-for-like, once we get the balance back to three and four, then maybe that's the way we do it. But right now to say that it shouldn't be... We shouldn't replace with a Mayor's appointee when clearly that would be entirely contrary to Measure LL. I think that we... I just think that we need to think about this because there are long term implications. We need to think about what this means for the Commission. And maybe... Again maybe we do, we start here... Henceforth, to do like-for-like, after we rectify the imbalance. And I'm very troubled and I think every Commissioner ought to be troubled by doing something that is holy contrary to the intent of Measure LL.

Chair Jackson: Thank you, Commissioner Harbin-Forte. So now we have to vote on the motion that is on the table and it's been properly seconded, and that is to table the election. So I'm going to take the roll and we will see where we move forward from there. Commissioner Gage?

Comm. Gage: No.

Chair Jackson: Commissioner Garcia?

Comm. Garcia: No.

Chair Jackson: Commissioner Harbin-Forte?

Comm. Harbin-Forte: Yes.

Chair Jackson: Commissioner Howell?

Comm. Howell: Yes.

Chair Jackson: Commissioner Jordan?



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Comm. Jordan: No.

Chair Jackson: Commissioner Milele?

Vice Chair Milele: Yes.

Chair Jackson: And I vote, no. So the motion passes... No motion fails. So I think that we need to clarify, we had a properly moved and seconded motion for Commissioner Hsieh. Do we have a motion on the table for Commissioner Peterson?

Comm. Harbin-Forte: Aye.

Chair Jackson: I see a hand up for the [inaudible].

Comm. Harbin-Forte: Okay. I don't know if Commissioner Milele's hands were up.

Chair Jackson: Yes.

Comm. Harbin-Forte: I'll wait.

Chair Jackson: [crosstalk]. Thank you.

Vice Chair Milele: Yes. I would like to nominate Commissioner Peterson.

Chair Jackson: Okay. Thank you.

Comm. Harbin-Forte: I will second.

Chair Jackson: Thank you. So it has been properly moved and seconded that both Commissioner Peterson and Commissioner Hsieh are appropriately moved for the consideration of a full Commission. At this point, the way in which we have historically done elections is to have each person speak a bit about the qualifications and what they've done on the Commission. Not to exceed two minutes. And then we can take a vote from there. Since you were nominated first Commissioner Hsieh, I'll give the floor to you.

Comm. Hsieh: Thank you. I'm humbled to be considered. This is a title to me, to be perfectly honest. I'm here to do work. I'm here to put forth the vision of an accountable police department. To set up policies and procedures. To save lives. I've been trying to do that as much as I can on the Ad Hocs that I'm on. I'm working right now on the 15-01 Ad Hoc, trying to build in the support and the language to best support a police department that is community focused and solely supporting the community. There's still a lot of work left to do. I'm happy to do it in whatever capacity this commission wants me to do it as. The role that I've taken on the spot is up in October. I really don't think there's ever going to be



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enough time to do the work that needs to be done, but I'll do it regardless of whatever capacity I'm in. Thank you.

Chair Jackson: Thank you, Commissioner Hsieh. Commissioner Peterson?

Comm. Peterson: Well this is not the position I thought I find myself in this evening. I don't feel comfortable in this kind of contention, but be that as it may, as a citizen of Oakland born and raised here, I have a complete concern and passion for the work that we are doing on the Police Commission. I just presented closed session document on the IG selection that I prepared in many hours of volunteer time. It was a pleasure to do so because like Commissioner Hsieh, I'm here to do the work. I'm not here to fight or compete with Commissioners.

I'm also taking the lead. I took the lead with the IG closed session, preparation and presentation. I'm also taking the lead with the chief performance goals. Been working pretty much with Commission Milele on moving that forward. My background in labor and employment, I think will serve me well in that capacity as well. And I've been asked to be the liaison to the Public Safety Commission and I've coordinated that with talks with previous Commission... The previous Commissioner who held that position. So I'm here to do the work. Yes, the mayor did appoint me. If there is such a thing as keeping the balance and there would be a five to two imbalance. Well, it is what it is. It speaks to that. What should happen next, but whatever does happen, I'm still on the commission. I'm willing to do the work. And I thank you for the opportunity to serve.

Chair Jackson: Thank you, Commissioner Peterson. So we have heard from both alternates who, one has to have a title, but neither seem to be impressed with a title. And that's a wonderful position to be in. I see Henry, Commissioner Gage's hand is up.

Comm. Gage: Thank you Chair. Yes, I'm seeking recognition. A few brief comments to make before we proceed. This is the second time now we've had this exact debate. And as mentioned by Commissioner Harbin-Forte, our current status is five two, Selection Panel to Mayoral appointees. And we arrived at this breakdown because we voted to select a Selection Panel appointee to replace the Mayoral appointee who resigned before attending a meeting. That's status quo. That's how we got here.

In the early days of this Commission, there was a lot of fear about the Mayor exercising outside of his control over Commissioner selection. And I think it's fair to say that our experience to date has shown that those fears appear to be misplaced. I agree with the commenters who have stated that there really hasn't been a discernible difference in Commissioner performance based on appointing ability. The issue I want to raise is that I don't like the idea of asking



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Commissioners to evaluate the relative qualifications of a peer before selecting a new voting member of the Commission. I don't like that idea.

In my opinion, the duty of evaluation of potential commissioners has been provided to the Selection Panel and I prefer to keep it there. Flaws and all. I'm going to maintain the position I articulated the first time we had this debate and say that we should respect the balance outlined in the Charter. And we should note that voting Commissioners be replaced by alternates based on the appointing authority of the departing Commissioner. Excuse me. Leave it there. I'd like to avoid these kinds of conversations of relative comparisons in the future and just do a straight like-for-like replacement for future vacancies. Because we don't... We just don't need to spend this kind of time every time someone resigns or departs for whatever reason. Thank you. As a final statement, if Commissioners are sympathetic to this argument, I would like to know simply because I do think it's important that if we decide to move forward in that way, we should memorialize it in some form. Because again, this is the second time we've done this and I prefer to not do it a third.

Chair Jackson:

To your point Commissioner Gage, I actually agree with the community who has said that in most instances, they can't tell the difference. That is the ultimate compliment to all of us. That it doesn't matter how we got here, that we are doing the community's work. That said it's not the Commission's responsibility to maintain the balance. But here we are with an opportunity to do so.

I am looking forward to the contributions of both Commissioners Peterson and Hsieh. But if what we're talking about is having an opportunity to get closer to balance. Then I believe that Commissioner Peterson should be elevated. At this point, we need to address or vote on the nominations, which will determine one way or the other. But I do agree with Commissioner Harbin-Forte and with yourself that we should address a policy that says like-for-like, which has been our precedent. Recognizing that Commissioner Jordan has not done anything different under the auspices of the Mayoral appointee hat. And that again is consistent with, to me, excellence of leadership. I don't know if anybody else has a comment on that. I don't see any... Oh, Vice Chair Milele, is your hand up newly?

Vice Chair Milele:

Thank you Chair. Yeah, it was. And I agree with you Commissioner Gage and I kind of thought that, that's what Commissioner Harbin-Forte was doing with her motion is giving us a chance to be a little more thoughtful about it. Because I totally feel like we shouldn't be making this decision as if one is more qualified than the other, they're obviously both qualified and were selected and are doing great work. And to be completely transparent, I've only had the opportunity to work with one of them in the time that I've had, and I've had 70 hours of work with one and zero hours of work with another, and that's all I have to go off of. And if it were the opposite, it'd be the same. So I do feel a bit



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uncomfortable being in this position and would like to come up with a process that is fair and makes sense, that we don't have to do this, because everyone's already here and we're already all doing great work.

Chair Jackson: I agree with you. So with that, where we are in this process is that we need to take a vote. And so, that's what we will do, because we've already taken public comment. So the first motion was on commissioner Hsieh and I believe, Conor, check me if I'm correct, that's the vote that we need to take, correct?

Commission Counsel: That's correct. The first motion. And that was how we've done nominations and seconds previously. You take votes until you get to four of nominees, one at a time.

Chair Jackson: Okay. Very good. Thank you. And, again, recognizing that no matter who is selected, the work will continue and that's the thing that's most important. So the nomination of commissioner Hsieh is what we're voting on. Commissioner Gage?

Comm. Gage: No.

Chair Jackson: Excuse me. I actually cannot call on commissioner Garcia since yours is the seat that's being filled. Commissioner [inaudible]?

Speaker 2: No.

Chair Jackson: Commissioner Howell?

Comm. Howell: No.

Chair Jackson: Commissioner Jordan?

Comm. Jordan: Yes.

Chair Jackson: Commissioner Milele?

Vice Chair Milele: No.

Chair Jackson: Okay. And I will also say no. The vote is five no's and one affirmed. So the motion fails. That would ostensibly put commissioner Peterson in the position. We don't have to take another vote. So as difficult and as challenging as that was, commissioner Peterson will be elevated, technically, in the position to replace commissioner Garcia. And I think that what we will do between now and the next meeting is to... Commissioner vice chair and I, and anyone else that wants to work with us on trying define a process moving forward, so we don't



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find ourselves in this position again, would be best suited so that we can clarify this quickly.

Comm. Gage: Point of order, chair?

Chair Jackson: Yes.

Comm. Gage: I'm not clear as to whether we need to vote as opposed to defaulting. And I would also like to join you in creating that procedure. I would ask counsel if a vote is necessary.

Chair Jackson: Thank you, commissioner Gage. So again, Conor, you can clarify for me, but if the motion fails to elevate commissioner Hsieh, do we re-vote to elevate commissioner Peterson? I guess we do, huh? Okay.

Commission counsel: Chair, we would recommend that you do. And we're actually going to, during our Robert's Rules training, talk about what happens when you, as the elected presiding officer, get to rule on some of these points of order. And then when, if there's an appeal to any ruling that you have, what you have to do as a body for that, but for now I'm going to suffice and just say, we would recommend that you take that vote on the second nominee.

Chair Jackson: Okay. Very good. Thank you. So the vote that we're taking now is on elevating commissioner Peterson, and I'm going to call the role. Commissioner Gage?

Comm. Gage: Yes.

Chair Jackson: Thank you. Commissioner [inaudible].

Speaker 2: Yes.

Chair Jackson: Thank you. Commissioner Howell?

Comm. Howell: Yes.

Chair Jackson: Thank you. Commissioner Jordan?

Comm. Jordan: Abstain.

Chair Jackson: I'm sorry? [crosstalk]-

Commission counsel: Chair, it sounds like the commissioner has abstained and I should note under the rules [crosstalk]-



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Chair Jackson: Abstained. That's fine. I couldn't understand what he said. Okay. Abstain. And commissioner Milele?

Vice Chair Milele: Yes.

Chair Jackson: Okay. And yes for myself. So we have six affirmed and one abstention. So commissioner Peterson, painful as that was, congratulations. You have moved from alternate to full commissioner [inaudible] the same. Can we move on to the next item, please? I think that's the police chief update. Chief Armstrong?

Chief Armstrong: Yes. Chair, can you hear me?

Chair Jackson: I can. Yes. I can hear you. Thank you very much.

Chief Armstrong: Good evening and good evening to all the commissioners. And I just want to do the time [inaudible]. I'll definitely try to make this quick and kind of cover as much as I can in this time. First I'd like to start with our current crime numbers. Obviously this morning, unfortunately, we had our 122nd homicide, which was a double homicide this morning. We are currently trending up in violent crime, in particular. We have over 550 shootings and our violent crime is up 11%. Our overall crime is up 1%. We still are having some challenges, but we've been able to really begin to practice our ceasefire strategy more in line with what we've done in previous years. Obviously we knew the impact of the pandemic, but even tonight we had another additional ceasefire call-in this evening where we, again, were able to message to a group of individuals involved in violence. And so, our partners from Department of Violence Prevention was there and offered services. And again, those in attendance did sign up for services. So that's a positive thing.

We continue to recover weapons at a high rate, we're over a 1,000 recoveries of firearms to date. So a significant increase or a continuous increase from 2020 with the number of firearms compared to 2019 and other years. We have been working closely with the ATF regarding the origin of these weapons to get a better understanding where the vast majority of these weapons are purchased and how are they coming into Oakland? So that's part of our investigative work with the ATF. We have seen a huge influx of firearms, both from Nevada and Arizona being legally purchased there and then being sold here in Oakland. So we are working to identify those individuals that are really driving the increase in firearms in our community. And that's going to take work with our federal agencies. And so, we've been doing that. What else we have in there is that we continue to follow the practice that we have with the commission's missing person policy and [inaudible] by making sure that we continue, as you see in the packet, bring-

Comm. Jordan: [inaudible].



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Chief Armstrong:

... forth our missing persons push outs every week and every time a missing person report is done in Oakland, and that missing person is pushed out through our social media, as well as to our media partners. A couple of highlights, one of which we put in the packet as well, was just one of a person arrested for brandishing a replica firearm after several calls from community members. I thought this was a good example to show the progress that the department has made around how we address armed suspects. Although we had gotten many calls from community saying that there was an individual out in the community pointing a rifle at people, this rifle that looked real and was very realistic to everybody that saw it, we did approach it safely, we addressed the individual and was able to safely take the person into custody and recover that weapon. I think it, again, shows to the training that we've been providing around how we address people who are armed in public and how we do it, trying to minimize the use of force.

I want to stop and talk a little bit about our current staffing levels. Right now we're currently at 681 officers. This is, again, the lowest staffing number that we've had in several years. I think on the positive side, we do have currently 186 academy that will be graduating on December 22nd. We have 26 trainees that have been in the academy for the last five months without losing anyone from that academy. And on Monday, November 15th, we started a new OPD academy with 39 new trainees. That is the highest number of recruits in our academy in a couple years. So it really is showing that our recruiting efforts focused around even local candidates. Several of the new people in our academy are either Oakland born or live in Oakland or have some connection to our city. So that is also positive news from our perspective.

I know I did, I just wanted to address again that chair receive a series of questions that community members would like me to address, but to be in line with the Brown Act, some of these questions require me to go into detail and that is not agendized. So I would just suggest when community members have questions they would like the department to speak to, that they bring them to the commission and have the commission make the personal request to the department to respond, so we can agendize those properly and I can properly address them as opposed to glaring over certain things.

We did just conclude our federal monitors visit with the IMT. We concluded our two-day visit yesterday. We had a couple days of really positive meetings and the department continues to make progress. One of the challenges that we have been facing over the last couple progress reports is the late activation of body-worn cameras. So we are working through that within the department. We've done a couple things. First of all, we have completed our contract with Axon to purchase new body-worn cameras that will provide the ability to automatic activation. And so, I think that will help. As well as, we have the new technology that we will be deploying with this contract. That includes holster



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activation. So essentially whenever an officer removes his or her weapon from their holster, their camera will automatically come on. So we also have car activation, which will, essentially, when an off officer opens their door of their car, the camera will activate. And when they activate their emergency lights, the camera will automatically activate.

So there's several ways in which we're going to look to technology to actually reduce the number of late activations. One of the things that I will say is encouraging, is even in our reviews, the late activations have been within seconds and we had no actual failures to activate, which is what we would consider more of an intentional act of an officer just not activating their cameras when they know, for policy, they should. So we are dealing with those issues. I've all also had department-wide meetings to discuss some of the issues brought up by the IMT regarding our cameras and the thoroughness of our use of force investigations. I met with every sergeant in the department, as well as every commander in the department, and made it clear what the expectations are.

We are continuing to move forward on all of the recommendations that came out of the social media investigation. We have now come into agreement with the Anti-Defamation League to provide ongoing training in the department throughout the whole year of 2022. Training that they've developed for specifically law enforcement that will focus around behavior within the workplace consistent with racist behavior, antisemitic behavior, both at social media as well as through internal messaging. It will include also homophobic behavior, negative comments and things of that nature. So we look forward to that training as well. And then we have three additional policy updates that we're working on, two of which will probably come before the commission. So just want to offer that, chair Jackson. And then with that, I'll take any questions that you might have, or commissions might have.

Chair Jackson: Thank you very much. And rest assured, we'll make sure that those other items are agendized. I just didn't have time to get it done since we were trying to get the agenda out early this time. So I see a hand up from commissioner Howell.

Comm. Howell: Yes. Can you hear me?

Chair Jackson: Yes.

Comm. Howell: Okay. How you doing, chief Armstrong? So I have two questions. The first one is on shot spotter activation. Can you explain that a little bit?

Chief Armstrong: Yes. In terms of our shot spotter program?

Comm. Howell: Yes.



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- Chief Armstrong: Okay. So yes, the city has a shot spotter program with several shot spotter, if you would, technologies across the city that detect gunshots, precise areas where gunshots are fired, and the number of rounds fired, that immediately activates a notification, both in our dispatch center as well as in our patrol vehicles. As well as, we all have our apps as well on our cell phones. Whenever that shot spotter technology is activated, we get a notification and then we respond to every shot spotter call in the city.
- Comm. Howell: Okay. And then my second question is on your weekly crime report breakdown, do you break it down by police districts? Is that breakdown available? Where the hotspots are? What caught my attention was the carjackings and the homicides. Is there hotspots for this or is it just happening city-wide?
- Chief Armstrong: Yeah. We do, every Tuesday, release that data. It is concentrated in a couple areas, but it has been city-wide. We've seen homicides reach places in the city that traditionally it hasn't, when we talk about homicides around the lake or in North Oak Oakland, in some areas. And then in some areas, even in East Oakland and The Hills. We've seen it be displaced throughout the city, but it is concentrated in mostly Deep East Oakland as well as in West Oakland. So yes, we do have those maps and if interested, we can provide more detail maps to the chair if you'd like to see.
- Comm. Howell: Okay. Thank you very much.
- Chair Jackson: Thank you. Commissioners Gage and Hsieh?
- Comm. Gage: Thank you, chair. And good evening, chief. I'm hoping you can comment on the performance of the violent crime operation center and how that initiative is panning out so far? I've been looking at some of these reports over the last few meetings and it is striking, the degree to which the violent crime index continues to be in the red. Any comment?
- Chief Armstrong: Yeah. I mean, they have been truly, I think, doing exceptional work. They have been making the vast majority of our arrest for violent crimes. They so far have made 18 arrests of either homicide or violent crime suspects. They made a total of 156 overall arrests. I'm sorry, 41 homicide suspects, five attempted homicide suspects. And so, they've recovered over 112 firearms. And so, I think we continue to see the great work that they're doing, but I also think the work that they're doing is highlighting how out of control violence has been, because they've been arresting people for very, very serious charges. And then we still continue to see violent crime spiking, so that is really concerning, and they have been the leaders in recovering firearms as well. A lot is happening. Even though we are seeing the hard work that they're doing, it's still more work to be done.



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Comm. Gage: One brief follow-up. Have you seen any information about post-arrest referrals? For example, has the district attorney successfully prosecuted any of the VCOC's arrestees?

Chief Armstrong: Yeah. We don't track it in that same way. One of the things that we do track is, what we call, the number of cases charged. And so, we do charge by the district attorney. So after arrest, we present cases to the district attorney for charging. When that case is charged, we do track that, but we don't track post-arrest outcomes.

Comm. Gage: So I guess in that case, what are those numbers looking like in a general sense?

Chief Armstrong: I could give you a more clear breakdown of what that percentage looks like. I didn't have that with me tonight, but we do have that information that we could pull from our database. And deputy chief Lindsey, who's in charge of the criminal investigation division is on tonight's call. And so, I'll have her take that as a deliverable to bring back at our next meeting.

Comm. Gage: Thank you. That'd be appreciated. And thank you to the officers on that team for the work they're doing. I'm hopeful these numbers will start decreasing in the future.

Chief Armstrong: Me as well. Thank you, chair.

Comm. Gage: Thank you, chair.

Chair Jackson: Mr. Hseih?

Comm. Hseih: Good evening, chief. Yeah. I think that at our last meeting, approximately a month ago, you had mentioned that there was an evaluation being done, exit interviews, essentially, of officers leaving and retiring for whatever reason. I don't see that in the packet tonight. I'm wondering if that report is done and was presented elsewhere, but not here or that's something that needs to be agendized?

Chief Armstrong: That report has been completed and was presented at the last Oakland City Council public safety meeting. We can pull that report and have that report brought either in the packet or we could have it forwarded to Rania to distribute to if you'd like?

Comm. Hseih: All right. And then, does that same report also have the breakdown of demographics of officers leaving, requested [inaudible]?

Chief Armstrong: So we did include that, but we also did forward that data [inaudible] specifics to chair Jackson as well.



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- Comm. Hseih: And one final question about it is, does it also have the immediate, last or prior positions or assignments of those officers that are leaving?
- Chief Armstrong: I believe it may not have had the specific assignment that they were working, but that wouldn't be hard for us to generate. It did include the agency that the officers actually went to. I believe, chair Jackson, right, that data we gave had also the agency, right?
- Chair Jackson: Yes.
- Chief Armstrong: Yeah. So we have that data.
- Comm. Hsieh: I'd be interested in seeing what the last assignment was, especially if it coincides with some of the assignments that have been eliminated or are going to be eliminated in this round of budgets. Thank you.
- Chief Armstrong: No problem.
- Chair Jackson: Are there any other questions from the commission? My seeing none, we can go to public comment.
- Commission staff: Thank you, chair Jackson. Members of the public wishing to make public comment on this item, please raise your hand and I'll call on you in the order they appear. Give just a second. I will also get our clock going. Two hands. Anne Janks, you're up first. You're unmuted.
- Anne Janks: Good evening, chief Armstrong. I am the person who submitted some questions to the process that the commission has instructed people from the [DIAS] to use previously. I'm surprised that there was not a single question in the ones that I asked that was appropriate to be responded to without any Brown concerns. Including the question that I've asked over, I think, four meetings, about what the policy and training is, about officers making statements about politics and policy and their assignments, in uniform and on shift. I haven't been the only one asking about it. And the first time I asked, the chair instructed you to come back with an answer next time, but then the chair wasn't there the next time. And I just don't see a Brown problem with that, but then again, I'm not a parliamentarian.
- There were, I think, some questions in terms of the survey that I, again, do not think were a Brown problem. And I just also have to mention that I'm really concerned about using the Anti-Defamation League, which is a hate group, to teach anti-hate stuff. The Anti-Defamation League has characterized Palestinians in really problematic ways. We have a Palestinian community. We have Arab communities. And I think that we've got to find trainers that would provide confidence with everybody that the training was in fact culturally



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sensitive. So I hope that this is the last time that a contract with the Anti-Defamation League will be done. Thank you.

Commission staff: Thank you, Ms. Janks. Next up, Ms. Olugbala. Oh no, my bad. I'm so sorry. But I do see Ms. Olugbala, you are right after Oscar Yassin. Oscar, you are up first. When you're ready.

Oscar Yassin: Can you hear me?

Commission staff: I can.

Oscar Yassin: First to the commission, you're missing, and the public is missing a very valuable opportunity to get data on a regular basis from the police. And it would be great if the commission had a routine, a series of questions they ask, a list of data that they want to collect, and that would be an ongoing historical record that's independent of the police just putting out a report that the city council or public safety committee look at. And it would allow the public to interact a little bit more with the police, and I would just wish you would do it. And to Ms. Janks' statement, there are questions posed every week that Mr. Armstrong says he can't answer and often the next week they aren't answered and no one has a running count of what that was. And so, it's often forgotten and missed. And so, that's a missed opportunity.

I am a Palestinian. I do find it deeply offensive that the OPD would go to the ADL. It's not a matter of opinion. When Trump did a very contentious thing that caused a lot of violence in the area when he illegally moved the embassy to Jerusalem, which is contested territory, the director of the ADL went to the party that ex president Trump threw. It's not a matter for debate. It is a very loaded group to invite to do that. They do issue a lot of racist stuff against Palestinians. I wish people knew it. They tend not to, but please have a little insight, big Arab community in Oakland, big Yemeni community, big Palestinian community. Please do not let them do this.

Commission staff: Thank you so much, Mr. Yassin. I appreciate that. I too am Palestinian. Ms. Olugbala, when you are ready, I am I'm unmuting you.

Assata Olugbala: Yes. I want to agree with the position that we should not have contracts with the Anti-Defamation League. And if you want to get some education like I have, look at the resolution by the Wellstone Democratic Club that just was presented a few days ago, of the human rights violation of our Palestinian community by the State of Israel genocide. So we got to be very careful about understanding who we doing business with and [inaudible] human rights violations of our Palestinian community has to be uplifted and supported.



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I was engaged this week in a protest. Police had to be called and when they arrived, I have to say that the exchange was fair. It was Alvarez and I can't remember the other officer, his father's from Jamaica, I remember that. But everything that goes on doesn't have to be confrontational with the police. It doesn't always end up that way. So [inaudible] it could have been a bad situation, but the officers handled it very well. But the most important thing I want to say is, that anti-defamation thing, very inappropriate. The Palestinian community doesn't get enough recognition for the human rights, genocidal issues that are going on in Israel. Thank you.

Commission staff: Ms. Olugbala, I appreciate that. Chair Jackson, that was the last of your comments. Commissioner Gage's hand is raised.

Chair Jackson: Thank you very much. Commissioner Gage?

Comm. Gage: Oh. Thank you, chair. To the chief. I'd like to follow up on some of the comments saying about the vendor you selected. So from your statement, it sounds as though this vendor was selected as a result of a settlement agreement. Should I take that to mean that this contract has already been executed?

Chief Armstrong: Yeah. I want to be clear that I didn't speak to a contract as much as an agreement and it was offered free to the department. And it was a training that was provided to address some of the antisemitic behavior that we attempted to address within the department. They also had the capacity to provide the training for free. And I think, in our research, obviously some of the things that was brought up tonight was not the things that we uncovered based on the training and presentation that we were provided.

Comm. Gage: Thank you for that clarification. I think the word contract came out of my mouth and not yours. In that case, given the comments made tonight, we would urge you to potentially reconsider who provides the sort of anti-bias training the department is looking at. It's not a particularly good look when the principal of the organization is behaving in the ways described, given our current political climate. Thank you, chair.

Chair Jackson: You're welcome. I'll add to that, that oftentimes we look at what is free and think it has value and sometimes it's just the opposite. Are there any other questions or comments? Okay. Seeing none, I want to thank you very much, chief. And to Anne Janks, my apologies. I will be following up and will get some of the questions that you've been raising for a minute answered and appropriately agendized.

Commission staff: Chair Jackson?



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- Chair Jackson: Oh. I'm sorry. Yes. [inaudible] policies. My apologies.
- Commission staff: No worries. No worries.
- Chair Jackson: Is lieutenant Turner presenting on that or? I'm not sure who's presenting on that.
- Chief Armstrong: I'll start off, chair.
- Chair Jackson: Okay.
- Chief Armstrong: So tonight we're bringing forth the revised CID policies and procedures for the police department's homicide section. This is the last policy that we are bringing forward related to our mandated completion of all policies from the public investigation and additional recommendations and policy changes. Lieutenant Turner will take us through the document, but also the commander of the criminal investigations division, deputy chief Lindsey is here to answer any specific questions regarding the practices of CID. This current policy draft that we are presenting tonight has been both reviewed by the independent monitoring team and approved as well as by the plaintiff's attorneys in the Allen case, as well as reviewed by our City Attorney's Office. So we have continued to do multiple revisions of this particular policy and it's brought us to this point to bring this before commission. And so tonight, it's our hope that we can answer any questions relevant to this policy and have it approved. It is the governing policy for how we handle what we call level one use force investigations which are the most serious investigations that we take on. And so with that, I'll pass it to Lieutenant Turner to take it through and then Chief Lindsey is here available if there's any specific questions.
- Chair Jackson: Thank you.
- Lt. Turner: All right. Thank you. Thank you, Chief. And thank you Chair and commission. Lieutenant Joe Turner here with the policy and publication unit. Just confirming everyone can hear me all right.
- Chair Jackson: [inaudible].
- Lt. Turner: Okay. Excellent. Thank you Chair. So yes. Thank you Chief for the introduction and I will just briefly go through kind of the policy. It is in the agenda packet I believe, but basically what this policy sets forth are the responsibilities and actions of our sworn officers and evidence technicians and such during these level one force criminal investigations. And so just to be very clear, what level one force basically is, it's a specific type of force that is the most serious, so ones where the officers are discharging lethal firearms, where a person is injured or dies as a result of any sort of use of force by the police or certain things where



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the action by the officer might reasonably be thought to maybe cause great bodily injury or death.

So things of that nature, very serious uses of force by the officers. And so this policy specifically talks solely about the criminal investigations. So as you know, when we have these type of investigations, there are other investigations, the internal affairs investigation, the CPRA does its own separate investigation, perhaps the prosecuting agency like the District Attorney's Office, or maybe the Department of Justice, the California Department of Justice in certain situations. This policy does not impact those. The only thing it does speak on is the department's responsibility to conduct a criminal investigation into whether anyone's behavior, including the officer's rose to the level of a criminal violation. And so the policy, basically, in its most largest sort of sense, is in four sections, four general sections. So you talk about first the duties and responsibilities at level one incidents.

So what this provides is very detailed, step-by-step instructions for those initial people who are at the scene of one of these things. So the department has what's called a watch commander system. So there's always a commander of the rank of lieutenant or above who's on duty at any time of the day, day or night, 24/7, 365 days a year. That person is absent anyone else of higher rank like the captain or the chief or anything like that, that person is always a commander and to take responsibility for these larger incidents at any time until properly relieved by a higher ranking officer. During one of these incidents, that person, as the watch commander or the initial incident commander will come and take several steps, which are very important to an ongoing criminal investigation, making sure that witnesses are separated, that officers who used force are separated, they are sequestered, that their work cellular phones are taken, that their body-worn cameras are taken and preserved as evidence.

It's evidence procedures that are standard in any kind of criminal investigation, but that we really want to make sure are taken care of during these incidents. So we have the duties and responsibilities of those initial people. So it's a very easy kind of list that someone can go down and check. And then for all of the ancillary or not ancillary, but the other people who are coming in as part of these level one incidents. So that includes everyone from the Bureau of Investigation's deputy chief on down. So the criminal investigation division commander, who's a captain of police, the homicide section commander who's a lieutenant, and then those specific force investigators. And again, these are just criminal investigators, but they are specifically trained in these type of incidents, ones where police officer use force, typically firearms, but not always, and where unfortunately, sometimes the engaged person might lose their life or be seriously injured.



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The second section talks about the interviews, talks about questions, and gives guidelines and references and there's appendices about specific questions to guide those investigators into investigating and asking the questions about these incidents. And then also goes through the department's protocols on how it handles these interviews. And so there are sort of specific ways. Again, very similar to the way in which the police department interviews those who are accused or arrested of crimes. Because it is a criminal investigation, there are strict rules that the department has to follow just as we have to follow with any person who's accused of committing a crime or is being investigated. The third section, it talks about the follow-up investigation. So it goes through the mission of the investigation, the standard of review, gives some timelines and sets some milestones for briefing.

So a seven to two hour briefing, a 30-day briefing because as we know, these events are, by their nature, chaotic. Everyone wants to know information, including the Chief on down because the Chief wants to provide that transparency to the public. But we may learn things and the investigation is always going to turn things up as it moves forward and so these sort of milestone briefings allow for the investigation division to give constant updates to the chief of police who then can push that out through the Public Information Office through things like speaking with the independent monitoring team or with yourselves as the oversight body. Talks about evidentiary considerations and things like that. And then the final section talks about the media. So initial information releases, the community briefing video or release of body-worn cameras, which is required by law and just talks about those things and making sure that those are as factual as possible, that it not impact the investigation, but that there are no conclusions given. So ultimately, as transparent as the department can be, giving facts that we know at the time understanding that those are the facts as we know them at that point and that things may change and new facts may be uncovered during the investigation.

Those are the main sections of the policy, the appendices talk about some key investigative points, and they also talk about some checklists and questions the investigators might ask and also get into specific questions for some other areas where these level one criminal investigations might occur. Specifically, one of the ones that might occur most often or where we have this written preparation is for level one pursuits. So if a vehicle pursuit, where an officer and a marked vehicle with their lights and sirens on is chasing a person who is driving away and not stopping for an officer and someone gets injured grievously or dies as a result of that pursuit, whether it's the person who's being pursued, whether it is the officer or a member of the public that is a level one pursuit and the same kind of investigations, many of them parallel.

So including internal affairs, criminal investigation, maybe CPRA come out. So these criminal investigators also use many of the same procedures and



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questions for those type of incidents. And so those questions are covered in this as well. So in terms of development of the policy, as the Chief spoke of, what occurred basically was the generation, the genesis of this policy was with the Criminal Investigation Division. As I mentioned, this is a policy that solely speaks about criminal investigation. So it started out with CID, Criminal Investigation Division, homicide investigators, the lieutenant there, the deputy chief, and the captain, and giving their input as those who have done these investigations before. As I mentioned, typically, those who are in the homicide unit that do these investigations, but even within that unit it's a select subset who have received specialized training on this.

Then also the input from the executive team, including Chief Armstrong, Chief Mendoza of Bureau of Risk Management, the Bureau of Field Operation's Bureau Chiefs, to give their input on how this sort of meshes in with those were out in the field, including those watch commanders. And then as the Chief mentioned, the monitoring team and plaintiff's attorneys. And so those were all those who provided input on this policy. And what you see is the final product that resulted in multiple... There were multiple drafts, I should say, that collaboration in this is the final product. And so, as we've mentioned in the memorandum, the staff does respectfully recommend that the police commission place this on the agenda, pursue it to 604 (b) 5. And I will happily answer any questions, but I'm sure many questions will... If there are questions about the criminal investigation, Deputy Chief Lindsey is here as well to answer those.

Chair Jackson: So I see several hands that I'm not sure, Deputy Chief, if you wanted to tag onto Lieutenant Turner before the questions are being posed from Commissioner Hsieh and Gage.

DC Drennon: Yes. I just wanted to add a little bit more information about how we were able to come to this policy. There was some research done by one of the former captains and lieutenant who looked at some agency such as the Los Angeles Police Department, I believe Sacramento, and there was one other agency's policy that they looked at for best practices. I know that the Los Angeles Police Department has a very comprehensive Force Investigation Division, very large division. However, we were able to look at some of their methodologies and practices and evaluated some of the things that we could add to our policies and procedures as well. And just, one of the things I also like to mention that these are our how to do the work type of policies as housed under the Bureau of Investigations. We do have a myriad of other policies and procedures that are in addition to this policy that are very specific to how we want our investigators to conduct investigations. So it may include something as report writing. It may include something more specific as to how to conduct an interview and or interrogation, but this is very specific to the level one use of force investigations,



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but we also have additional policies and procedures that outline and govern the Bureau of Investigations. So I just wanted to add that caveat as well.

- Chair Jackson: Thank you very much. The first two questions from commissioners are Hsieh followed by Gage.
- Comm. Hsieh: Thank you Chair. Through the chair, just want to be sort of... put as fine a point as I can on it. This is a policy that at OPD generally will... how OPD will generally investigate the criminal investigation for level one uses of force when they occur in Oakland. Is that right?
- DC Drennon: Yes.
- Comm. Hsieh: Okay. That is the case whether it is an outside agency that does something that is a level one that we... Sorry. We characterize as a level one use for such as, say, the shooting of Jonathan Cortez by the FBI agent.
- DC Drennon: Yes.
- Comm. Hsieh: Okay. Does that also mean that that is OPD conducting the criminal investigation of OPD officers when they conduct a level one use of force?
- DC Drennon: Yes. So basically it just governs how we are going to conduct these types of investigations to ensure consistency, to ensure accountability, to ensure that any officer or watch commander, or even the deputy chief, has a set of rules as to how they are supposed to perform their duties as it relates to a criminal investigation related to an officer involved shooting, or like Lieutenant Turner mentioned before, a vehicle pursuit that could result in death or serious bodily injury.
- Comm. Hsieh: And so what you're saying is the best practices for conducting a criminal investigation of level one uses of force by an agency is to have the agency's own investigators do the investigation and not an outside agency?
- DC Drennon: Well, as it relates to for our department and the Alameda County District Attorney's Office. So for instance, with the FBI shooting, the district attorney asked that we conduct a parallel investigation alongside of their inspectors. And so with that request, this policy ensures that we conduct that criminal investigation based on best practices and based on consistency. So we'll always conduct that criminal investigation as it relates to these types of offenses, the same type of way, the same type of methodology. So we expect that we would follow these procedures for each incident, as it relates to level one uses of force.
- Comm. Hsieh: Consistency. I get it. I will say though, that I've never seen a criminal investigation of a non-law enforcement officer with procedures like this before



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and I've been watching a lot of them. I'm sure there's a reason for that. Thank you.

Chair Jackson: Commissioner Gage followed by Commissioner Peterson. Commissioner Gage?

Comm. Gage: Oh, there we go. Thank you Chair. A brief question, first to the department. Are there any timelines that we should be aware of or consider with respect to approval of this document as an initial query?

Chief Armstrong: So we were asked to come back by the judge at a previous court date. Chair Jackson brought forth to us, at that time, that we had a series of policies that we needed to review, police commission to review. And then this policy was one that was delayed a bit because we had several other policies in the pipeline. So we were asked to bring this back several months ago. So it is our hope that we move it through the process as soon as we can. I think it is one in which that is very specific to police investigative practices. And so I want to make sure that we don't put ourselves in a position where we're being asked to do things that are outside of the professional experience of all of the subject matter experts that have had input on this policy. And so we were asked to bring it back to the court several months ago. We have delayed it. It's our hope that we, at some point, could move forward on this policy. That was my hope.

Comm. Gage: Thank you. That answers that question. A number of slightly more specific questions. Some things I've seen in the policy itself. The first has something to do with something on page 36 of the attachment, having to do with the status of the interviews being voluntary. Can you explain why that is?

Comm. Peterson: And you said it's on page 36. What number are you looking?

Comm. Gage: Let's see. On our agenda packet, it's under page 36 in our packet. It's the subtitle "Type of Interview for OPD Materially Involved Members," under section two.

Lt. Turner: It's on page 17 of the policy, Chief.

DC Drennon: Okay. Thank you. Okay. Let me just make sure I'm looking at delaying OPD... Okay. And so your question is about the voluntary nature of it. Is that your question Commissioner Gage?

Comm. Gage: Yes. Can you explain why those interviews are considered voluntary?

DC Drennon: Yeah. So this is a criminal investigation and so we do give in abridged Miranda to the involved officer. And so they do have a right to not give a statement because it is a criminal investigation and so they are allowed to exercise their constitutional rights. They are, typically... Well, I've never seen in my time here



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represented by an attorney when they provide a statement to the criminal investigators. However, if they do decline to provide a statement, they still are inclined to give an administrative statement to the Internal Affairs Division. And at that point there is, I believe it's Lybarger Statement is read, and then they're compelled to give a statement. However, that statement, if we were to go down that route, could not be used in the criminal investigation. Does that make sense?

Comm. Gage: Thank you. Thank you.

DC Drennon: You're welcome.

Comm. Gage: Moving down a bit, there's a section that talks about the location of interviews and the persons allowed to be present. It indicates that separate personnel are only able to observe remotely. Can you explain why separate personnel aren't allow to participate directly?

DC Drennon: Yes. So we try to minimize the amount of people that are in a room while these interviews are ongoing. You have the person that's giving the interview, their representative, and the two lead investigators who are... One is asking questions. The other one is observing. They also have the opportunity to ask questions if need be. However, best practices have shown that you don't want to have a large amount of people in a room. Sometimes it can create confusion. We did have some challenges in some previous investigations where there was a lot of people in the room. It was not very structured and it did cause some concerns as to the outcome of that interview. And so just focusing on the best practices and just trying to be very intentional and structured as to trying to get the best outcome for the interview. And then also ensuring that we're maintaining consistency with some structured questions that we're asking the person that had been involved in the actual use of force. And so we just learned from just some of our mistakes and then just also from some of the best practices, just to minimize the amount of people that's in the room.

Comm. Gage: Thank you. To Director Alden, my general sense is that CPRA perhaps might not want to participate too directly on the criminal side of this sort of investigation. And I see you nodding your head, which certainly aligns with my understanding of this process. Okay.

Chair Jackson: Are you good? Commissioner Gage, you okay?

Comm. Gage: There was something else and I've lost it.

Chief Armstrong: Hey, Commissioner Gage? Can I just add into that last point where you spoke CPRA. So the internal affairs commander is observing the interview and Director Alden and CPRA is in communication with the ID commander. The ID



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commander is so present during that... Well, is observed in that interview and has a chance to hear what is being said in interviews.

- Dir. Alden: Commissioner, if it helps, I'd just chime in that I agree with what you've heard earlier. That is definitely best practice. I could tell you more if it's useful.
- Chair Jackson: Yeah, I was coming to you John, but Commissioner Peterson's hand was up first. So Commissioner Gage, I just want to make sure that you're finished with your line of questions.
- Comm. Gage: I believe I am Chair. I would like to note for fellow commissioners, I'm curious as to whether commissioners feel comfortable with the document. It's fairly administrative, but it is dense and my understanding is this is the first time that any member of the commission has seen this document. I'm curious, given the timeline, if this makes sense to refer to an ad hoc for immediate action.
- Comm. Peterson: So Chief, is this one that came to us some time ago?
- Chief Armstrong: This is one that we've been working on for some time with the federal monitor and the plaintiff's attorneys for some time, as well as our city attorney. And so this is one that actually is important because it governs, if we were to have an OIS tonight, we want to make sure that we have codified practices that are best practices and are aligned with the recommendations that the IMT have from the public investigation. Chief Lindsey and her team have been trying to follow.... have been following this draft, but it's actually not codified in policy. So essentially, we can't necessarily hold people accountable to it at this point. So I think from our standpoint, it really is, I think important that we have a policy that can help govern the way we investigate shootings right now, as we are out there right now, addressing issues in the community. And so I think there is an opportunity I was offered to the commission that there's always the opportunity to bring it back and work on it or if there's need for improvement it or modifications. But I do think it's important to have a policy in place that is aligned with this current draft that we have brought... our final draft that we've brought before you approved by the IMT and the plaintiff's attorneys and the city attorney.
- Chair Jackson: Okay. Got you. So Commissioner Peterson and followed by Hsieh and then Jordan.
- Comm. Peterson: Okay. Thank you, Chair Jackson. I have a, kind of a general question because in the back of my mind I recall several meetings ago, there was a mention of the California Highway Patrol being invited into Oakland for mutual aid and I'm wondering if this policy... And we were concerned about at that time, chain of command. So how would this policy impact or be applied to an officer involved



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shooting and its subsequent investigation if that officer involved was a officer from another jurisdiction, like the highway patrol?

DC Drennon: Yes. So this policy, again, just governs how the investigators are to conduct their investigation. And so everything that's outlined in this policy, we would still conduct that investigation the same way with the California Highway Patrol. Or we had another shooting with the outside agency about a year ago, which was the San Leandro Police Department. And so the same type of rules, the same type of protocols that's outlined in this policy, that is the expectation of how the investigators are supposed to conduct that investigation. We do work with other agencies so that they can bring in their administrative team, comparable to our Internal Affairs Division Team so that they can observe you and get the necessary information that they need for their internal investigation. But we still have our due diligence to conduct this criminal investigation as outlined in this policy here.

Comm. Peterson: So if we did have an outside agency, do we have a memorandum of understanding that our policies and procedures supersede theirs? Or you said an expectation that they would follow, but are they required to? I'm just curious.

DC Drennon: Yeah. I mean, this is a criminal investigation. We're the lead agency. So if there's what we consider a homicide, officer involved shooting in the city of Oakland, it's a criminal investigation so we have that authority because it's a criminal investigation. And when I mentioned that we'll work with the other agency, there's no manual of rules or understanding that's required because they, too, will conduct an administrative investigation, no different than the Oakland police department. However, we would be the leading agency because it's a criminal investigation.

Comm. Peterson: Okay. Thank you.

Chief Armstrong: One caveat to that. Because I think want to be clear about when we come to a federal officer involved in a shooting that is a different circumstance. We may not be the lead investigating agency on that particular shooting because they have very different federal rules that they fall under. And so we don't have the same level of control over an investigation as we would if it was a state or a state of California police officer certified in the state of California. So the jurisdictional things come up when we deal with federal involved agencies, which requires us to work with the District Attorney's Office. And in the case of the current federal involved shooting, the District Attorney's Office is the lead agency because of our policy's strict requirements and the federal government's policies contradicting our policy requirements. And so the Alameda County District Attorney has taken the point on that particular case. We are conducting an investigation as well but we are not the lead in that investigation, so



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therefore the policy that we are speaking to specifically wouldn't apply in that investigation because we are not taking the lead on that investigation in terms of, being it taking the statements from the individuals or all of the things that we're speaking about today.

Comm. Peterson: Okay. Thank you.

Chair Jackson: Okay. Commissioner Hsieh and then Jordan.

Comm. Hsieh: So I wanted to just actually make a comment to my fellow commissioners in that, obviously I displayed a great deal of skepticism in my previous comments and questions. That is less towards this overall policy and more towards just an overall concept of whether or not we want the Oakland Police Department to be investigating... doing the criminal investigation of its own level one uses of force. In general, looking at this policy, it's quite a good policy. It goes through many steps. It's very detailed and it affords a great deal of due process that I wish I would see in the investigations that I have to over go for the people and the cases that I represent. I think it's a good thing that they are investigating. I think it's a good thing that they are consistent about it and afford that due process because it protects the integrity of at the investigation against later attack. And frankly, I think it is a good policy. My skepticism is completely different than... is not a criticism of the policy itself, but where it applies and why.

Chair Jackson: Well, appreciate that insight. Commissioner Jordan?

Comm. Jordan: Thank you. I mean, having not really had maybe as much time as I would like to examine the policy thoroughly. It's hard to say how I feel beyond a real cursory examination or reading it earlier today, it seems affective I'm not the expert on this particular topic, but again, sometimes it takes some time to digest something this dense. My real concern about this, and this is a thing we've seen a few times now, is that we have external federal oversight pushing what policies need to be fast tracked or what policies need to be prioritized. I agree this is an important one, but that's because it's being applied the way it is. It feels like some of these things are being... I don't know.

I hate to say that there's an end around happening around the commission as well as the community voice that the commission is looking to represent. But I'm curious, the chief said that this had been in the pipeline for a while, and there had been subject matter experts looking at this and providing input. But I do wonder, if it had been ongoing for a while, was there any attempt to have any public voice added into that? I understand that this is a priority, it needs to get done quickly. It needs to be in place so that we don't have a gap in policy coverage, which dictates the disciplinary issues and even more important criminal related issues.



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But at the same time, if this has been ongoing, I think that there's... I know in public comment, we're going to hear people concerned with, "Why is there another fully formed policy coming to the commission without any external voices being represented in that?" Part of that, I'm sure, is the efficiency of getting it done and in place so that it's there. But also, I just feel like this we need to look at how this process is being run. It feels as though we're being asked to approve it in the interim until we can put in place an ad hoc to look at it and apply a critical eye and community voice to it. I guess if it's already been running, I would've preferred that some of those things be applied at a more formative base level in the process, as opposed to after it's been essentially created. Those are my concerns. I don't know. There's much we can do about it now, other than reject it and start from scratch, which I don't necessarily think is the right move. That's all.

Chair Jackson: Thank you. Commissioner Gage.

Comm. Gage: Thank you, Chair. I should be better at un-muting myself by now. I want to thank commissioner Jordan for his comments and I share much of what he mentioned. I think to the department specifically, this feels a bit fast. As someone who spends a lot of time reading these kinds of documents and can generally do it pretty quickly, it's a little... If I feel a bit of pause doing my pre-meeting preparation, I can only imagine how members of the public are feeling when you look at a completely formed policy, regardless of how good it is. Because frankly, I would agree with Commissioner Hsieh, this looks to be a pretty good policy. It doesn't address the greater issue of whether OPD should be investigating itself when an OPD member is alleged to have committed a potential crime. But that's a bigger question that isn't properly addressed here potentially, because we may not have the resources to address that in this county, least not a present.

I do think that there is something to be said for our role as a public forum and the criteria that we need to apply before granting our endorsement. Because, anytime the police commission approves a policy, that's going to show up in a press release, is going to show up in open court, it's going to be mentioned. It's concerning to see a fully formed policy that's asked for endorsement when we have a constituent public that is going to be asking us why they didn't have a seat at the table during the process. I'm trying to think of a way that we can move this forward while addressing that concern, granted this is a relatively fully formed policy. It's hard to imagine what kinds of changes would likely come out of additional work, but I suppose I'm grasping at straws here, trying to think of what we can do at this point to both quickly move this policy, as well as address our constituent concern as a public forum. Thank you chair.

Chair Jackson: Thank you. Commissioner Gage. DC. Lindsey is going to address hopefully some of our concerns, or some of your concerns.



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DC Drennon:

Yes. Thank you, Commissioner. I just want to point out that this is an internal policy and procedure for the bureau of investigations. Typically, these types of policies and procedures can be signed off at the bureau chief level, it's different than our general orders. So for example, Commissioner Jordan, the general order from our missing person's ad hoc committee, that's different than this type of policy and procedure. This is the 'how to'. Some of the larger issues that are being discussed such as, should the department be investigating the police officer, or should they be responsible for investigating the outside agency. Those are larger issues that could be taken up through either a general order or through a county understanding. Maybe the chief can speak to about the Alameda counties chiefs, understanding as to who would be responsible for conducting criminal investigations against police officers when they use force.

I know that for in custody deaths, the district attorney had stated that they would take lead on those types of investigations. However, in our policy and procedure, as you see outlined here, we still talk about in that policy, how to conduct those types of in investigations if we were deemed to do it. But at this point in time, we're not doing those types of investigations. We don't do the in custody investigations because the district attorney does them. However, again, this policy talks about the, how to. So, it's more about the skill that's required for an investigator as whether they're a police officer, they're at the rank of a Sergeant, they're at the rank of a Lieutenant, Captain, Deputy Chief. It basically outlines what you're supposed to do, who you're to notify if and when an officer involved shooting occurs. It tells you if you're the Lieutenant of homicide, your to notify your Captain, you're to notify your Deputy Chief. The Deputy Chief is supposed to notify the Assistant Chief or the Chief of police. It just tells you how to do things.

We have other general orders that outline the level one uses of force. That would be in general order K-3, general order K-4. Those are the law larger general orders that everyone in the police department is responsible for. This particular policy and procedure is applicable to the investigator, the police evidence technician, and the watch commander. It's very specific as to the skill and the work that's needed in order to conduct the investigation. We still have other general orders that direct the behaviors of investigators, officers, et cetera as it relates to the bigger picture. This is more specific to a specific skillset, to a very specific entity as it relates to level one uses of force.

Comm. Gage:

Thank you. Commissioner Harbin-Forte.

Comm. Harbin-Forte:

Yes. Thank you very much. This may well go to DC Lindsay's point. One of the things Measure LL does seem to place some limitations on the kinds of things that we can approve or reject. It seems that under 604 B-4, "We can propose changes to the adoptional resolution, including modifications to the department's proposed changes to any policy, procedure, customer general



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order, et cetera, that relates to use of force and other specified things." Subsection five talks about things that we can approve or, or reject. Then there's subsection six that gives us only the authority to review and comment on at our discretion any other policies, procedures, customs, and general orders by the department. It says that "All such comments shall be submitted to the chief of police. And the chief of police shall provide a written response to the commission up on the commission's request."

I think the first thing we need to figure out is whether this is even a policy that we have any jurisdiction over basically to approve or reject. If, though, it does relate to something that is the subject of a court order, then we can approve or reject it. I think we should figure out whether this even falls within our jurisdiction to approve or reject, and if it does, then yes, we can approve or reject. I say that only because, if it's not something that we can approve or reject, then perhaps we should not stop the department from trying to implement a policy that it feels is necessary right now. That we perhaps should not ask for a public comment, et cetera, et cetera. But I don't know, the first question is, does it fall within something that we even have authority to approve or reject?

Chair Jackson: Based upon fact that it's something prior to the NSA, which is also tied to which we actually weighed in on, it sounds like it is under our jurisdiction. Conor, would you question that or would you affirm that?

Commission counsel: I wouldn't want... It sounds like Commissioner Harbin-Forte would want me to take a look at it and consider it off thread. I had the same reaction that you did share. I think one of the things that's core to the charter authority of the commission when it comes to their policy authority is the broad phrase elements, when it comes to elements of federal settlements and court orders. At the same time, I'm more than happy to take under advisement any potential alternate interpretation, either now, or if the commissioner wants to chat with me off thread and come back to report. But, I also would note that an important part of the charter here is, if the commission does want to approve or reject and send to the city council, it does have a shock clock. I would want to turn that around you very quickly, even if I don't want to necessarily opine from the dais right now about the ultimate effect of the charter on this question. Because it's an important question. Thank you.

Comm. Harbin-Forte: Madam Chair, if I can say, if we're all agreed that this is a policy, basically that arises out of a court order or NSA or something, then I think that yes, we certainly have authority to approve or reject it. If everybody agrees that it is, that it falls within our jurisdiction, then I'm fine. I did not... The Chief can probably answer whether or not this policy is one of the policies that they feel is mandated by the NSA or other court order.



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- Chair Jackson: Chief, can you weigh in please?
- Chief Armstrong: Yes. We do believe that, simply because of the judges request that this policy be approved and that's why we brought it before you all. But, I do want to echo what deputy chief Lindsay is talking about. There's a difference between a policy that governs sort of use of force versus the specificity of how you handle an investigation. I think that's what our major concern is, is that we have to have something that governs these investigations as they're currently happening.
- Chair Jackson: That's right.
- Chief Armstrong: I think that's our major concern.
- Chair Jackson: Okay. Thank you. Commissioner Hsieh.
- Comm. Harbin-Forte: Then I know that there's any need for legal opinion from counsel then.
- Chair Jackson: Thank you. Okay. Thank you very much.
- Comm. Hsieh: Thank you, Chair. This involves the investigation of level one uses of force that occur in the city of Oakland, and will primarily be about investigating the conduct of OPD officers. I think this falls squarely into procedures governing use of force. I think this is under the jurisdiction. Thanks.
- Chair Jackson: Thank you very much. Appreciate that. Commissioner Jordan.
- Comm. Jordan: Yes. Agree with commissioner Hsieh. I assumed that we all were on the same page with that piece of it. I do get that there's a spectrum of levels of policy. We've got general orders, we've got training bulletins, we've got these policy procedure pieces. At the same time, it feels like this is a pretty important document for us to take a critical look at and to be asked on relatively short notice to just say, "Yeah..." Look, I've worked with all of the department members here on ad hoc's, and I respect your opinion. When we have worked together, we have sat in these zoom meetings, having long conversations about the details of these policies. By and large, even if I don't always agree with you, I respect your perspective and your experience.
- What I'm not saying is that, what you provided is somehow suspect or attempting to sort of... Or is wrong. I just question, if it is around something as important as use of force, especially given the public fervor around specifically the FBI shooting recently. Asking us to rubber stamp something like this, it seems like a bad idea. A, it's terrible optics. You're looking to undermine your public position and our public position by asking us to do something like this. Further, I just think that, yes, maybe this is something that in the past could be



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approved at a level where we're just asking [inaudible] or asking approval as opposed to true engagement and partnership in putting this together.

But, why would you do that, given all of the challenges that you're facing publicly right now? We've had so many conversations. I've had conversations with Deputy Chief and the Chief in ad hoc and in other environments where the stress and frustration around your public image, the department's public image, public image of police in general, and then to bring something... I feel like I'm being very aggressive and critical here. I feel like the explanation of why this is different and didn't necessarily need to have the same sort of scrutiny applied to it was minimizing my concerns. I didn't appreciate that. I don't want to come back with being aggressive with you. I do respect you, but it just seems like good sense dictates that we should be applying as much public transparency as we can right now and going forward. So, as to avoid the idea that there's something as vital as this is being rubber stamped. Thanks.

Chair Jackson: Okay. I think the distinction is, we haven't had a, how to, before us, as opposed to a general order. But, that's neither here nor there. I know that the biggest issue is that they want to try and get this completed before we go back to the Judge in January. I will sit with this for about five minutes and then report back to you all what approach I think we should be taking. Police Chief Armstrong.

Chief Armstrong: Yes. Chair. I just want to say that, it is not the department's effort to try to cover up in anything or pull anything over anybody's eyes. We recognize in the public investigation that we have flaws in our current policy, that we had areas where there was need for immediate approve improvement. We faced significant criticism from the federal monitor regarding the handling of the Pawlik investigation. They pointed out to us several areas that needed to be fixed in order to make sure that if we were to have future officer-involved shootings, that they would be conducted in a certain manner. I think it was our effort to try to fill those gaps so that we wouldn't be actually proceeding as a organization with the flawed policy that's been brought to our attention. I think that's only, I believe, prudent upon a organization to try to fix a flaw when you have been told it's a flaw, you need to fix it, there's holes in it.

It led to a poorly done investigation, which related to the Pawlik investigation. I think in our instance, it is not about pulling a wool over anybody's eyes or trying to rush or not have community input, it's about trying to fix a broken policy. Now, that doesn't mean that we're saying that it's not appropriate for police commission to have further comment or bring it to the public and ask for more input from the public. But, I think if you know that, as a leader of an organization, that I have a policy that needs to be improved because the federal monitor has told me that it is a problem policy, then I think it's my responsibility to create a policy that helps address those issues. That's what we seek to do in this case.



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We've been seeking to bring this policy for several months amongst, but we had obviously a lineage of policies that we were bringing forward before the commission. So, I don't think it's any intentionality on the department's behalf to try to hide anything or be disingenuous to public. The Pawlik investigation is public, it's very clear. You can read it and see it says, "The department had all of these areas that needed to be improved." Essentially we took those recommendations and created a new policy to meet the demands of that really bad writeup regarding the Pawlik investigation.

Chair Jackson: Chief, the Pawlik investigation was 2019, correct?

Chief Armstrong: Yes ma'am.

Chair Jackson: Okay. What's the aftermath of the blow back? If we should create an ad hoc to dive deep, fairly quickly. Let me go back on that. Basically the policy that you had in place in 2019, that we now know was flawed, this is the improvement, because you can only enforce a policy that's actually on the books, correct?

Chief Armstrong: Yes ma'am.

Chair Jackson: Okay. I understand Commissioner Jordan's point about not having community input, but given the rate of homicide and extraordinary crimes, it sounds like you need a policy in place that governs a more effective series of how to investigate. Let me think on this so that we can try to do as thorough a review as possible, especially given some of the weigh-ins from folks that review policy all the time, specifically speaking of commissioner Hsieh and Gage. Okay. I think that we probably need to go to public comment now. Thank you very much, Chief.

Commission staff: Thank you, chair Jackson. Members of the public wishing to make public comment on this. [inaudible] please raise your hand and I'll call on you in the order that they appear. Give me just one second. Anne Janks, I see you first. Give me just a second. I'm going to tee up the clock. All right, when you're ready.

Anne Janks: I wholeheartedly agree with the Chief Armstrong, that I don't believe that there was some intention to do things in an underhanded way. However, I think there was a clear intention to present a completed packet before asking for the commission to engage. That urgency was therefore created by OPD, they've done this before, where they've even said, "Oh, we can't make too many changes because we already got other people to sign off." They can decide anytime they want to start engaging the commission sooner and not have this problem. I've only read this briefly and I'm not one of the folks who reads these things all the time. I am globally concerned because I believe the commission should never rely solely on research from OPD about best practices. Often we



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want to do better than whatever best practice got negotiated through politics in some other city. You have more power than other cities do, and you shouldn't just look for best practices, and certainly not have OPD doing the looking.

There's several concerns that just jumps right out at me, but I want to point out level one uses of force are flash points events. This is not an internal document. This is a document that's going to be read by families of a dead Oaklander. This is a document that's going to be read by an Oaklander who was tased three times. I don't think you can say it's just internal. There's language about a 30 day briefing when they're going to discuss the video release, seems to suggest that would include edited video. There's no language about communicating with the family of a potentially deceased person. Under media, there's pieces missing that are in the index, it's unclear on what information will be released and what the timing was. This is just what's occurring to me right off the top of my head. Please tell OPD don't bring something at the last minute and pretend that it's urgent, you should have brought it to us earlier.

Commission staff: Thank you, Ms. Janks. Next up, Mr. Yassin, when you are ready, I've unmuted you.

Oscar Yassin: Thank you. Can you hear me?

Commission staff: I can.

Oscar Yassin: Thank you. I totally agree with the last speaker. I think in this environment with two officer killings of Oakland residents still being investigated in ways that no one feels like they understand very well, no one can tell whether it's being done right or in good faith. It's just from the commission's point of view and from OPDs point of view, it's not the right time to say, "Now we have a new policy because the court told us that we needed a new policy and we don't need any input. We did a really good job." I think that's the wrong message. I can't imagine the judge saying, "What you waited for the commission to weigh in? How dare you." I can't imagine the judge being unsympathetic to a delay, it'd be an absurd assumption, so that the commission can take a look, and put its stamp of approval on it, and explain to the public why this is better. I applaud Chief Armstrong for publicly saying that the Pawlik investigation was flawed with all that it entails about the corrupt predecessor, that gas-lit Oakland. More of that, please. More calling out the past police Chiefs and the history that's gotten OPD to this point where no one trusts OPD. You haven't changed much either internally, but that's for another day. Thank you.

Commission staff: Thank you, Mr. Yassin. Chair Jackson, seeing there are no other hands raised, it's back to you.



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- Chair Jackson: Okay. Thank you. As I mentioned, I need to think on this and probably create an ad hoc and maybe reach out to figure out how harmful this would be if it's not done by January. Okay. Commissioner Gage.
- Comm. Gage: Thank you, Chair. I would ask that the ad hoc created, it does seem like this is a kind of policy that deserves a more fulsome public hearing and at least an opportunity for both members of this commission and members of the public to propose changes. I'll leave it there. Thank you.
- Chair Jackson: Yeah, I appreciate it. Thank you. So, let's move on the next item on the agenda please.
- Commission staff: Ready when you are. This is over to director Arden.
- Chair Jackson: Yep. Director Arden.
- Dir. Arden: Good evening members of the commission and the public. We have on the agenda tonight, the required monthly report of CPRA pending cases. We only have the CPRA pending cases on tonight. Next time I come to see you, we're going to have an addition to the usual pending cases report a fairly extensive report about how your budget's doing so far this year, how CPRA's budget is doing so far this year, budget suggestions that we would make for proposals to council for modification at the mid cycle budget next year. Also, some staffing ideas we have, both for this year and next year that we'd like to run past you. Our next report's going to be a fair bit more time than this one and a fair bit more written material. So, for that reason, I think I'd like to keep it short tonight and just see if you have any questions about the pending cases we have on tonight.
- Chair Jackson: Thank you, Mr. Arden. Commissioners, do you have any questions? Okay. I see none at this point. Can we go to public comment please?
- Commission staff: Absolutely. Thank you, Chair. Members of the public wishing to make public comment on this item, CPRA report. Please raise your hand and I will call on you in the order that they appear. I see one hand. Sorry. Yeah. Rashidah Grinage, give me just a second. Okay. Your time has started. Ms. Grinage. I've un-muted you. When you are ready.
- Rashidah Grinage: Thank you. I'm beginning to wonder whether the commissioners actually read these reports. With all due respect, I very seldom hear any questions coming from the commission on these reports. I actually do have a comment which has to do with a number of cases which I've noted where there's an unidentified officer, at least one. And in some cases there are several officers, but one of them is unidentified. So four who are identified and one who is not. And yet there are findings. Either unfounded or exonerated. And I'm wondering how



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there are findings when the identity of the officer has not been obtained, and on what basis the findings are made. It's quite peculiar to me. And I also don't understand how we can have an unidentified officer in the midst of four who are identified. So I really would appreciate some clarity on this. And I'm wondering why the commissioners are not interested in that. Thank you.

Commission staff: Thank you, Ms. Grinage. And Janks, I see you up next. When you're ready. Let me restart your timer. I've unmuted you.

Anne Janks: Good evening. This is partly a continuation of the conversation before, but it also fits under are here. I was really concerned to hear the explanation about the interviews and that the IAD chief would be in the room, but that the CPRA person will just get their information through IAD. And I also felt that there was a conflation going on, because the event that precipitated the decision about limiting the number of people in the room was that both there were a lot of people in the room and it was not well structured. So it seems to me, if you address the structure, then that become... you don't solve the number of people in the room. You solve the structure piece. And I'm very, very concerned about this relationship where you have to get the information from the IAD as CPRA. And it just feels like this is an ongoing theme, frankly. Thank you.

Commission staff Thank you, Ms. Janks. Okay, Chair Jackson, I see no more hands raised. Let me bring us back.

Chair Jackson: Thank you.

So this was put on a meeting or two ago, but commissioner Gage I think was out ill. So we wanted to re-calendar it because I thought that you might want to present on this or [inaudible] [crosstalk].

Commissioner Gage?

Comm. Gage: Thank you, chair. It's very kind of you to re-agendize this.

Why don't we talk a bit about the legal position first, and then I have a question for the commission. My current understanding of our legal position with respect to standing versus ad hoc committees for this committee in particular is that a standing committee is not required unless the membership is static. Which that could work quite frankly, if we're doing policy reviews on an equipment by equipment piece basis. So that could be a path forward here to do rotating membership.

I suppose, when, when I'm looking at the municipal code, and for anyone following along the controlled equipment ordinance is currently chaptered under... just a moment. Municipal Code 9.65.10. 010, excuse me. Excuse me.



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That is where the control equipment ordinance now sits. And the section that I'm most concerned about at present is... Section F the review process for previously acquired equipment.

And under the subsection, the police department will have one year from the date of passage to submit use policies and impact statements for approval if the department wishes to continue the use of equipment acquired prior to the pass at the chapter. Now that timeline has started. I don't know exactly when this was chaptered. I have to ask council to look that up, but the timeline is running.

And we're going to need a couple things to happen. The first is we're going to need the department to provide a prioritized list of its current equipment so that commission can begin the process of assisting the department in agendizing these different pieces of equipment for review and approval. And the commission itself is also going to need to set up a process by which the commission can begin the review of these draft policies when they start to coming in.

The first part to my knowledge has not yet been completed by the department. I don't believe it'll take them long to create a ranked priority list. The second though is a bit more concerning because that's the part that's on us. I would argue that the process laid out in this ordinance is publicly as possible, and with some degree of formality.

Because of those two issues, I would argue that a standing committee is likely quite appropriate. In my mind, I have thought that having static membership would be a benefit to the commission so that commissioners can engage in some degree of specialization and have some sense of consistency during this first year of the ordinance, as the current existing equipment goes through this process.

Now that's my opinion. I can certainly understand how a rotations commissioners has other benefits, but I would argue for at least now that static membership would be preferable. I'm curious to fellow commissioners what your opinions would be as to how you'd like to move forward on this. We do have some responsibilities upcoming that we are going to need to prepare to address, and I'd like to make sure we're as well positioned as possible to take on those responsibilities timely.

Thank you, chair.

Chair Jackson: Thank you. Commissioner Jordan's hand is up.

Comm. Jordan: Yeah. I agree with Commissioner Gage in that need to get started on this and we need to prioritize it. Because we have legal responsibilities to the legislation that



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we helped draft. And so though I do understand the sort of strain this puts on staff and Rania specifically, in our capacity to carry on multiple subcommittees, be they ad hoc or standing. I do think this should be prioritized if for no other reason, than we legally are responsible to do it. But also it's important. Though there are so many important policies that we need to address. Sometimes it feels like aim. I mean, it is overwhelming sometimes to even contemplate it.

I'm beginning to sort of lose track of the logic around standing versus not. I'm prepared to stay on with this. I do think there is something to institutional knowledge and consistent voice and language when it comes to something like this. But as Commissioner Gage said, that we could also share the load by breaking this up by individual category of equipment and rotate that through. But I guess long story short, I feel like we should absolutely prioritize it.

Chair Jackson: Thank you, commissioner Jordan. Are there any more comments on this? And for my own review, it was commissioner Gage, Jordan, and was that commissioner Garcia that was on that committee? The ad hoc?

Comm. Jordan: Yes.

Chair Jackson: Okay. Alright. Thank you very much. Commissioner Gage.

Comm. Gage: Thank you chair. I guess to briefly circle back to the topic as agendized, the ad hoc was formed to draft and promulgate and to push for adoption of the controlled equipment ordinance and that task has been completed. So the ad hoc's task is finished. The ad hoc can be dissolved. We ask, I suppose I would ask, and I believe commissioner Jordan is joining me, that commissioner Jordan and I be transitioned to join a new standing committee to review the soon to be received submissions of controlled equipment, impact statements and use policies. And as has been stated, we would request a third member join.

I actually believe that if I'm not mistaken and please correct me counsel, a standing committee can have more than three members. If I'm not mistaken, given that we would be publicly noticed.

Commission Counsel: A standing committee can or cannot? Just so I understand what I'm correcting.

Comm. Gage: Can.

Commission Counsel: Can. A standing committee can have more than three members. I feel like the definition of advisory committee in 54952 is about members of a commission less than a quorum. And so the definition of standing committee is officially under the Brown Act less than a quorum. So the quorum... or less than a majority. So I believe it's three. I can get right back to you, not in an opinion sake, but I'm happy to get right back to you off thread.



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- Comm. Gage: No worries. Mostly a curiosity. And thank you, Conor.
- Chair Jackson: Yes. Thank you. And I'm glad Conor is going to check it, but for the standing committees that we've had thus far, we were told that it was three. Now you could take action with two, but it was three for a total.
- And I will look into you who to identify and you all will obviously need to begin thinking about scheduling since there is an ominous coordination and regularity that will need to ensue. Now at this time, I actually... Oh, go ahead commissioner Gage.
- Comm. Gage: Apologies. I neglected to make one final request. We would require the assistance of staff from the police department to coordinate efforts for this matter. If the chief is still on and is able to identify someone to serve as a designee either tonight or at some point in the near future, that would be appreciated so we can coordinate with that individual.
- Chief Armstrong: To the chair. Yep. Lieutenant Turner will take care of it.
- Chair Jackson: Okay. Well thank you very much. Thank you, Chief. Thank you, Lieutenant.
- So I've just been alerted that someone was overlooked as a part of the public comment section for item eight, which was the CPRA report. I want to make sure that we go back and capture that person's comment. And if Mr. Alden has been able to rejoin, then that he hear it as well.
- So Rania my apologies. The person, I don't know what their phone number is, but it's [A.L. Warren].
- Commission staff: I see someone with their hand up. Just one moment.
- Chair Jackson: Okay. Thank you.
- Commission staff: I see an A.L. Warren. When you are ready, you've been unmuted.
- A.L. Warren: Thank you. I have a question about complete investigations by CPRA and, and it goes to transparency. We all know that if CPRA and the chief of police disagree on findings and proposed disciplines, then the final decision is made by the police commission's discipline committee. Which is fine, that takes care of discipline. But then a civil suit is filed and plaintiffs are awarded thousands of dollars by the city council. Because they find in their favor.
- And shouldn't those kinds of cases be mentioned in the director's report? Because it probably had some impact on the amount of money that was



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awarded. And and also we would then have an opportunity to know what the findings were.

It just bothers me that even if an officer is found to have acted improperly, the taxpayers end up if there's a civil suit, but we don't know what the finding was by CPRA in the first place. So we don't know what kind of job he's doing, what the performance was on that particular case. I hope I'm making sense. And I appreciate the opportunity to be able to speak to you. Thank you.

Chair Jackson: Thank you. Mr. Alden, I'm curious about the answer to that question too. Is that something you can respond to?

Dir. Alden: I'm sorry, Madam Chair, I wasn't anticipating that was going to come up and I was rushing back to my device. So I honestly did not hear the question. I just got back on the call about 10 seconds ago. Could you paraphrase it for me?

Chair Jackson: I may not do a great job. So the caller talked about understanding that when there's a disagreement on discipline between the police department and CPRA, that it comes to the police commission and she understood that. But if there is a civil suit where the city pays out thousands of dollars, then shouldn't that determination be included in the CPRA report? Because then it would be important to identify what the outcome of the investigation was. And I'm kind of blanking on my last couple of thoughts.

Anybody else want to jump in and help me? Oh, because it would determine, or at least give some insight into the quality of the job that was done.

Dir. Alden: You mean the quality of the job that was done by CPRA?

Chair Jackson: Correct. Otherwise we [crosstalk]-

Dir. Alden: I'm not following, yeah, I suppose my first response would be, I'm not following how the civil suit would help us understand the work done by CPRA. Maybe there's something else we could follow up on offline to help me understand that better.

Chair Jackson: Okay. Well, my problem is, it's not my question and I was trying to paraphrase and perhaps I didn't do a great job. I would not have a problem having Ms. Warren call back in to clarify the question so that you could hear the whole thing from her mouth. Rania, can you-

Dir. Alden: If you'd like an ac-

Commission staff: Okay. I think director Alden is probably in and out. It sounds like he's on the move. Yes. Ms. Warren, if you are available to call back in for open forum part



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two, please do. Also please feel free to email and I'll include it as either written public comment. We'll certainly get it addressed.

Chair Jackson: That would be great. Thank you for those options.

Commission staff: No worries. Chair, can I take us into public comment for the last item, militarized equipment. Now I do see some hands up. I am hoping that the hands I see are for militarized equipment.

Chair Jackson: Oh, my apologies. I thought we were done. Okay, thank you.

Commission staff: No worries. So members of the public wishing to make public comment about the last item on the agenda, which was militarized equipment, please raise your hand and I will call on you in the order they appear.

I see John Lindsay, Poland, give me just a second. Sir, you'll be up. Sir Lindsay Poland, I've unmuted you when you are ready.

John Lindsay-Polland: Can you hear me now?

Commission staff: I can.

John Lindsay-Polland: Oh, great. Thank you.

So as commissioner Gage said, the Oakland ordinance allows for a year for consideration of use policies for equipment covered by the ordinance that OPD already has. But in the meantime, the governor has signed AB41, which has a faster timeline, which is that all law enforcement agencies in the state by May 1st must submit to their city councils or boards of supervisors use policies for equipment that is covered by AB41. And so in the case of Oakland, because it requires that those use policies go through the police commission. It's even more accelerated because the commission will need to consider those use policies before they go to the city council.

They could be considered, they could be submitted at the same time to comply with both laws. But in either case it's a more accelerated timeline. These things also require more things than already exist in policies. There's more equipment covered under the state law, including unarmed drones and command and control vehicles. Finally, I want to mention that the armored vehicle policy requires public notification whenever the BearCat is deployed. This has not been done since it was in the spring, since it was adopted, nor since September when Chief Armstrong made a commitment in order to do so. So if you can ask the department to, again, to do so, it would be in compliance with its existing policy. Thanks so much.



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Commission staff: Thank you, Mr. Lindsay-Poland. I appreciate that.

Next up, Jennifer Tu, when you're ready Ms. Tu, I've unmuted you.

Jennifer Tu: Hi. Thank you. I just wanted to encourage the commission to consider using members of the public again, and drawing on individuals' expertise like was done with the militarization ad hoc. We saw how much knowledge Omar Farmer was able to bring about militarized equipment, and to just bring that knowledge with him to the ad hoc.

One thing that was missing from the ad hoc that I feel like many members of the public including were interested in was getting a little bit more of a sense of visibility in what was happening and looking for more ways to engage. And so I would strongly encourage the commission to both consider using members of the public and their expertise, and also, especially given the time sensitivity of this, to consider bringing issues in a more public setting. So that way there aren't any surprises before the policies have to go to the city council for approval.

And the only other thing I wanted to add is a note from John Lindsay-Poland, that if you'll reference his memo sent to all commissioners on October 27th, that covers more details about what the different laws at both the city and the state levels are expecting. Including that timeline of May, which is coming up right around the corner. Thanks very much.

Commission staff: Thank you Ms. Tu, I appreciate that. Members of the public wishing to make public comment on this item, please raise your hand. Seeing no more hands raised. Chair Jackson, it's back to you.

Chair Jackson: Thank you very much.

So I do not remember who was going to take the lead on this item.

Commission staff: That's Vice Chair Milele or...

Commission counsel: Chair, I'm happy to explain what this is since it's legal. I can, I'm happy to chime in, but if the vice chair or anyone else wants to handle it, that's fine too.

Chair Jackson: Knock yourself out.

Commission counsel: Thank you. As everyone knows, the new independent inspector general is slotted to be appointed after the city council, put something on the back in 2020 that made sure to clarify that this commission has independent selection and appointment authority over the IG. The commission is taking action with this specific vote to refer a series of records that were previously subpoenaed. And



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we listed out the IAD numbers just to reference what those records were and what the commission is voting on is whether to refer those records to the new independent inspector general. Once the IGs stood up.

I want to tie this back to the report out by the police commission in July, July 22nd of this year, where the commission did state that they would be calling for a vote to refer these records to the IG, and the purpose of referring this to the IG is so that IG can look at all of these records and the IG can come back to the commission, ultimately with number one, its review, maybe some lessons learned about what happened in these specific IAD matters.

And then number two, very importantly, recommended policy changes arising from those lessons learned. So in many ways, this is the first step in using the new IG for its charter and municipal code enumerated role, which is to do internal systemic audits and to play a role internal to the department and to the commission that's akin to what the compliance monitor is doing right now. This is really a statement of priority for the IG since the IG directly reports to the commission. So I wanted to provide all that context just so folks knew what they were voting on.

Chair Jackson: Thank you very much Conor, I appreciate that.

Are there any questions based upon the presentation?

Okay. Seeing none. Why don't we go to public comment?

Commission staff: Thank you Chair. Members of the public wishing to make public comment on this item, please raise your hand and I'll call on you in the order that they appear.

Chair Jackson, I see no hands.

Chair Jackson: Okay. Thank you very much. So I think that we actually need to take a vote that we're going to refer these prior subpoenaed records to the IG that will hopefully be in place first of the year. Is there a motion?

Vice Chair Milele: I will move, make that motion.

Chair Jackson: Thank you. I'll second. And since it's been moved and properly second, and there was no public comment, we can take a vote. And I will call the roll. Commissioner Gage?

Comm. Gage: Yes.

Chair Jackson: Commissioner Harbin-Forte?



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Comm. Harbin Forte: Yes.

Chair Jackson: Commissioner Howell?

Comm. Howell: Yes.

Chair Jackson: Commissioner Jordan?

Comm. Jordan: Yes.

Chair Jackson: Commissioner Milele?

Vice Chair Milele: Yes.

Chair Jackson: Commissioner Peterson?

Comm. Peterson: Yes.

Chair Jackson: And yes for myself, so we are unanimous. Thank you very much, everyone. Let's move on to the next item.

Okay. Committee reports. Commissioner Jordan, would you like to provide an update on missing persons?

Comm. Jordan: Sure.

The committee itself did not meet this week to the best of my knowledge. I was under the weather. And I think that there was just some communication challenges with the chair who was also traveling. But since our last meeting, we did hold the hearing for the policy. We did get some interesting feedback from community. Did give us some perspectives to take into account. We are looking to engage somebody from the community. I've reached out to a colleague who works with the unhoused and specifically works in mental health. And I'm hoping either they or they can refer somebody to help us at least give us that perspective as part of the policy. The sort of final look at the policy. But essentially where we are now is after having that public hearing, taking into account perspectives that we heard, we are going to do one last sort of run through on that policy and see if we can make any last modifications, but we should be bringing it to you, looks like I'm guessing December, ideally, for approval. So we are home stretch.

Chair, do you have anything to add? Oh, sorry. Before I pass, I just also want to just note that there were community members and affected families of victims that spoke up during the hearing. It was very powerful and it was worth doing just to hear from them in a lot of ways, as far as I'm concerned. And I felt that all



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our subject matter experts provided a lot in the way of illuminating as well as Michelle [inaudible] who is not here tonight. She often is. And she really added a lot to that experience.

Now I'm done. Sorry, Chair, go ahead.

Chair Jackson: No, that's fine. Yeah. I thought that it was an extraordinary forum. Really appreciated the candor and the care and concern that the speakers shared and certainly the policy wouldn't be nearly as outstanding were it not for the affected families who basically just wanted to see something better in place. So that the next families who might have to deal with this kind of tragedy will have more support and more clarity and more understanding. So it challenged us in all the most important ways.

So, yes, I'm hoping that we can bring it to a close and present to the commission before the end of the year. Thank you.

So we're going to go to the inspector general search ad hoc. I think commissioner Peterson is going to report.

Comm. Peterson: Report. Yes. Thank you Chair Jackson. In the closed session today, the inspector general ad hoc committee shared our thoughts on the candidates with the full commission. While we have nothing to report out this evening, we are getting closer to providing you with a final decision soon and hope to announce it at our December meeting. We remain committed to having this position filled and ready to go for the new year. Let me thank the candidates who we know have been following our meetings. Thank the community. And I thank the ad hoc committee for the incredible work and diligence.

Chair Jackson: Outstanding. Thank you, commissioner. And for the chief's performance evaluation, is that vice chair Milele or you or both?

Comm. Peterson: That's me again. Thank you again. Commissioner Milele and I have been incredibly busy with the IG selection. As that effort winds down and with the recent resignation of Commissioner Garcia, who was part of the ad hoc committee on the chief's performance goals, Commissioner Milele and I will be moving all of our efforts and activities forward. Our next meeting will be scheduled for early next week to put together a working document. We do want to get this done. So I thank the commission and members of the public for your patience, and we'll have something to you very soon. Thank you.

Chair Jackson: Thank you. Thank you very much. And so for the CPRA director performance evaluation, also in closed session, we discussed many of the strengths, growth opportunities and goals. We will be wrapping all of those comments and questions up in a document so that the commission can take a final pass and



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memorialize it. And then I'll review it with Mr. Alden. We expect to have this done by the end of the year as well. And we're hoping to establish a future process that includes more of a 360 performance approach. But we'll also be looking at some best practices outside of the state of California to see what else we can inform ourselves about. Vice chair, did you have anything that you wanted to add to that?

Vice chair, Milele? Okay.

Vice Chair Milele: Apologies chair. I'm here. Can you restate the question?

Chair Jackson: I just wanted to know if you had any comment that you wanted to add to my report out?

Vice Chair Milele: About the CPRA evaluation?

Chair Jackson: Correct.

Vice Chair Milele: No, I don't have any additional comments.

Chair Jackson: Okay. No problem. Thank you. That's the last committee report, but I'd like to say before we go to public comment that I am going to set up the CID ad hoc, and it will have Commissioner Shea, Commissioner Hall and myself. And that I wanted to identify that Commissioner Shea is going to chair the community policing ad hoc with Commissioner Dorado having rolled off. Commissioner Dorado will still be involved in supporting, but Commissioner Shea has stepped forward to accept that leadership role. Now we can go to public comment if there are no questions from the commissioners.

Commission staff: Thank you Chair Jackson. Members of the public wishing to make public comment on this item the committee reports, please raise your hand and I'll call on you in the order that I see them. And Janks I see you first. Give me just a second. I'll start the timer. Ms. Janks, you've put your hand down. Do you still want to give public comment?

Anne Janks: Yes, please.

Commission staff: Okay, go ahead.

Anne Janks: Good evening. I once again, want to start by saying that I do not believe that Commissioner Jordan or any of the participants in the ad hoc on missing persons, had any malicious intent. I think that they wanted to do good work and that was the effort and it's very impressive work. But the public, whatever that was hearing, was fatally flawed. We didn't know how they came to it, it may have been a really important discussion that ended up with certain language,



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but because there was no way of understanding it. And in that brief period of time, you weren't going to be able to hear the whole back and forth. And what considerations had gone into it. You really couldn't comment effectively on the language.

And I think that the takeaway is that you hear some stories, but you don't really get the kind of input that you would get if people were allowed to be engaged. And there was transparency during the entire process, as they're ought to have been. I am specifically concerned and it's probably a canary in the coal mine, but this is the only one I really determined, because of course it was all done behind closed doors. There seemed to be no engagement of sex workers.

There was discussion of sex workers, without any sex workers in the room. We were told there was an organization that deals with sex trafficking of minors, which is a pretty different situation than sex workers who is particularly vulnerable to become missing persons because of this federal law that pushed them out onto the street, because it was harder for them to use social media and such to find work. But so, I think that it was fatally flawed. It was fatally flawed for lack of transparency in community engagement at the proper time in the process. And for God's sakes, talk to a sex worker. Thank you.

Chair Jackson: Excuse me, Rania. Before you take the next person, we need to vote to extend our meeting. Can I receive a motion to extend a meeting?

Comm. Harbin-Forte: So...

Chair Jackson: I...

Comm. Harbin-Forte: Oh, I'm sorry.

Chair Jackson: Is there a second? I'll second. Okay, so we will pause the public comment to take the vote, to extend the meeting. Did you identify an amount of time?

Comm. Harbin-Forte: I'm sorry, let's extend to 11:30. One hour.

Chair Jackson: All right. And I will second that motion. And so let's do the role call very quickly. Commissioner Gage.

Comm. Gage: Yes.

Chair Jackson: Harbin-Forte.

Comm. Harbin-Forte: Yes.

Chair Jackson: Howell.



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- Comm. Howell: Yes.
- Chair Jackson: Jordan?
- Comm. Jordan: Yes.
- Chair Jackson: Milele.
- Vice Chair Milele: Yes.
- Chair Jackson: Peterson.
- Comm. Peterson: Yes.
- Chair Jackson: Okay. And yes, for myself. We're unanimous. Thank you very much. Rania, continue with public comment please.
- Commission staff: Thanks Chair Jackson.
- Jennifer Tu, you're up next.
- Jennifer Tu: Thank you. Well first congratulations to Commissioner Peterson on your new title. And I wanted to encourage you and the rest of the ad hoc in considering the Chief's performance to please consider the role of getting timely data and just bringing a lot more visibility from the OPD to the general public. That's all. Thank you.
- Commission staff: Thank you, Ms. Tu. See no more hands chair Jackson. It's back to you. Okay.
- Chair Jackson: Thank you very much. Onto the next item. Oh, okay, we're an open forum.
- Commission staff: An Open forum, so back to me, sorry about that. Members of the public wishing to make public comment in open forum, if you haven't done so already in the first open forum, I don't think anyone did, please raise your hand and I'll call on you in the order that it was received, that I can see you. No. Oh no. Thank you. I see you Ms. Olugbala and Ms. Janks. Give me just one second. I'll start the timer. I'm so sorry. Give me just a second. Ms. Olugbala, thank you for your patience. When you are ready, I've unmuted you.
- Assata Olugbala: Thank you. There're many times when there's defining moments of the credibility of people. The Bay case is a defining moment. When the city council called this body to do a report on the Bay case, you did the most cowardly thing you could do.



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You came to some conclusion about you're going to turn it over to the future. Inspector General, to review the case and make recommendations. The city council, some of the members, are more credible and taken forward motion on the Bay case. This body has floundered and not been able to step up to deal with this very important case. And it represents failure. You can't go to the city council meeting and say nothing and say, I got to go back to the commission. They have pushed and pushed you to do something with the Bay case. And you've done nothing. It's a defining moment of your credibility. One of them. Janelle Harris called in and she said, all you have to say is that the investigation revealed that we need to continue to have this case reopened. You know that. That's all you had to say. Janelle Harris said it. You paid \$50,000 when investigation, to say absolutely nothing. what did the investigation reveal? Continue the investigation into the Bay case. Bunch of cowards.

Commission staff: Thank you, Ms. Olugbala, sorry to have to cut you off. Ann Janks, you're up next? I have unmuted you.

Anne Janks: I'm sorry. At this point, I'm sure you feel cornered in the corner of a party back when we used to go to parties by someone who won't stop talking to you. I just wanted to ask you to please not memorialize how you're going to replace commissioners in the situation that's now come up twice. Several commissioners referred to it being uncomfortable, et cetera. I am thrilled to have Commissioner Peterson there, it really isn't personal. I think that a future commission might have different considerations. They might be going out in the community more because COVID is finally something that we can do that again, where they've heard more of the structural concerns that many people have when they hear about the commission, because they've seen so many boards and commissions that were not very independent and they might view that as a more important factor.

And I really think that it's not that uncomfortable. I think there's a lot more difficult things that you all have to suffer through. And I would just really urge you to leave it unmemorialized and not consider it a precedent and let the next round of commissioners figure it out, according to what's going on at that point. Thank you. Good night.

Commission staff: Thank you, Ms. Janks. Reisa you're up next. I've unmuted you.

Reisa Jaffe: Yes. I want to agree with some of what Anne Janks said. I found it very concerning that commissioners were expressing the reason why you needed to decide on how the replacement should be because of discomfort for evaluating their peers. The work you do is hard and uncomfortable, and we just have to sit in discomfort. And when we do hard things, that's just real. So, I've been watching the commission for a long time. I'm glad there's really good people here. I've not been on as much lately because just workload has been too great.



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So I don't know who all the individuals are, but I certainly have seen times when there were commissioners who are not carrying their workload. And so there's a lot of factors that can be considered when choosing, please be really careful.

Thanks.

Commission staff: Thank you Reisa. I have no more hands raised. So I think really it's back to you to do the second motion.

Chair Jackson: All right. Thank you very much. If you could just advance the screen when you get a moment.

Commission staff: Absolutely. Ready when you are.

Chair Jackson: Thank you. Commissioner Milele?

Vice Chair Milele: Yes. I would like to make a motion to table this agenda item to our next meeting.

Chair Jackson: It is late. I will second that motion. I think that it's probably in the best interest specifically for myself, but for all of us. Are there any comments on that, otherwise we can go to public comment and then vote? Okay. Seen none. Can we go to public comment please?

Commission staff: You got it. Members of the public wishing to make public comment on this, please raise your hand and I'll call on you in the order that they've appeared. No comments for you, Chair Jackson. Moving on.

Chair Jackson: Okay. Thank you very much. Let's take a vote to table. Commissioner Gage?

Comm. Gage: Yes.

Chair Jackson: Thank you. Harbin-Forte.

Comm. Harbin-Forte: Yes.

Chair Jackson: Thank you. Howell.

Comm. Howell: Yes.

Chair Jackson: Thank you, Jordan.

Comm. Jordan: Yes.

Chair Jackson: Thank you, Milele.



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- Vice Chair Milele: Yes.
- Chair Jackson: Thank you, Peterson.
- Comm. Peterson: Yes.
- Chair Jackson: And yes, for myself. We are unanimous that we will put this over to the next agenda and I'll try to make the meeting shorter so that we are not so late. So the next item is to cancel the November 2021 meeting. It falls on Thanksgiving. We typically have one meeting in November and one meeting in December because of the holiday schedule. So I'd like to accept a motion to counsel the meeting and then we'll go to public comment.
- Comm. Harbin-Forte: So moved.
- Chair Jackson: Thank you. I will second. I don't think there are any questions on the motion. Okay. So let's go to public comment.
- Commission staff: Thank you. Remember that the public wishing to make public comment on this item, canceling a November meeting, please raise your hand and I'll call on you in the order they've appeared. No hands, Terry Jackson.
- Chair Jackson: Okay. Thank you very much. So I'm going to call the role to cancel the meeting. Commissioner Gauge.
- Commissioner Ga...: Yes.
- Chair Jackson: Thank you, Harbin-Forte?
- Comm. Harbin-Forte: Yes.
- Chair Jackson: Thank you. Howell?
- Comm. Howell: Yes.
- Chair Jackson: Thank you, Jordan.
- Comm. Jordan: Yes.
- Chair Jackson: Thank you, Milele.
- Vice Chair Milele: Yes.
- Chair Jackson: Thank you, Peterson.



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- Comm. Peterson: Yes.
- Chair Jackson: And yes, for myself. We're unanimous. The next meeting in November 25th will be canceled. Let's advance. Adoption of meeting minutes. Are there any suggested edits having reviewed the minutes?
- Commission staff: Chair Jackson, I have one, my apologies. I'd like to note that in packaging up the materials, I believe I've missed the header and the footer identifying the document as minutes. So I will make that edit and make sure that you can identify that document as minutes to the meeting when it's posted.
- Chair Jackson: Absolutely. Thank you very much for that edit. Does anyone else have any suggested edits, either to the October 28th meeting? No? Okay. Why don't we go to public comment.
- Commission staff: Thank you. Members of the public wishing to make public comment on this item, the minutes of the last meeting, please raise your hand and I'll call on in the order they appear. No comment on this one.
- Chair Jackson: Okay. Thank you very much. Since we don't have any edits, let us take roll call and hope to approve the minutes or adopt the minutes Commissioner Gage?
- Comm. Gage: Yes.
- Chair Jackson: Thank you, Harbin-Forte?
- Comm. Harbin-Forte: Yes.
- Chair Jackson: Thank you. Howell?
- Comm. Howell: Yes. Thank you, Jordan.
- Comm. Jordan: Yes.
- Chair Jackson: Thank you, Milele.
- Vice Chair Milele: Yes. Thank you, Peterson.
- Comm. Peterson: Yes.
- Chair Jackson: And yes, for myself. We're unanimous in the adoption of the meeting minutes from October 28th and agenda setting. I will have some follow ups as it relates to the community request for information about towing, flippant police officers and their commentaries and the attrition as well. We will have some report backs on the possibly missing person policy. I know that we need to ask for



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reports from the chief updates on probation and parole and those stats. Some of the stats that are coming out of old policies that were impacted by the pandemic, as well as the Bearcat deployment listing for 2020 up to probably September 30th, 2021 would be good.

Are there other suggested items? I know there's the creation of the standing committee that's got to go before the city council and certainly the tabling of the Robert's rules of order. And obviously I will flip through our emails and all to inform anything else, but if nobody has anything lightning important, then I will work on that with the vice chair and we will move forward. I don't see any comment. So let's go to public comment and then...

Commission staff: Thank you. Members of the public wishing to make public comment on this item, please raise your hand and I'll call on you in the order they have appeared. Miss Olugbala, I see you. I've unmuted you when you are ready.

Assata Olugbala: Yes. I continue to say the agenda should contain the Bay case. The Bay case investigation, that you paid \$50,000 for. A simple understanding to the public, that the Bay case investigation revealed that it is appropriate to continue investigations related to this case. Why can't you do that? Why are you not dealing with the Bay case? Why can't you do the work of just saying what has been the results without any privatization issue, naming of police officers, please. This is some serious things that have gone on with that case. Rebecca Kaplan has detailed it. You've never taken the time to detail the big case.

As I said before, Janelle Harris, if she was there, we would have a discussion about the Bay case. Okay. We've gotten down to the point now where we're talking about stuff that doesn't involve murder, police misconduct, several officers, and you're running from it. You are part of keeping a police misbehavior issue in the forefront where it needs to be. This has been years, these men lost their family member. We don't have no problem talking about some murders, and when you start to do some things and hide other things, that is problematic. We're going to keep talking about the Bay case and what you are not doing, trying to throw it on the inspector general. So cowardly,

Rania Adwan: Thank you Ms. Olugbala. Chair Jackson, I see no more hands. Thank you.

Chair Jackson: Thank you very much. Can I take a motion to... Nobody wants to move to adjourn the meeting.

Comm. Peterson: I move to adjourn the meeting. It is 1:48 AM on the east coast where I am.

Comm. Harbin-Forte: I'll second that.



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- Chair Jackson: My goodness. I think that we can unanimously say yes, I, all of that. It is 10:49 California time, unless anybody wants to just keep going.
- Comm. Peterson: Thank you.
- Comm. Harbin-Forte: ...Commissioner Peterson to stay up even longer. Good night everybody.
- Comm. Peterson: No, doing the work.
- Chair Jackson: Absolutely. Thank you everyone. Happy holidays.