



OAKLAND POLICE COMMISSION

SPECIAL MEETING TRANSCRIPT

December 16, 2021

Chair Jackson: Good evening and welcome to the special meeting of the Oakland Police Commission. It is December 16th and it is 6:30. I'm calling this meeting to order I'd like to start with the roll call.

Commissioner Gage is going to be excused. Vice Chair Milele.

Vice Chair Milele: Present.

Chair Jackson: Thank you. Commissioner Harbin-Forte.

Comm. Harbin-Forte: Present.

Chair Jackson: Thank you. Commissioner Howell.

Comm. Howell: Present.

Chair Jackson: Thank you. Commissioner Jordan. Commissioner Jordan?

Comm. Jordan: Present.

Chair Jackson: Okay. We'll move forward and go back.

Comm. Jordan: Present.

Chair Jackson: Oh, thank you. Commissioner Peterson.

Comm. Peterson: Present.

Chair Jackson: Thank you. And also Commissioner Hsieh is excused as well. Thank you, Rania.

Okay. As is customary, we are going to adopt the renewal resolution that allows us to continue our teleconferencing in accordance with the California government code. We will readopt the findings to permit us to continue our meeting into 2022.

Is there, I guess we need to go to public comment before we vote.

Commission staff: Yes please. Members of the public wishing to make public comment about this item, please raise your hand and I'll call on you in the order they appear. Chair Jackson, no hands.

Chair Jackson: Okay. Thank you very much. Let us-

Commission staff: Oh excuse me. Sorry chair. Commissioner Harbin-Forte has her hand raised.



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Chair Jackson: Oh yes. Go ahead.

Comm. Harbin-Forte: Only, only for the purpose of making the motion.

Chair Jackson: Oh, okay. Thank you very much.

Comm. Harbin-Forte: Sorry.

Chair Jackson: Anticipating, no problem. So Commissioner Harbin-Forte.

Comm. Harbin-Forte: Yeah. I'll make a motion to adopt the renewal resolution.

Chair Jackson: Excellent. Thank you. And is there a second?

Vice Chair Milele: I'll second.

Chair Jackson: Thank you. It has been properly moved and seconded. We have taken public comment and there was none. So let us go ahead and vote. Commissioner Harbin-Forte.

Comm. Harbin-Forte: Yes.

Chair Jackson: Thank you. Commissioner Howell.

Comm. Howell: Yes.

Chair Jackson: Thank you. Commissioner Jordan.

Comm. Jordan: Yes.

Chair Jackson: Thank you. Vice chair Milele.

Vice Chair Milele: Yes.

Chair Jackson: Thank you. And commissioner Peterson.

Comm. Peterson: Yes.

Chair Jackson: And yes for myself and, oh we are 1, 2, 3, 4, 5, 6, and we are unanimous.

Commission staff: Ready to move on?

Chair Jackson: Please.



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So just before we get started on open forum, I wanted to take this moment to clarify why we rescinded a press release issued on Monday.

The commission issued Monday's press release at the same time that we posted the agenda for this meeting. And the agenda features a commission selection of the inspector general. Quite frankly, out of excitement about our top candidate, we made our announcement too early, or I made the announcement too early. When we always intended to take the final formal step of selecting the IG at tonight's meeting.

The commission is really proud of our process, in particular, our star studied Ad Hoc search committee. They did a ton of hard work to vet the candidates, hold a public forum, have multiple interviews, get acquainted with our top selections. And in report, to the commission in closed session about our recommended selection.

After last week closed session, we gave direction to reach out to the top candidate and confirm that if selected, she would accept the position. And with that confirmation in hand, to hold a final public agendized selection at tonight's meeting.

I missed a step. And I can only really identify it was because of human error, but it was also enthusiasm. I'll leave it there for now, but I want to emphasize my pride and excitement about the commission's work on this important appointment. Thank you, and with that, why don't we go on to public comment?

Commission staff: Thank you. Chair Jackson. Members of the public wishing to make public this time, an open forum part one, please raise your hand and I'll call on you in the order that they've appeared. I'll also get the timer going for us. Give me just one second.

Okay. Millie Cleveland, I see you. I am, unmuting you when you are ready.

Millie Cleveland: This is an opportunity to speak on anything, correct?

Commission staff: Correct.

Millie Cleveland: I was concerned last meeting when the chief of police talk about, primarily sought recruits from the athletic department up at Mare college.

And I was just wondering why he would limit his recruit efforts to people that are active in sports. And I'm concerned that, I believe maybe if he recruited



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more psychology members, maybe they wouldn't be under such a long time being under a consent decree.

So I would like the chief to explain why his recruiting efforts focus in on athletes, and not other students that are exposed to more, all rounded academics.

Commission staff: Thank you, Mrs. Cleveland. Is that the end of your public comment?

Millie Cleveland: Yes. Thank you.

Commission staff: Thank you. Chair, I see no more hands.

Chair Jackson: Okay. Thank you very much. Then we can go on to our next item.

Okay. So I believe this item is Commissioner Harbin-Forte, and your hand is raised, so.

Comm. Harbin-Forte: Yes, I'll make a motion that the commission adopt the items on the consent calendar with one correction on the first page of each of the documents. The amended date should reflect today's meeting date, rather than the October date that's in our materials.

Other than that, I'll make a motion that the matters on the consent calendar be adopted.

Chair Jackson: Okay. Thank you very much. Is there a second?

Comm. Peterson: I'll second.

Chair Jackson: Okay. It has been properly moved and seconded by Commissioner Peterson. We need to go to public comment before we can take a vote.

Commission staff: Thank you Chair. Members of the public wishing to make public comment about this item, the consent calendar. Please raise your hand and I'll call on you in the order they've appeared.

No hands chair.

Chair Jackson: Alrighty. So with that, we are ready to vote Commissioner Harbin-Forte.

Comm. Harbin-Forte: Yes.

Chair Jackson: Thank you.



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Chair Jackson: Commissioner Howell.

Comm. Howell: Yes.

Chair Jackson: Thank you. Commissioner Jordan.

Comm. Jordan: Yes.

Chair Jackson: Okay. Thank you. Vice chair Milele.

Vice Chair Milele: Yes.

Chair Jackson: Thank you. And Commissioner Peterson.

Comm. Peterson: Yes.

Chair Jackson: Thank you. And yes for myself.

So once again, we are unanimous on the item of the consent calendar with the specified edits. Thank you very much. Sorry.

Now we'll go to the police chief for an update.

Chief Armstrong: Yes, good evening Chair and fellow commissioners. I want to start off my presentation. I added a bit more to my presentation in response to some things that came up last week. The first thing I do want to talk about in particular, I won't spend a lot of time on crime tonight and really talk about some specific issues that came up the last week's meeting and other issues that have been asked to speak about in particular.

So just talk, we still see crime trending very high in the city. We're currently at 132 homicides for the year, it's about a 22% increase compared to last year.

We still see significant increases in shootings as well. With up 26% with over 585 shootings so far. We are continuing to be focused on addressing gun violence by recovering over 1100 firearms so far this year. We have continued to deploy our resources, mainly in East Oakland to address the gun violence.

We are still working closely with our cease fire teams and beginning to expand the work that they typically were doing with more direct communication. And more call-in and more access to individuals that's working closely. With the department of violence prevention was also doing some violence prevention programs like town nights, that's happening throughout the city. Increasing the number of violence interrupters, and street outreach members that they have.



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So hopefully that augments the effort that we have to address violence in the city.

We continue to bring forth missing persons printouts, are key to these really is our media team, which is doing what the commission has asked them to do, which is quickly push out documents when we have a missing person. Making sure we use our social media platforms in order to get that information out to the community. And we've seen a lot of success in actually identifying those and actually finding the missing person and being able to get them back to their families. So we will continue to do that.

A couple of specific issues I want to touch on, is last week during the police commission meeting, the public defender and his team came to police commission and really brought forth some issues around Miranda and Miranda of juveniles in particular, that was concerning. I want to first say that I was not aware that that presentation was going to be brought forth to the commission, or I would've been better prepared to actually respond to it.

But since it was made, I first want to make it clear that I would've liked to have known that that was coming because I think it's only fair that if something of that nature is going to be brought to the commission, that at least I have a chance to talk about what it is that we as a department is doing to address it. Because the way in which it was framed, left out a lot of details about things that are being done. In particular, two days prior to the last commission meeting, my team actually sat down and met with the public defenders team.

And we had several discussions about how we could work together. And in no way, there was, we advised that that was a concern serious enough for it to be one that we couldn't work through, without the sort of presentation that was brought before the commission.

We have since agreed to meet with the public defender with the police commission. We'll be doing that on next Monday to have more in-depth discussions.

But what I wanted to do was offer a couple things just to ensure the public. First of all, that the way in which things were framed was really concern. And so it made me really take a closer look at all of the practices that we have in OPD when it comes to our interrogation of juveniles.

First of all, I want to make sure that we did provide training to our entire department recognizing the new law, the new SB law, that started January 1st. WNI625.6, which is what allowed juveniles to actually reach out and speak to an attorney prior to being interrogated.



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And so we continue to make sure that our staff has been trained. We have pushed out training documents and provided training. Our actual training was provided by the district attorney's office. Deputy district Melissa Dooher actually trained our whole investigation team.

I also have some statistical data that I want to put in context because the one thing I think is critically important is to understand that the Oakland Police Department is one of the larger police departments in the bay area.

We reached out to both San Jose, which is a very large police department that has over a thousand officers in San Francisco, which also is over a thousand, well nearly 2000 officers. And the practices of OPD is similar to larger agencies.

And when I put that in context, it means that when a juvenile is arrested, first of all, I want to say that the Oakland Police Department only makes physical arrests of juveniles when it is a very serious offense.

And those serious offenses are ones that we cannot issue a NTA, a notice to appear in court. Which essentially means that they won't be actually transported to juvenile hall. They, in most cases won't even be interrogated. They will be issued a NTA, a notice to appear in court at another date. We work with the probation department to identify what that date will be, but then that juvenile will be released to their parents. That's how the vast majority of these cases are resolved.

I just want to give you some statistical data so you understand the number of young people, because it was presented in a way that said that this was a major issue of multiple young people being here for multiple hours, and not being treated humanely. And I thought that was inappropriate. So I wanted to be clear.

We, in the whole month, I've started from August. I have the numbers throughout the year, was we had seven juveniles arrested in the whole month of August. Seven in the whole month of September, five in the month of October, four in the month of November, and four in the month of December. The three main drivers of arrests that we arrest juveniles for, are the most serious offenses. Our arrests have been for carjacking, robbery, armed robbery, homicide, attempt homicide, and sexual assault, has been some of the leading reasons why we've made arrest and we've interrogated certain young people. We have a standard practice within a department that is a part of our training bulletin that speaks to, we have what we call a six hour rule.

So once a juvenile is brought into a locked facility or into the police department, they can't be in this building for more than six hours before we need to actually



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have documentation, and actually a written request for extension of that period needs to be done. In the course of those five months that I just mentioned, or four months, I should say from September or August to December. We've only written three letters out of the over 27 young people that we've arrested.

So only three times have we had to exceed. And in the cases where we exceeded the six hours, it was related to a homicide or multiple robberies, is what our data says.

So we are being conscious of the fact that we want to get young people in and out of here, we want to be humane, but obviously we have a duty to investigate, thoroughly investigate very serious crimes like I've mentioned.

And I just want to take a minute to explain that investigative process. The investigative process is the thing that starts off with our initial call, or our initial arrest of an individual or a young person going through the preliminary investigative process, which means that in most cases, there's some field identification, where we're waiting for a witness or a victim to identify the person responsible.

We want to make that we meet the elements of the crime before we make the arrest and that we have the reasonable suspicion and probable cause to actually arrest that person and take that person in custody.

That is the first legal standard. Then we have to complete the actual police report. There's a written police report that is completed along with the collection and processing of evidence. That could mean the reviewing of video cameras. That could mean the recovery of a firearm or a weapon. That could mean the processing of a vehicle.

Those things take time in order to get to the point where the juvenile will be transported down to our downtown to meet with our detectives. Our detectives only would interview young people that have been arrested for the most serious crimes. But before that young person is brought into the building, all of the documentation and paperwork has to be complete.

So essentially the preliminary investigation that took place in the field needs to be completed before the young person is even brought into the building to be questioned by a detective.

One of the things I will say that I've spoke to commissioners about, is that one of the things I thought we could strengthen and I've immediately strengthened was a documented meal plan.



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So essentially what we had previously or currently, well, we had previously as of the change of last Saturday, was that we had a snack bag that we would give young people when they were taken into custody.

Now I have instituted new policies where a young person, as soon as they are arrested and brought into the building, they are given a snack pack. And then in four hours, if they stay here longer than four hours, they're given an actual meal. And they are given five meal choices that they can use from. But they get an actual meal. And then every two hours after that, they are to be given another snack.

So we want to make sure that, I want to make sure that they are taken care of when they're in custody. And I thought we could do better in terms of making sure that young people were fed and taken care of.

When we also have a young person here, we have a mandate that that young person is checked on every 30 minutes. And that means that not just looking in on a camera, but actually physically opening the door and asking that young person if they need to use the restroom or they're in need of anything. And that's also captured on videotape. So there is a care in custody, a process that we go through.

I also want to say, from my standpoint, I want to be clear as somebody that started their career at the Alameda County Probation Department in the juvenile division, I've always looked out for young people.

And so I would never support a process that didn't take care of young people. I think most of the people in the community would say for me, running basketball leagues or midnight basketball, or midnight soccer, or all these, or pal events that I've been running for many years, that I've committed myself to helping young people.

And so it was just difficult to hear somebody say that the chief would not want to support something that helps young people, or puts young people in a difficult position.

But I do think, as we deal with violent crime, we have an investigative responsibility to do what we can to try to identify who's responsible for crime and actually go through a legal and constitutional process for trying to solve the case.

And so I understand, what we're required by law, we are following the law, but I also think we can improve.



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And I think with the meeting, with the public defender's office, as well as the district attorney's office, I've committed to the chair and the vice chair that we would come to some agreement, asked to make sure that we are all in agreement about what is the amount of time that we should have a juvenile. How we should address an actual phone call to an attorney, and when that should take place.

So we'll have further discussion at the meeting. We've agreed to come together and come to some agreement. I am going to honor whatever agreement we come up with as a group. And we feel like it's the most appropriate way to move forward.

I would like to hear from all parties, included the district attorney's office and the public defender's office, as well as our investigative teams and be able to share with them what some of the challenges that we face.

Some of our NSA mandates that mandate that we complete certain things in our investigations, like a supervisor coming to a scene and reviewing a report in it's entirety and signing off before that young person can even be transported. So these are things that, process wise, that sometimes delay our officers getting that young person downtown as soon as they can.

So I just want to make sure we coordinate it and get what's best, come up with something that's in the best interest of the juvenile, but doesn't prevent us from that. From continuing to thoroughly investigate this, because obviously, we also feel strongly that there are people who are being victimized in our city. We've seen juveniles be responsible for some very serious crimes in our city, including homicides. As well as some of our most braising car jackings, and so we have several juveniles that in most cases, we've had multiple offenses be committed. And so I think it's important that as a police department, we do our best to try to actually solve crime as well, but make sure we do it in a legal and constitutional fashion.

With that I'll submit to you for any questions and then I we'll speak to some of the other things that I was asked to talk about tonight as well.

Chair Jackson: Thank you Chief. I see a hand up from Commissioners Peterson, Howell, and then Harbin-Forte.

Comm. Peterson: Thank you Chair Jackson, and thank you, Chief. I want to focus on what seemed to have been the focus of the report last week from the public defender's office. And that had to do with, when a juvenile is Mirandized.



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And so you talked about the period of time necessary for you all to complete your paperwork. And it's commendable your giving the snacks and the meals.

But the question is, when are they being Mirandized? And how long a time it takes before they are Mirandized, but maybe are being questioned in some form or fashion. Or exhausted or emotional about the time that it might take with between when they are detained and maybe are still in the police car, not brought into the building.

And you said something about the clock starting to tick when they're in the building, a six hour rule. So can you focus on the issue of when they are Mirandized?

Chief Armstrong:

Yes. So in particular, when that juvenile is arrested initially, by the field officer, because there is two different components. There's a field officer, who makes the arrest. Those are officers that, where our patrol officers are crime reduction teams, the actual police officer that makes the physical arrest. That officer will Mirandized, but that officer will not seek a waiver. Right? And so I think that's the difference. And then, that young person will not be questioned at that point.

What happens is that then, that young person, if they are arrested for a very serious offense, once all the documentation is completed, the investigation, the preliminary investigation is completed. They'll be brought down to our downtown precinct where an actual detective or investigator will actually be the one that actually calls. Well, they call the first time. So we call in the field as well to the public defender and let them advise. But we also call again, when we seek, when they question again, the question is when do we seek a waiver? And that's where we need to figure out what is the proper time.

And here's why I say that. Is because the minute that we make that call, doesn't always mean that that is the exact minute that we're actually ready to have that discussion with them about whatever crime they've committed. I just think from a practitioner standpoint, and we've talked to other departments, and this is not anything that's uncommon, that you have to do your research in order to make sure that, first of all, that the person that you are talking to is the right person. That the person that you're, what role that they have in the particular crimes, right?

What are you questioning them about? There's a process or two of interrogation that comes with meaning that you have to be as an investigator, prepared to go in there and have that conversation.



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The investigator has to be familiar with the crime report, with everything that happened in that incident. That takes a couple minutes to actually get up to speed on what happened in the investigation. Determine what role that person played, and what manner in which you want to question that person.

I think that's a process that every law enforcement officer would tell you that that is not something that you can do right there on the spot. And so that takes a couple minutes. The question is, what is a reasonable amount of time for you to actually seek a waiver?

I think that's the thing that we hope to clarify. Because in the law, it's not a hard line. It's not a specific time, like it has to be done by 3, 4, 2, 1 hour, immediately. It's not that black and white. So I just think, taking into consideration, what do we need in order to prepare ourselves to have an interrogation, or have a conversation? Because as important as it is to identify if the person was involved, or to see if the person wants to waive and have a conversation. It's also important to know if you actually, if the person that we have in the room is actually the right person. The officer has to also do that work to say, "Hey, maybe the officer, maybe this person has an alibi. Maybe this person may be not the right person." But that only comes if you're actually familiar with the case. That's why I do have some concerns, like doing it right after, because we may not be prepared to have that conversation right that second.

Chair Jackson: Commissioner Peterson, are you on mute?

Comm. Peterson: Oh, one follow up. I'm sorry. Yes, I was on mute. The presenters seem to declare that other jurisdictions were able to immediately Mirandize. And that wasn't what was happening with Oakland.

And I know you're drawn a distinction between the Mirandizing and then seeking a waiver, but compare and contrast some of the other jurisdictions perhaps. That they brought up that seemed to comply with what the public defender needed, but Oakland was out of bounds.

Chief Armstrong: But the first thing I'll say is that we haven't been supplied with any policies from any other department that speaks to that. And I've asked and I'm a part of the chiefs association of Alameda county, and nobody has provided me a copy of a policy that speaks to that being a codified practice of how they do things.

The second thing I'll say is that Oakland is the largest police department in Alameda County and has significantly more crime than every other city in this county.



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And so I think the practices of one department may not be consistent with another department. So if I was to say a department, like a free union city or in Alameda, or even San Leandro, some of the smaller departments don't have detectives that actually investigate certain crimes. And so the officer who, arresting officer who may be familiar with the case, he or she could Mirandize and seek a waiver right there because they are the arresting officer and the interrogating officer, if you would.

But we don't because we are a larger department, like a bigger, most larger departments, we have actual detective bureaus, investigation bureaus. That that's what their particular job is. Is separate from the field operations component.

And I think what happens is that smaller departments can do things that we don't do because we have a much higher volume. We also find ourselves, whenever we have these arrests, we also are trying to make sure or that if we look at past cases that might be similar in nature.

Part of the investigative process is to determine, people don't rob people one time, right? You just rob one person and never do a crime again, that doesn't happen most of the time. Sometimes you might have chance incidents that happen, but in my long, over two and a half decade police career, you try to figure out as an investigator, is this person potentially linked or have any linkage to any other event? You want to have that conversation as well.

That doesn't mean that that's always going to be true. Doesn't mean that you're always going to find something. But I think as an investigator there's practices that you want to do to make sure that, if I'm going to have a conversation with somebody, I'm having a conversation about everything that that person may have been involved in.

So if I see a car, if I arrested that car in, like we just arrested a guy in a black Acura MDX yesterday. That person has robbed eight people in the last week, in this MDX. We had pictures of this MDX for the last several weeks. So we've been looking for it. Well, we finally arrested that person. And then we found indicia in the car from multiple crimes from other days, right?

So that means that when we get them downtown and we start to actually follow up and start interrogating, we don't, we we're going to look at all of those crimes where we had evidence in that car related to that particular person, to see if that was the person responsible for those other crimes as well.

Is there any connection, because say somebody's credit card is in the car. Somebody's purse is in the car. Somebody's wallet is in the car. And we have



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that person as a victim of a robbery. But we we're going to look at all of those different cases. And that takes time to do that.

Comm. Peterson: Okay, finally then. The one thing that they wanted, it seemed, was that counsel should be present when the child is Mirandized, and counsel is not present when that occurs. That's what the objection was last week.

Chief Armstrong: Yes. Yeah, I'm familiar with the objection. And like I said, I think we'll have further discussion as we work closely with the district attorney to hear their opinion as well. I think it's only important that we hear from all the parties that have some stakeholder in this process, if you would.

I think what we want to know, and what we are saying is that it's not as simple as it is. I think we could definitely come up with some, I believe, clear guidelines and timelines, and even think about, Hey, when we're ready, we do call the attorney back. You know, I think those are some of the things that we can put on the table is that we don't see we, when we ready to actually have that interview, maybe we call an attorney at that point.

So I do think that there's options on the table that we can look at to help resolve this issue. And so that's what I'm looking forward to on Monday to have that conversation.

Comm. Peterson: Well, I look forward to you coming back and reporting on your conversation and perhaps clear guidelines that your department is drafting. Thank you, I'm sorry to have taken so long.

Chief Armstrong: No problem.

Chair Jackson: Thank you Commissioner Peterson. Commissioner Howell, and followed by Commissioner Harbin-Forte.

Comm. Howell: All right thank you. Thank you for that clarification. And it's a similar, looking for more clarification Chief Armstrong, is at what point in terms of due process, should the person be Mirandized, at what point? At arrest when the cuffs are on? Or when they've been explained that they're being detained? At what point, constitutionally are they supposed to be Mirandized?

Chief Armstrong: So let's talk, if we're talking about this conversation about juvenile interrogation?

Comm. Howell: Yes.



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Chief Armstrong: So when we talk about the law mandates, and when we arrest a juvenile, we are to Mirandized right there and make the call to the hotline, so that they can be advised. But that does not mean, the law does not require that we seek a waiver at that point, right?

Comm. Howell: Okay.

Chief Armstrong: So you can Mirandize without asking, "Hey, do you want to talk to me right now?" Right? Because you don't, if the officer is not seeking to actually talk to or interrogate that person, or solicit information from that person, incriminating information. At that point, the officer has satisfied the law by Mirandizing them, and then allowing them to speak to their attorney and going through that legal process.

But what happens is the challenge specifically that we're talking about is that once we are actually going to seek a waiver, should we be specifically on the phone with the attorney at that point?

Comm. Howell: Okay.

Chief Armstrong: Which law is not specific to, does the officer or investigator have to be on the phone? Does those two things have to happen at the same time?

Comm. Howell: So thank you. So the youth, at that point, when they're arrested and they have the cuffs on, they know they have the right to remain silent.

Chief Armstrong: Yes, sir.

Comm. Howell: Okay. Thank you.

Chair Jackson: Thank you. Commissioner Harbin-Forte.

Comm. Harbin-Forte: Thank you Madam Chair.

So I'm a little confused Chief. The public defender seem to be complaining about the fact that the Miranda waiver is not given in their presence, and they're not allowed basically to advise the youth about their rights.

So you're are saying that when the officers take juvenile into custody, they Mirandize them?

Chief Armstrong: Yes.

Comm. Harbin-Forte: Do you contact the public defender's office before you Mirandize?



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- Chief Armstrong: Yes. And Commissioner, let me make sure I frame this so you know, we don't actually listen to that conversation.
- So we don't know what it is that they've talked about. We call, they talk, and then they hang up.
- Comm. Harbin-Forte: Okay.
- Chief Armstrong: Okay.
- Comm. Harbin-Forte: So why I'm a little bit confused and because the public defenders seem to be complaining that you are not allowing them to be on the phone when the juveniles are Mirandized.
- Chief Armstrong: Yes. Ma'am, so what happened, like we said, when the juvenile will be given a call, allowed to speak to the public defender, in private, like they're by law, they have to do that in private, without us recorded, or watched it. Once they hang up and they have received the advice from the attorney, the officer does not have to immediately say Mirandize, or Mirandize while they're still on the phone with the attorney.
- And I think that's what his larger complaint is. Is that we allow them to hang up with the attorney and not do Miranda contemporaneous. Does that make sense Chair?
- Comm. Harbin-Forte: Okay. So walk me through.
- Chief Armstrong: Okay.
- Comm. Harbin-Forte: When does the Miranda warning, when is the Miranda warning given? Walk me through, I'm a juvenile. You take me into custody.
- Chief Armstrong: Right.
- Comm. Harbin-Forte: Right. You then Mirandize me.
- Chief Armstrong: Initially in the field, because we're talking about the field officer that made the arrest. That's what the law says.
- Comm. Harbin-Forte: Okay. So the field officer Mirandizes and the field officer does not contact the public defender's office before that Miranda warning is given?
- Chief Armstrong: The Field officer.



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Comm. Harbin-Forte: Or after.

Chief Armstrong: The field officer contacts, calls the hotline, lets the juvenile speak with the attorney.

Comm. Harbin-Forte: Before the officer say you have the right to remain silent, anything you say can and will be used against.

Chief Armstrong: Yes.

Comm. Harbin-Forte: Et etcetera. So that call is made before, so the steps then is arrest or detention, call to the public defender hotline.

Chief Armstrong: Yeah.

Comm. Harbin-Forte: Then a Miranda warning? Or is it the arrest or detention, Miranda warning at the same time that the public defender's office is on the phone?

Chief Armstrong: It's arrest or detention, call to the hotline, hang up the phone, Mirandize without seeking a waiver, transport down to the jail if he or she is going to be interrogated, call again to the hotline, after hanging up then Mirandize when the investigator is ready to take the actual statement.

Comm. Harbin-Forte: And in between, then what I understood the public defenders to say is that they're basically skirting the whole, the purpose, the spirit of the legislature, particularly the new legislation, by either handing off or by saying, we're not going to let, you don't need to be on the phone, when we give them a Miranda waiver. That's what I understood part of the concern to be.

And so that there be many hours that pass, sometimes after the public defender has spoken with the person. And that sometimes you may be getting incriminating statements by basically kind of, and I'm just playing the game, "Hey, I'm not interrogating you, but what do you think about the As? What do you think about the wars and stuff?" And then just kind of engaging in general conversation, and then getting the person eliciting some incriminating information from this young person, in the course of that discussion. And then kind of stepping back saying, "Hey, we weren't interrogating. We were just having a conversation."

That's troubling because these are vulnerable people. They deserve special protection. They can be easily misled into making incriminating statements. And I was troubled by the public defender presentation last week, very troubled by it. And I'm just, I know that you're going to meet, but I'm still, I'm kind of



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unclear. And then I want to respond to, well, go ahead. I have another [crosstalk].

Chief Armstrong: I just want to, because I want to make sure we clear, I don't want, because I think what I had last week was a lot of information went out that was not consistent. And I think this is such an important issue that I want to make sure that we don't put out hyperbole, that we speak exact. What I'm saying is that they are given their call. We are not in the room when they hang up the phone. Right? We are not privy to that call. That is something that what they say is after they hang up the phone, the public defender would like to call the investigator and say, can I be on the phone when you actually seek the Miranda, seek the waiver. Right?

Comm. Harbin-Forte: Okay.

Chief Armstrong: And I think that's where the issue at hand is, and I don't think that we are skirting around the process.

I think what we can have is an actual time limit that is clear that we understand that you guys have to do some prep work to get ready for an interview, but what is reasonable? Now, if we decide that that reasonable amount of time between them hanging up the phone and us actually going into the room and having that conversation is two hours, is an hour, whatever the case may be. I think that would say, that after they talk to their attorney, they've received their advice. When we go back and seek that waiver, it's fresh in their minds, they spoke to the attorney twice, is that enough time? Is that too long? I think those are the discussions that we're going to have.

I don't think from our standpoint, I think that is an intention to try to actually skirt that. Because I would say that nearly, the vast majority of the time, nearly 50% of the time, obviously they actually don't don't wave. Right? They, they actually follow, they take the advice. I would say that in some cases though, there are situations where we might have four people in a particular crime. Which happens oftentimes with young people that there's more than one. But not all of them have the same role within that particular crime. And so in some cases, it might be us trying to figure out who played what role in the particular crime. Because that matters. Judge, you know that matters.

So obviously the person who had the gun has different culpability than maybe the person that was the lookout. Right? And if we catch all four. But the only way sometimes we know what people's roles are, is that if we seek to try to have that conversation. Which they have a right to not have that conversation. But I would think that from my perspective to not, try to investigate, to not seek a waiver, we're not talking about low level crime. We're talking about some of



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the most serious crimes that happened in this city. And we've seen a tremendous increase in violent crime related to juveniles, particularly our robberies and our car jackings, and very serious shootings.

So I think, we try to do our due diligence following the normal investigative practices, that is consistent with best practices. Which is essentially going back in, when we're prepared to have an interview, or prepared to interrogate, being equipped with the proper information that we need to have that conversation.

Now, I think we can put some parameters around how long we have to do that. Right? But for us to say, like we can say, "oh, you need to do it as soon as they hang up the phone." I think it'll be a disservice to a fair investigative process, because it essentially means that the detectives don't have a chance to actually review the information that they need to have an adequate interrogation.

Which in some ways, it's also our responsibility to determine if the person, what role they played in that crime. And if they even need to go to jail, right? Is it an opportunity to actually release somebody, we might find out like we do oftentimes, that this kid's role fits him for an NTA, versus having to take off, send all four to juvenile hall.

So I just think there's more conversation to have about what is, but I'm not opposed to having an actual hard line time.

Comm. Harbin-Forte: Right. And let me, if I may Madam Chair, I did have another point. Thank you.

I want to respond to what was also troubling, which was that OPD seemed to be the only police department who was acting in a manner that the public defender felt was contrary to what was required by law.

And that all of the other police departments seem to be capable of doing at least what the public defender was requesting. So that OPD was an outlier. And you've explained you're a large department, I don't think anybody's going to say you shouldn't investigate. You've explained it's a large department and that smaller departments may have a better capacity to comply perhaps with the spirit of the law. Better comply. But Alameda is a small department, and now it appears that Alameda is doing, picking up what the public defender considers a bad habit from OPD and is now the second police department in the county that seems to be violating the spirit of the law, if not the actual letter of the law.

So I know more work needs to be done. I understand that I guess a juvenile court judge granted a motion to suppress evidence that was taken in violation of the juvenile's Miranda warning, the Miranda rights. Be interesting to see the reasoning behind that.



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And if it had to do with OPD's policy and the way you are conducting the interrogations, then that certainly is worth a look, because in the long one, the worst thing that can happen is that you mess up the interrogation, the investigation, and then all the evidence gets suppressed. And the person walks free.

So I understand the balance there. But at the same time, certainly after serving for almost 28 years as a judge and handling a lot of motion to suppress and seeing a lot of questionable conduct on behalf of investigating officers, there's also the balance. If there's a way to make sure that the juveniles, that they're courted their constitutional rights, that ought to be priority and primary.

Chief Armstrong:

No, no Commissioner. I totally agree. I think, obviously I was alarmed to hear the way in which it was framed. The first thing I say, I've talked to Chief Joe, who said that that's not accurate, that he has not changed the investigative process of Alameda PD. And so he was unaware that that was being said about his department at this point.

And so I think it's just interesting that, I just wish that at these levels that we could have conversations before we go public with our own frame perspective.

But we, in the statements that said the department did not respond, I do have copies of the letters that we sent back making the same arguments that I'm saying to you tonight. And I just want people to know that obviously I've dedicated my life to helping young people in the city. And so it's not at all, do I ever want young people to be treated unfairly or unjustly or inhumanely.

And so if there is a process where, like you said, I agree, that there needs to be a balance. And so now that one thing I will say is important, that he has brought to me, and I think we need to make sure we remedy, is that there needs to be some specific time limit. You cannot just leave them in there for a long period of time. You need to have some reasonableness as to why it is that they have to stay in there for a certain period.

So I do think that there is a way to strengthen this policy. Right now, it complies with the law but that's not good enough. I think we can go further. We can do better. And I think him bringing this forward has caused me to look at these things differently and try to find a better way to make sure that that young people are not left here longer than they need to be.

Comm. Harbin-Forte:

Right. Thank you. And I would expect no less from you chief and [inaudible] that you are doing and trying to do so, I look forward to working to getting a better policy.



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Chief Armstrong: Judge, I want to-

Comm. Harbin-Forte: Thank you.

Chief Armstrong: Yes. Thank you Judge. I just want to know I was floored last week as well, just to hear it in that way. And the chair and vice chair can tell you, I've been working all week to try to get a handle on this and try to figure out, I want to know. I ask for every single policy, I want to know every door log I've asked for data printout of every single juvenile and how long they've been here. So I have ran my CID into the ground to make sure we get on top of this because I know it's expected.

Chair Jackson: Thank you. Chief, I had let my commissioners ask all the questions because you know, I was hot after that meeting. And I just wanted to clarify, you're going to come to us with a presentation, the first meeting in January, to kind of help us walk through the processes as you see them for the more serious offenders. I mean, I'm sitting here hearing attempted homicide and sexual assault and multiple carjacking over and over again and it's just such a scary prospect that these are 16, 17 year old people.

That said, I will look forward to that meeting and look forward to that presentation. And I'm appreciative for the changes that you've already made. And the fact that hopefully you all will be able to come to some agreements about how to approach these young people.

This is just such a sad state of affairs that we are in, period. But I heard you say that the public defender misrepresented several different things. And that's another thing that bothers me. So hopefully we can get to the bottom of why he chose to come for you, or come for the process. And what he hopes to get out of it.

Are there any other questions from the commissioners before we go to public comment? Okay, I see none. Rania can we go to public comment please?

Commission staff: Yes. Chair Jackson, just one moment. Members of the public wishing to make public comment on this item, the chief's report, please raise your hand and I'll call on you in the order that they appear.

I see three so far, Rosa Garcia. You are up first. I've unmuted your mic. Oh no, give me just a second. I'm going to unmute you Rosa. Give me just one minute.

Rosa Garcia: Hi everyone.

Commission staff: Go ahead.



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Rosa Garcia:

I'm not really trying to be seen because I'm not feeling good.

I'm Rosa Garcia [inaudible] I'm a Oakland resident, born and raised in this city. I'm quite unhappy with the OPD conduct overall in general as well. I've had my share of interactions as a resident in need of service, and not being serviced. Or actually being falsely criminal erroneously criminalized, or treated like a criminal. As opposed to a resident that pay taxes. I'm 35 years old in January.

I've looked across other cities and there is no other city like Oakland when it comes to police corruption. And police not meeting the needs of the citizens that it's supposed to serve.

I just want to say that I do notice that, and I agree, I don't know who this public defender is, but I definitely do see that our youth is targeted. And many times, what is that word, accused of things that they haven't even done or committed. Or just mistreated in certain ways, I want to get to the age bracket. So I just want to say, I agree with that. I noticed that a lot of people who are 40 and up, and males, get a slap on a wrist. Police actually comes to their defense, as their public defenders on the street when their supposed, they have an obligation, not a discretionary, whether they can or cannot. And I consider also, because I'm a criminal justice major and I'm getting my bachelor's is next, I already met my 120 units.

So my thing, and I got A's by the way, my thing is, it says, you must, you must. You have a duty to conduct, you cannot failure to-

Commission staff:

Thank you Ms. Garcia. Sorry to have to mute you. Unfortunately, your time is up. Next up, Oscar Yassin, I see you. I'm starting the clock and unmuting you, when you are ready.

Oscar Yassin:

Can you hear me?

Commission staff:

I can, go ahead.

Oscar Yassin:

I'm very disturbed about the way I heard Chief Armstrong talk about accused youth, who have allegedly committed crimes. There's, I hear this all the time with the police, and with Chief Armstrong in public discussions. But one of the things that we do to safeguard people's rights is we give them the presumption of innocence. And just because Chief Armstrong says he's absolutely convinced someone did something, or the only question is to what degree they were involved, that's disturbing. It's disturbing that no one on the commission asked him to dial that kind of language back and talk about the youth as people who have these rights, and have the presumption of innocent. I'm very much alarmed by Chair Jackson's commentary.



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The PD is not some dude hanging around just talking shit on Twitter about people, that is professional. And if he says something, it's something to be taken extremely serious.

Now you should want a report from the chief, but I think you don't take the severity of the crime that someone is accused of, as an excuse to deprive them of the process that's supposed to adjudicate whether they did it or not.

The severity is not the issue. And I think it's really disturbing that Chair Jackson sanctioned that kind of speech, on the part of the police chief.

And I don't know why you would do that as the chair of the police commission. You're there to hold, not the PD, who you want to investigate what he was coming at the chief for, but the chief. That's who you're there to hold accountable. And that's your job, whether you believe it or not. You're supposed to follow this all the way to the end. It's just, this is not appropriate. It's not appropriate. I'm alarmed and insulted that this would happen at the police commission.

Commission staff: Thank you Mr. Yassin. Next up, Elise Bernstein. I have unmuted you when you are ready.

Elise Bernstein: Good evening Chief. I presented this question through Chair Jackson, prior to the last meeting. Asking for you to address it, and you didn't. So I thought I would take this opportunity to ask it again.

Is that okay? All right, I will.

There's been a lot of talk lately about the level of the number of police that we have in Oakland. And I have this lingering memory that there are many sworn officers, I don't know how many, there are many sworn officers in Oakland, including those on the Brady list, that's those officers who were caught lying in court.

And since they can't be trusted to give truthful testimony, they're no longer allowed to be on patrol. They were on desk jobs. So sworn officers on desk jobs, taking up some of those very valuable police positions. I'm wondering if that still is happening? Do we still have Brady list cops and others on desk jobs rather than out doing patrol? Thank you.

Commission staff: Thank you, Ms. Bernstein. Risa Jaffe, you're up next. Let me restart the clock. Reese, I've unmuted you when you're ready.

Risa Jaffe: Yes, thank you. I want to second a lot of what Oscar said. I was also concerned-



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Risa Jaffe: I want to second a lot of what Oscar said. I was also concerned with the presumption of guilt that was happening in the conversation. And that was concerning to me. I also... I want us to move past the letter of the law, to the intent of the law and what if we could count on OPD officers to be following the spirit of the law, regardless of what the words actually said. There's a reason for Mirandized laws and we want to protect youth and other people who may be innocent and who feel pressured under all sorts of circumstances by the power of the police. And what if our police officers were really presuming people's innocence and following the spirit and the intent of the Miranda law. Thank you.

Commission staff: Thank you Risa. Rashidah Grinage you're up next, when you're ready.

Rashidah Grinage: Thank you. I wanted to follow up on the issue of many people in the community having put forward questions for the Chief that never get responded to. I know that one of those question that is outstanding, that has been repeated several times, has to do with officers making political statements when they're asked why they didn't stop someone or why they didn't do something or respond in a certain way. That officers say, "Well, blame the city council or they haven't funded us and we're understaffed. And so it's their fault. Or it's the fault of the negotiated settlement agreement because there's too much paperwork involved. Or I might get cited for racial profiling if I stopped that driver and that's why I didn't stop him." Those kinds of political statements are extremely disturbing and certainly inappropriate for a professional. And we need to ask the Chief, what is the policy about officers making political statements when they're asked about their activities and they explain what they've done by blaming the city council or blaming a lack of funding or making statements that essentially are political in nature?

Is that permissible? And if not, what's being done? I think it also goes to the reason for the attrition rate, which has been the subject of great concern and lots of discussion. If officers feel hard pressed to do their jobs, that is obviously one reason why they're choosing to leave Oakland. And so it seems to be connected. So I'm hoping the Chief will in fact respond to this question. Thank you.

Commission staff: Thank you, Ms. Grinage. Chair Jackson?

Chair Jackson: Yes so my apologies, I started public comment before the Chief was actually finished addressing some of the issues that had been brought to his attention, sometimes repeatedly and that certainly after the last meeting. So I would like to allow the Chief to finish his statement. We got kind of sidetracked just on the



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public defender and there were some other items that he was supposed to report out about. Chief?

Chief Armstrong:

Yes. So the first thing is I'll take on the political statement question that's been asked for several weeks. We did look into our MOR regarding political statements. Our MORs connected to statements that ha... That are political in nature, meaning that they are connected to some party, whether it is some political party. Obviously if you are making statements in support of a particular political candidate, if you are supporting something that is not within the scope of your duty. I think some of these comments that have been brought forth, if people want to bring them forth to either the internal affairs or either the CPRA, we can investigate and look into those to determine that. I think it is difficult to say. I don't consider it to be a political comment if an officer is asked why it took us 12 hours to get to a call and he or she's says that we just didn't have any resources to respond and people and... But I wouldn't expect people to say, "Oh, it's because we were cut," or anything like that. That's not a... That's not the statements that we're making as a department.

We essentially... A statement of, "Yeah, we just don't have enough resources or we have more calls than we have the resources to respond to calls," is the appropriate response, but not to be blaming certain council members, individual council members, things like that would not be acceptable. But I don't consider those things necessarily political as a... As more appropriate that it would be performance of duty issue about unprofessional conduct, if you would, under that vein. Which we still can investigate and follow up on, that if it's not the professional or appropriate response to make, we can investigate that and come to some finding if that's the case. I think what officers are battling at this point is that dissatisfaction across the city with the department's response to violent crime, as well as calls for service is obviously frustrating to everybody.

But, there is a way to answer those questions that doesn't point fingers at anybody in particular, is not a talking point that we've pushed out to point at any individual. But I think it's important that they all know that if you say something that's unprofessional or irresponsible, that there is accountability for that. The second thing is, is that Brady List, I currently as Chief have no officers that are Brady Listed for truthfulness that are not allowed into... That are at a desk duty, if you would. And so that's my response to that, I do have the Brady List and the vast... The majority of those officers are all gone and we have no treat... No truthfulness or related issues currently that we are confining somebody to desk duty currently as a result of that. So the response to that is no.



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I think the other question that came up during public comment that I was brought forth was to speak to our stop data. I wanted to make... Speak to the continuous decline in overall stops that we've seen over the last several years. And we continue. We've decreased stops nearly 70% over the last four years. And last year, 2020, we finished the year with 20,587 stops. This year, we'll finish the year, probably around 13,000, right now we're at 12,963. That's a 37% decrease again from... Compared to last year. So we're still reducing the number of stops we're making. And we've also reduced our racial disparity percentage for the first time, since I've been here at the police department, our racial disparity percentage is at 47% under... African American racial stop percentage is at 47% when I took over stop data in 2016, we're at 68%. And so to be able to go under 50% at 47%, I think just... We're continuing to work. It's not perfect. It's not where we want to be, but we are continuing to make strides in the right direction because of our focused enforcement efforts.

I think the other question was around the police officer survey. The survey was conducted by the OPOA and the department is not privy to those surveys or the data within those surveys. We have just been provided an overview of what were the top concerns coming out of the survey. And we shared those both publicly and within our council reports. And so I think morale of the department, again, we are trying to make... Continue to build morale as we see cities continue to come to Oakland to try to take officers from Oakland and... To their departments. So we are trying to work with council to manage some type of retention program that could help us keep officers here. It is much cheaper to keep an officer than it is to actually go out and hire an officer and take 18 months to go through the process, to get them on the streets. Our attrition rate could reduce dramatically if we were able to retain our officers. And so those are conversations that are being had with council. And Chair, those are some of the topics that I had from the questions.

Chair Jackson: Okay. Thank you very much. And you feel like you've gone through all the questions that were forwarded to you?

Chief Armstrong: Yes. I know that Connor may have a couple more, but we can go through those at next week's meeting. And I'll continue to answer the questions that... Chair, that you and the commission pushed through to me to respond during my time.

Chair Jackson: We don't have a meeting next week just to clarify. So it'll be the first meeting in January. I just want to clarify. Okay. Very good. Okay. And so for those folks that were in the queue for [Ronda], can we continue with public comment please?

Commission staff: Thanks Chair. Okay. For... I see those... If you've already spoken at this, I cannot call on you. I see Ms. Assata Olugbala, you were next. Give me one... Just one moment, Ms. Olugbala. When you're ready.



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Assata Olugbala: Yes. Responding to the stop data. 47% in African Americans are 24% of the population. In the last 10 years, we have decreased in numbers by 14%. So you still have a disproportionately high number of African Americans who are being stopped by the police. I don't care if it's a hundred stops. If it's 47 out of a hundred, that's still disparity and disproportionality.

Related to the public safety committee meeting this past Tuesday, the report out on overtime spending. When it was reported out on the overtime spending for Lake Merritt, the missed information of why police were there at Lake Merritt was that the crime rate had to be dealt with. That's not the truth. The truth is African Americans were coming out in large numbers and the council decided to put you there to make sure that we could enforce no parking. No parking, that's why you were there.

As it relates to the meeting of the safety and service committee, Measure Z committee meeting that happened this week, report out on CROs and CRTs. Question IX, why so few black officers or CROs out of the 20 something? I think it's 29, only three or four black. And the response was, is because black officers don't want to do it. That's the response. They don't want to do it. Who are the ceasefire police? 29 of them. I've never heard this before the ceasefire police. Okay. Continual to ask you, when are you going to give out the report on Asian hate crime? The reason why you have overtime police over there in Chinatown is because they're supposed to be disproportionately high numbers of hate crime and robberies going on, and you have to have overtime officers over there.

Commission staff: Thank you, Ms. Olugbala. Millie Cleveland, you're up next. When you're ready.

Millie Cleveland: Yes. The Chief said that the public defenders misrepresented many of OPDs practices. Could the Chief clarify specifically what the public defenders have misrepresented, please?

Commission staff: Thank you, Miss Cleveland. Anne Janks, you're up next. Ms. Janks, can you hear us? Anne? I've unmuted you. Anne Janks? Chair Jackson, I'm not sure how you'd like to move. I... This... Anne Janks is a last in my list and I can't seem to hear her.

Chair Jackson: Did you say she was last on your list?

Commission staff: Yes, she's my last hand up.

Chair Jackson: Okay.

Commission staff: Can we just note that Anne Janks has comment for the Chief, please?



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Chair Jackson: Absolutely. She's able to call back in. We can try to take her out of order.

Commission staff: Thank you.

Chair Jackson: So for the benefit of Miss Cleveland's question, Chief, would you please just clarify your commentary around what was taken out of context by the public defender? Just the key areas.

Chief Armstrong: Yeah, I think the key areas was that the department did not respond to the public defender's letter, which we have a written response. I have a written response with me. I think Anne Janks might have gotten through. Is that her?

Commission staff: No, that's my street.

Chief Armstrong: Oh, okay. [crosstalk].

Commission staff: [crosstalk] loud. Sorry.

Chief Armstrong: Got it. Okay. I think the other issues is that, I think there's some specific details around the things that were said as to reoccurring problems that, based on our data and the data that I've reviewed are not consistent with what we have. Some of the examples that were provided, I think, we have a response to. But I'm not trying to... Here to do the same thing that I'm... That I was not happy about. So I'm... The commission has set up a meeting for Monday. I think we'll work out these things at Monday's meeting. I'm not interested in going back and forth. I just think it's time for us to try to fix this problem and make sure that we are doing what's in the best interest of young people.

Chair Jackson: Okay. Thank you, Chief.

Commission staff: Chair, I see... Can I give Ms. Janks one more go, I think [crosstalk].

Chair Jackson: Yeah absolutely.

Commission staff: [crosstalk] dialed in. Just give me one second. Anne, I think I see you. Let's try again shall we? I've muted you, try now.

Anne Janks: Good evening. So I actually missed some of what the Chief said although people were kind enough to text me, to keep me up to date. I was finding my joyful place in a macro report for district seven. And so my question about the issue of officers making frankly very political statements when they're on the job and in uniform is, what instructions do they receive about the limitations and what they are allowed to say. Thank you.



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- Commission staff: Thank you, Ms. Janks.
- Chair Jackson: Did she drop off?
- Commission staff: No, she finished her public comment.
- Chair Jackson: Oh, that was it. Oh, okay. Thank you. Chief, I would like to know the answer to that question as well. Can you address that?
- Chief Armstrong: Yes. Like I spoke earlier, we speak specifically about... And we've addressed this a number of times with staff, making sure that staff is not calling out any council member or anyone by name, as responsible for any particular thing. Whether we're talking about who drives the shelter population, who has led to decrease in funding to the department, all of those things are not for us to actually be calling out individual council members about that. And so we will continue to enforce that and we'll follow up if there's any issues that we need to follow up on.
- Chair Jackson: And Chief, I might add that I would encourage people who are witnessing this kind of speak to get the badge number or their name and report it. Is that the accurate protocol for follow up?
- Chief Armstrong: Yes, that could be either to internal affairs or to the department, obviously, and to CPRA. I do want... Like I said, oftentimes it will be people asking us questions about what do we... If there's a question about... If you want more resources, which officers are often asked if there's... If people are disappointed by not having an adequate response time or our inability to follow up on investigations and people are told that it... The department does not determine the resources that it has. And that I think it's fair for an officer to say that if there's any questions about department resources, they should speak to their council members or other city leaders. I don't think that, that's a political statement, that's how the process works in Oakland is that the council decides the budget. And so if community members have concerns about the resources that OPD has, they should channel that to their council member.
- Chair Jackson: Okay. Thank you very much. Rania, that exhausts public comment now, is that correct?
- Commission staff: Correct. You're ready for your next item.
- Chair Jackson: Okay. Thank you very much. Okay, early in the meeting, I addressed the error that I made in putting together the... Or in releasing the press release. However, we are all very delighted with our selection of Michelle Phillips as in next Inspector General. I'd like to invite other members of the ad hoc to chime in or



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give comments, however they see fit. And then certainly if there are any Commissioners who have other comments or questions who are not on the ad hoc, I invite them as well. Vice Chair Milele or Commissioner Peterson?

Comm. Peterson: I will just say that with respect to the selection, although it might be the delayed because there's an additional important procedural step. I do look forward to welcoming our selectee in the very near future.

Chair Jackson: Thank you very much. Vice Chair Milele?

Vice Chair Milele: Yeah. Thank you, Chair. Yeah, I wish would echo what you said earlier about it being about our excitement and enthusiasm for the process and for the achievements that we made in this process. And obviously no intent to skip processes or not follow the procedures as we are all... I believe none of us on the ad hoc are experts in this particular type of procedure. So we doing the best we can with what we know, and we're just very thrilled and excited for the next step.

Chair Jackson: Thank you very much. Are there any other Commissioners that wanted to chime in or make a comment or statement? Okay. There being none, I will... We should go to public comment and then we can take action.

Commission staff: Thank you, Chair Jackson. Members of the public wishing to make public comment on this item, the selection of the Inspector General, please raise your hand and I'll call on you in the order that they've appeared. Ms. Elise Bernstein, you are up first. You are unmuted. Ms. Bernstein, I don't know if you're talking, we can't hear you? Okay, we'll come back. Cathy Leonard, when you're ready.

Cathy Leonard: Good evening Commissioners. I'm Cathy Leonard and this statement is made on behalf of the coalition for police accountability. We greatly appreciate that you volunteer your time and talents to serve on the police commission. It is a great sacrifice for you and your families and we thank each of you. The coalition publicly acknowledges when your work benefits the residents of Oakland, but we must also acknowledge when that work falls short. Much to our shock on December 13th, a press release was emailed to the public from Ms. Adwan stating that the police commission had hired Ms. Phillips as Oakland's first ever independent Inspector General. The Inspector General search ad hoc committee was tasked with conducting a nationwide search for a civilian Inspector General, who would report to the police commission. Thereafter, a couple of critical steps were missed.

The ad hoc committee never made a recommendation of its choice at a commission public hearing. And the public was never permitted to make comments. Instead, the vote was taken behind closed doors and the December



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13th announcement made. Where was the transparency? This is a violation of the Brown Act. So now we must ask you, when was the vote taken to select Ms. Phillips? Was a zoom meeting held to recommend her? If so, when and how was this communicated to the full commission for a vote? Was legal counsel sought beforehand? If not, why not?

Did none of the commissioners understand that the process you were undertaking was a violation of the Brown Act that requires noticing, discussing, taking public comment and voting in open session. When the commission hired its legal counsel, the process was done correctly. Why was that process not followed here? Proper protocols must be followed in order to preserve public trust because without transparency, the police commission will cease to be credible and lose its legitimacy. We would appreciate an explanation this evening as to why the Brown Act was violated? And how can you assure the public that this will not happen again? Thank you.

Commission staff: Thank you, Ms. Bernstein. Chair Jackson, I see no more hands raised. Oh, sorry. Cathy Leonard, my apologies. Yeah.

Chair Jackson: Did Ms. Bernstein get through? Or...

Commission staff: She's put her hand down.

Chair Jackson: Oh, okay.

Commission staff: Oh no, it's back up. Let's give her one more try. Sorry, Miss Bernstein [inaudible], you had your hand down. Let's try [inaudible]. Hang on. When you're ready I've unmuted you.

Elise Bernstein: Yes. Thank you. I'm sorry about that. I'm pleased that Cathy Leonard read the statement of the CPA and I certainly stand by that. But as an individual, I have... I'm hoping that you will answer the questions that Ms. Leonard presented. I find it disturbing that the... You apparently selected one of the two panel... Finalists whom I considered not qualified. And I hope that you will sp... Because with no public discussion, no sharing by the public of what they felt about the three applicants, once we did see their interviews... Their last interview. And it was clearly, there was a clear distinction between the three and I'm appalled that you selected one that I considered not qualified. I'm hoping that we can get some more details. Thank you.

Commission staff: Thank you, Ms. Bernstein. Chair, it's back to you. Chair Jackson, it's back to you. I see Commissioner Harbin-Forte has her hand raised.



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- Chair Jackson: Okay. Yes, I did want to respond to one thing. We did agendize a closed session on appointment employment on November 18th, 2021, but I will respond to Commissioner Harbin-Forte's hand up.
- Comm. Harbin-Forte: Oh, I was only going to say that the action was always intended to be taken tonight. And was there a motion from... A request from the ad hoc that we select that candidate? Is that what we're getting ready to do now so that we have not taken a vote on the selection?
- Chair Jackson: Yes. You jumped ahead of me. Thank you. [crosstalk].
- Comm. Harbin-Forte: All right.
- Chair Jackson: [crosstalk] a lot tonight.
- Comm. Harbin-Forte: I'm taking my hand down. I just wanted to clarify that, that's what we're getting ready to do. We have not voted and we have not violated the Brown Act. All right, thank you.
- Chair Jackson: That is correct. And so I would like to accept a motion to take this action. Who would like to make that? I see Vice Chair Milele's hand up.
- Vice Chair Milele: Yes. I would like to make a motion that we select Ms. Michelle Phillips as our first independent Inspector General.
- Comm. Peterson: I second.
- Chair Jackson: Sorry, I'm talking on mute myself. So it has been properly moved and seconded and we have already taken public comment. So we are ready to vote at this time. Commissioner Harbin-Forte?
- 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.



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Chair Jackson: Commissioner Peterson?

Comm. Peterson: Yes.

Chair Jackson: And yes for myself, we are unanimous. The new Inspector General will be Michelle Phillips and we will re-release the [inaudible] with appropriate dates corresponding. And thank you very much. And two... Some of the questions I will respond in writing. I will go back to the minutes and identify each of the questions and then I will respond to each of them in writing. And that will be... I guess it can be published in the next agenda, the January agenda.

So the next item is considering approval of the revised CI [inaudible] policies with respect to the OPD homicide section. You all will remember that the CID policy was brought to us. They... The OPD had started from scratch based upon the circumstances in the policies that were visited around [Polik]. And so there was a very detailed process to delineate the policies and procedures. We had some questions and then we also had a public forum. It was not well attended, but there were some outstanding recommendations that were provided. And then since then, Commissioner Hsieh, who has been unable to attend has provided some more questions that were informed by the policy. And so I think Lieutenant Turner, or DC Lindsey might be here to provide an overview of that feedback. Is that correct?

Lt. Turner: Yes, yes Chair. I am here and I know that, I think, DC Lindsey received an invitation so I'm missing the little panel where it shows everyone who else is... Who is here. So-

Commission staff: She's also on.

Lt. Turner: Okay. So yeah, she can out rank me and cut me off anytime she'd like, but until then. Yeah, Lieutenant Joe Turner, the Oakland police department policy and publication unit.

Thank you everyone. And agree with what the chair said about the public Ad Hoc. I hope everyone did if they weren't able to attend, had a chance to review it on the commission's website.

So in response to the very good questions that came out of that, which were around the way that the department does interface with the families of those who are impacted by these type of events. And so just very briefly of a quick 30 second overview, what this policy is for those who might be joining for the first time. So what this is, is a direction to our investigators on how to complete criminal investigations for what we call level one uses of force.



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So these are typically where an officer might use their firearm against a member of the community where someone is seriously injured because of a use of force or certain pursuits where there's an unfortunate serious injury or loss of life.

And in these cases, there are very strict ways the department does investigations. And we did talk at length about this at the last meeting, but during the Ad Hoc, some good questions were asked, "well, how does the department liaise with the family member of someone who might be impacted by this? If their family member is injured or loses their life, God forbid, in a incident involving the police use of force. How does the department respond?" So there's a couple things and you can see in the supplemental attachments that is on the website there, so what we did is in response to this, we added two things, in this document.

So one was to far all of the direction of actually it's going to be DG0K3 that's a quick typo, but K3, which the police commission already completed and voted on, regarding community impact of force instance and consider whether community response resources are strategies. Should we recommended or implemented immediately after a certain incident, given the nature of the incident.

So this is direction to those commanders who are on scene at the time that this happens.

So talking about things like, we have a community response vehicle, contacting into the department of violence prevention, or grief counselors, or chaplains program. Contacting other resources to be able to get out to the community this information, and start building those bridges of understanding, if not necessarily, just getting the information out there.

So that is the first thing that is directly to the watch commanders. And that again is on page 10 of the document that you see. And then another addition that we made, which is on page 22 of the document, again, the supplemental report, is one that specifically calls out transparency and family member outreach.

So it does say, and this is a requirement, that every time any one of these level one investigations occurs, the CID captain or his or her designee, will alert the department's victim service specialist of the incident.

So that person, the victim service specialist, which is currently a filled position here at the police department, will coordinate with the captain or the designee, which may be the Lieutenant who has more information about the investigation. And that victim service specialist will alert the engaged person's



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family to the presence of resources and share what information can be shared with the family about the status of the investigation without compromising the investigative process.

So the victim service specialist shall also apply CID policies and procedure for victim engagement as directed in those policies. And so one of the other things that came out of the Ad Hoc meeting was a discussion about CID, which is the Criminal Investigation Division and their development, which is currently ongoing, of policy around victim engagement and the way that the department engages. So obviously there are already practices that are in place.

The department has a victim service specialist right now, her name is Bridget Cook, and she's doing an excellent job. She's working on resources and things like that, but a clear delineated policy, which is coming up.

And so I'll just, one last thing shares, there were some questions, and we appreciated those from commissioner Hsieh, who cannot be here tonight, but some three things that I identified in his questions were. First, he asked a little bit about identifying exactly the thing that I just talked about, the upcoming CID victim services policy, and speaking to the next steps on what's going to happen. So, as I said, our victim service specialist, Bridget Cook, is working on that policy along with other stakeholders and I believe some community groups. And I know that's something that probably Deputy Chief Lindsay can speak to and she'll speak to you. And I'm sure as we come back and reconvene in the new year, that when that policy is complete. We'll have some further discussions here in this form or other forms about that, but it is moving forward.

We'll clarify. So commissioner Hsieh also wanted to clarify how that family member or victim outreach is conducted by the victim service specialist and the CID captain. So the way what this makes happen is that every time one of these incidents happens, the CID captain, which is the investigations division captain has to, is required by the policy to notify that victim service specialist. And that person then, is required to coordinate with the captain to alert the family of this person of the presence of resources, and then share what information can be shared.

So there is a requirement. It will happen every time. Understanding that there are going to be different circumstances in different amount of information that can be shared, depending on the investigation.

And then the last question from commissioner Hsieh was there was a, and this policy is as you know, there were a lot of different areas and input that came in.



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And so one of the things that was in a previous draft of the policy that was taken out before the final version was about the community briefing video.

So everyone does know that the State of California has a law that unless there are certain circumstances, body-worn camera footage from incidents where a member of the community is seriously injured or dies as a result of police use of force, that body-worn camera is required to be released by the police department within 45 days. And so that is the law. One of the things that I originally tried with this document was to talk about it, but as we kind of went through different versions, we figured, and I think the executive team made the good idea to move that probably to something that's more directed toward the public information officers.

So Officer Watson, Officer Acethorn, Manager Chambers, and Officer Armstead, those folks that you see, probably some better direction to them, because as the chief has talked about as well as Chief Lindsay, this policy is very specifically around the investigation. And so there is as commissioner Hsieh noted, some very specific call outs that require the PIO, that public information officer, to be on scene so that they get the information, so that they can provide as much information as they can to the public and to the media. Who have the right to know and need to know as much as we can in terms of transparency.

But at the same time, this is not a policy for the public information officers. This is for the investigators. And I think they rightly decided to move that to a different policy.

So more things forthcoming, as it always is with policy. There's always another thing to write and more things to do. But I think as you said, chair, there were a lot of good things that came out of that Ad Hoc meeting. And we're happy with this, and we're hoping that the commission will see fit to pass it tonight. And I'm happy to answer any questions.

Chair Jackson:

Thank you, Lieutenant Turner. Are there any questions from the commissioners?

Well, I'll ask one. The commentary that commissioner Hsieh, I don't have a red line item for the policy, but the commentary that commissioner Hsieh offered when we were discussing his recommendations as a follow up to the forum, particularly around family engagement. All that narrative made it in, correct? So everything that we have in this policy were, reflects those commentary, right?

Lt. Turner:

That's correct. That's correct Chair. Yeah, I know at the Ad Hoc meeting, we noted sort of that two-step process that commissioner Hsieh suggested that was really helpful, right? Which was to get that paragraph in here. And we



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actually went a little further because I also referenced DGOK3, which you and I talked about and remembered from our work on the Ad Hoc.

Chair Jackson: Correct.

Lt. Turner: So we did both that and yet took that information from Commissioner Hsieh really made it a couple robust requirements for the CID captain and the victim service specialist to make sure that this gets the ball going, but then also referenced to those CID policies and procedures that are forthcoming.

Chair Jackson: Okay. Thank you very much. I just wanted that clarification.

If there are no questions or comments from the commissioners, we can go to public comment and then decide if we're going to take action.

Ronya: Thank you Chair Jackson. Members of the public wishing to make public comment on this item, the CID revisions, please raise your hand and I'll call on you in the order that they appear. Just one second. I'll also get our little clock going.

Okay, First up, Rosa Garcia, when you're ready.

Rosa Garcia : Hi. Yes. I hear that you guys moved the conversation from the youth to how to better serve the youth in the community. So I just finished my proposal. Where do I submit my proposal? It has to do with the entire income pass of-

Ronya: I'm sorry, Ms. Garcia. This is public comment only for the CID revisions. If you'd like to make general public comment, please hang on until open forum part two. You're also always welcome to submit written public comments. So moving on, let me start the timer. And Anne Janks when you're ready.

Anne Janks: Good evening. So the good news is that Rashida Granash tells me that I'm too critical of the commission and I need to be nicer, and that's my new year's resolution. The bad news is it's still December.

First of all, I'd like to clarify, Lieutenant Turner referred to the public Ad Hoc related to his policy, there was no public Ad Hoc. There was a 20 minute public meeting.

Now the commission can interpret that as evidence that they gave the public an opportunity to engage and the public chose not to. Or they can choose to take it as an indication of a deeply flawed and tepid outreach effort.



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I know it was 20 minutes because I was at another meeting and I tried getting on and it was already over.

One of the rationalizations we heard about rushing this policy through because OPD drafted the entire policy without ever engaging the commission until the very end. Was that the policy could be revised at a later date.

That was the same thing we were told about use of force, and we're still waiting for taser policy, police log policy, and other less lethal policy that are deep interest to the community.

The commission made it clear they're going to pass this policy without, I think, reacting to the fact that the OPD gamed them. This is no different than parents driving at 9:00 PM because their kids tell them at 8:00 PM they have a project they have to do, and everyone's on their way to Target.

I urge you minimally to address this in the future and make sure that you are involved in the policy development earlier, so that you can engage effectively and meaningfully the community in the discussions before the deadline. Thank you.

Ronya: Thank you, Mrs. Janks. So Jackson, seeing no more public comment. It's back to you.

Chair Jackson: Okay. Thank you very much. As it relates to our time with the policy, we wanted to make sure that there was a public forum. The fact that we didn't get a lot of people there, did not diminish the excellent recommendations that were put forth and that found their way into the policy.

So at this point, given the fact that the policy that is currently on the books is woefully inappropriate and does not go far enough, in terms of accountability. I am going to move that we approve the CID policy. So I'd like to make that motion. And I invite a second.

Vice Chair Milele: I'll second.

Chair Jackson: Okay, thank you. I think that was Vice Chair Milele.

It has been moved and properly seconded, thank you. And since we've already heard public comment, we can go ahead and take a vote.

Commissioner Harbin-Forte.

Commissioner Ha...: Yes.



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Chair Jackson: Commissioner Howell.

Commissioner Ho...: Yes.

Chair Jackson: Commissioner Jordan.

Commissioner Jo...: Yes.

Chair Jackson: Commissioner, vice chair Milele .

Vice Chair Milele: Yes.

Chair Jackson: Commissioner Peterson.

Commissioner Pe...: Yes.

Chair Jackson: And yes, for myself. We are unanimous. I am pleased that we have a stronger, more accountable policy on the books. Yes, if there is some need to go back and try and add more to it later, that's something that can be done. But we have a laundry list, a long list of policies ahead of us. So I'm glad that we were able to conclude this.

With that, we can move on to item eight. Which is the review of the 77th federal monitor report. I agendize this as a follow up to the 76th federal monitor report, because in my own review, there were some things that were disconcerting.

And I know that this was agendized ahead of our meeting by the public's safety committee. However, I was not able to attend that meeting. I am not sure if any commissioners have questions that they would like to pose, or if the chief is here, I think that's how it needs to go. Is that correct? That we have to pose questions with this? As opposed to an overarching narrative from you?

Police Chief: Well, I think I can start off by saying again, I believe this report again is reflective that the department continues to make progress. I think we appreciate these reports, but I think it's something that we don't wait to receive the report before determining our efforts to continue to try to make progress towards compliance with the negotiated settlement agreement.

I will say that currently we sit today, there are five tasks that are not in full compliance. Four of which are impartial compliance. And so we are out of compliance in task two, which is IED timelines, getting those cases completed in 180 days. Which we had to pretty robust discussion about last week between us



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and the CPRA. And then task five, which is to complete and thorough ID investigations and timeliness of those investigations.

So I think those two are tied together. Task 25, which is use of force, use of force investigations. So we continue to be in partial compliance with task 25 and still making progress on reaching full compliance. We have secured our contract with our vendor for our new body-worn cameras. They should be coming in and we should have our full department outfitted by the end of January. That should help us with the body-worn camera delays with the automatic activation technology.

We've also pushed out some accountability metrics for internal review of use of force investigations. We are impartial compliance on stop data. I mentioned earlier in my comments about the progress that we've made in reducing racial disparities, as well as stops of African Americans, and overall stops across the city.

And then lastly in task 45, which is consistency and discipline. Which we are impartial compliance. And we've worked to complete all of the recommendations that came out of the Hillard Heintze study, which have played a significant role in us being taken out full compliance into partial.

We've completed those recommendations under W Chief Lindsay's guidance. They now are doing project reset as started, and we are training officers currently. So we believe the department is well positioned, hopefully to continue our efforts towards reaching compliance and chair, I take any specific questions the commission may have.

Chair Jackson: Yes. Well, I have one in particular. And you made a comment about how tasks, I think you said two and five are conjoined, I think is the word that I've used.

Help me understand how that happened. It's my understanding that the 52 recommendations have always kind of been standalone, in order to be considered in compliance. And if my reading of 77 was correct, I believe it was task five that you all had a hundred percent, in terms of your reporting.

So I want to try to understand how that is considered deferred compliance. When, I don't understand what I'm reading, because it should be in compliance if there are a hundred percent. So can you help clarify that for me?

Police Chief: I can't speak specifically for the federal monitor, but I will say we believe that both tasks will be reviewed at the same time. I believe when task two is reviewed the next time, which is hopefully in January, as we end the quarter, the fourth quarter of the year, December 31st. We will have new data that we



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believe hopefully will show the department to be over the 85%. That's mandated for task two, for class one. Investigation completed completeness. And so that's what our hope is. That's what my belief is, is that those two are being conjoined because timelines and thoroughness and completeness of investigations kind of work together because they're both IED cases that's what I believe is the rationale. And we hope that when they review task two, that task five will also be considered in compliance.

Chair Jackson: So has the monitor ever put two tasks together before?

Police Chief: Not that... There's been tasks that have been considered together. Like we talk about use of force, use of force task 24, task 25, but I think this is a bit of a different circumstance simply because the IED cases are all sort of interrelated if you would.

But we, like I said feel like we're making progress. We hope that we'll be reviewed then, but this is something that we just do for us.

Chair Jackson: I am not looking for you to reflect on whatever the monitor's thinking, so I just want to be real clear about that. Have you had delayed or deferred compliance in other tasks over the last few years? That's a new term for me.

Police Chief: Yeah. We've had deferred task before, it's something that we've seen before I will say, yes.

Chair Jackson: Okay. Given the fact that we did have robust conversation around the timeliness of investigations. And that 180 days, and that was when we learned that CPRA's timeline was kind of conjoined with yours. What is it about our last conversation that leads you to believe that in January you will be considered in compliance at the 85% marker?

Police Chief: Well, I think we have developed our own internal mechanisms to actually continue, to use the methodology that the IMT used previously to determine what our percentage was. So Captain Lao has been tracking our progress. I'm getting updated meetings, I'm having meetings and getting updates weekly from him about the progress of cases. And so that allows us to better understand what cases are coming close to 180, and making sure that those cases are being done far before the 180 date.

We've also changed some into processes through my directive. That allows us to actually, again, be flagged if a case is within 30 days of the 180.



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And that gives me a notice, an idea notice that that case, we need to get a better understanding of why that case would be delayed if you would. So I think our processes have changed.

I also want to mention our compliance rate for the last several reports has continued to improve, which is also a sign. So when I came in as chief, I think we were down in the low seventies, at that time. And I think we have continued to make progress through IED getting more staffing as well as improving the internal process that we have. So we have made ongoing progress that I think will continue.

I also say, one of the things I didn't mention was that the creation of the bureau of risk management to monitor those things on an ongoing basis has also been helpful. Being able to tap into different areas of bureaus and ask the right questions of commanders about what is, why would a case be delayed is also helpful. So it's not just IED anymore, there's actually a oversight of IED, if you would.

Also one of the things I will say that progress again, being made, we weren't put in compliance with task 41, which is a new task that we were put into compliance with.

Chair Jackson: Okay. Thank you very much. One thing I noticed when I was on the monitors meeting, to review your reports. I heard a lot of, what I consider to be observations, but not any suggestions, is that typical?

Police Chief: Typically in those meetings, we typically hear from the IMT team regarding their reviews, we take their feedback. We do have other meetings, private meetings with staff, IMT teams meets for technical assist, meetings with staff outside of the monitoring visits.

I also have a weekly meeting with the compliance director where I do also get specific feedback on what it is that we may need to do.

So I think it comes in various ways. So that meeting tends to be sometime we get feedback or we get things that we could do better, but sometimes it also comes into forms of other very other specific meetings. Like our team will have a meeting with the IMT team regarding any particular task that we're working on.

Chair Jackson: I'm not quite sure that I got an answer to that question. I think what I'm trying to get at is, these folks are paid a lot of money to investigate and finding consistencies or vulnerabilities, Achilles, heel, whatever we want to call them.



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And when they're making observations about what they're seeing, I'm troubled that in their observations, that they are not making suggestions. Like, someone can say, "Hey, I'm disappointed that the culture isn't better yet," or whatever. And while we definitely want to see culture shift, is not one of the tasks. And so I'm trying to figure out how do you put legs on something, but you'll hear a suggestion there, but not in a space where they're actually responsible for weighing in. Is that typical? Is that consistent?

Police Chief:

Well, like I said there, we do get feedback in other forms. It just depends, recommendations like yesterday, more accountability for command staff, right? In order to try to manage some of the use of force investigations, making sure that things are being caught, making sure that those reviews are thorough. We'll get the feedback of, maybe accountability might, stronger accountability at higher levels. Maybe more thorough reviews by supervisors and commanders. So there are some things that happen with that. We all, like I said, there's also smaller group meetings with the IMT where we're working on specific policies, if you would, and getting direct feedback from them about improvements to that policy. I think we've shared with you some of the back and forth sort of feedback we get and how we incorporate that into policies. But I think that's sort of what we see oftentimes in terms technical assistance, we get that feedback in that way.

Chair Jackson:

Okay. All right. Thank you. Vice chair Milele?

Vice Chair Milele:

Thank you chair. So I guess I can just sort of repeat some of the expectations and questions that I had had also at that monitors meeting. I believe that was Tuesday. And just that we, more generally, that we look into what the exact measurements that success looks like. I was concerned to see observations and commentary about errors that seemed out of context. For example, with some of the body-worn camera things, that there may have been 27 errors at a given period of time, where there might have also been 800,000 activations. And that percentage there, the margin of error there, was seemed to be pretty low.

So looking at exactly what success looks like, are we looking at 99.99% accuracy on this? Or are we looking at something different? And I saw that there was some agreement that we need to look at exactly, what does success look like for these particular tasks? So that we know at any given time that we are moving toward compliance and that, it's really clear where the goal posts are. That would be my comment.

Chair Jackson:

Thank you, vice chair.

Are there any other comments or questions from the commissioners? Vice chair, is your hand still up or did it newly go up?



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Vice Chair Milele: Oh no.

Chair Jackson: Okay, thank you. All right. Hearing none, we'll go to public comment, please.

Ronya: Thank you Chair Jackson. Members of the public wishing to give public comment on this item, the latest in the monitor report, please read is your hand, I'll call on you in the order that they appear. I'm just getting our clock started.

Okay, let's see, here we go. [inaudible]

PART 4 OF 5 ENDS [02:04:04]

Ronya: Miss Assata Olugbala, you are up first. When you're ready.

Assata Olugbala: 19 years, we're going into 19 years of trying to come in compliance with over 50 Task, which made policies inclusive in many of those Tasks. And over the years, those policies have not been recognized or enforced. The Monitors Report made some statements that... Oh and by the way, last year we were three Task, either partially or totally out of compliance. Then we went to four. Now we at five. And every year we keep hearing that we close to coming to an end to this. The Monitor says... And the report should be coming from the Monitor or representative, not from the police department, who is the reason that we're dealing with this issue. Ongoing concerns with body worn cameras, dealing with that year after year after year. And the conclusion, the progress is Tasks that have been non-compliant has been disappointing. That's what the Monitor says.

And we urge the department and city leaders to elevate attention to these matters. And this has been said by the judge over and over again, it's not just the police department, the city leaders, the mayor, the council have been told that they have to intervene to get something done. I don't understand this statement in the Monitors Report, there remains a considerable culture issue that appears to inform the decrease of officers and supervisors and their performance of their duties. What is this culture issues that they're talking about? That lacks performance of duties and supervi... Of officers and supervisors?

Ronya: Thank you, Miss Olugbala. I'm sorry to have to cut you off, but unfortunately your time is up. Michael [Tigges], I think that's... I'm pronouncing your surname right? Michael, when you are ready, I've unmuted you.

Michael Tigges: Thank you. It's Tigges but nevertheless-

Ronya: Thank you. Sorry. I'll [crosstalk].



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Michael Tigges: [crosstalk].

Ronya: Let's go.

Michael Tigges: Yes, I have a statement and one question that I've articulated to the commission. Once the plaintiffs and the court agrees that compliance has been made to the negotiated settlement agreement, is the commission ready to take on the responsibility and have you anticipated that you will be able to address these tasks or follow up on these tasks once the responsibility is passed to you? Measure LL and Measure S1 by all of on the Coalition for Police Accountability was put in place so that when the NSA is passed to the city, that there would be an entity that would be able to do much better than the city administration did in the last 40 years. And my question to you all is, are you ready? And do you have the ability to continue to monitor and question the police department and to hold them to the task that have been articulated in the settlement agreement and make sure they continue after the OPD is, or the city is released from the federal oversight? Thank you.

Ronya: Thank you. Phone number ending in 1779, when you're ready.

Mary Vail: Thank you. This is Mary Vail, and I'd like to talk about an issue that was raised at the very end of the 77th Monitoring Report, which is the whole Instagram situation, and the Monitor observes that the city or OPD has still said very little about what it's going to do to implement the recommendations of the special investigator. My personal concern, and the whole issue of whether there's cultural rot in OPD is the fact that what happened in 2020, 90 days, intelligence misinterpreted things for whatever reason, cluelessness, a desire to minimize the situation. Internal affairs did nothing. No... There's no culture of objection to racist anti-reform, misogynistic posts, as the investigation revealed.

I'd like to see what the chief is going to do so that the management leadership in intelligence and in internal affairs acts differently, actually creates a culture of accountability. And I haven't seen anything yet that, that's going to happen. And giving many discipline to a bunch of folks that put bad posts on doesn't do the job, not when basically members of the former administration's leadership was basically tipping people off the department was looking to the site so they could sanitize their work emails. It bordered on a cover up attempt. And it's very concerning to me because of the really important problems that were cultural and otherwise that were revealed by the special investigator retained by the court.

Ronya: Thank you, Ms. Vail. Sorry to have to cut you off your time is up. Chair Jackson, that's all we have for public comment.



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Chair Jackson: Thank you very much. I think that will likely continue to agendize these reports because they are... They tell us a lot, let me put it that way. But I would like to get to a point where we are identifying more, very clear measurements around what success looks like as Vice Chair Milele mentioned, and we'll be moving forward with the social media policy, which will hopefully address all of the issues inside the Instagram case. I see Chief Armstrong's hand up?

Police Chief: Yes Chair, if I could just quickly on that subject, I think Mary Vail brought up a really quick point I wanted to make. Just when we hear the statements around wanting to see if there's change within the department I do want to say since our team got in place, obviously we've held people accountable. Obviously we've had to obviously discipline those, but I think the ways in which we're doing things, putting creating systems that can actually hold this department accountable is something that we've done.

I think creating a bureau of risk management was key. That bureau is functioning, is very strong working closely with the IMT and also leading our audited component of the department and overseeing IED to ensure that things are getting done correctly. I think we have had... We put a team together that I believe has been willing to hold people accountable at every level, every bureau level. So I do believe that this year has been a reflection of the way in which we can work moving forward. So this is a different administration. Obviously I spent most of this year sort of dealing with things that came out of 2020, but I must say that in terms of the behavior that's happened in 2021, I think it's been much different.

Chair Jackson: Okay. Thank you very much, Chief. Commissioners, I see no other hands or comments. So I guess we will advance to the next item. So these are committee reports. First up is Inspector General. I believe that now that we have taken action and made a decision to in fact, hire Ms. Phillips that the Inspector General's goal has been achieved and so this will be sunset or ended. Similarly with the CID manual review, unless there is further down the road, a desire to pick that back up and make more changes, it is been sunset. With the OBOA allegations investigation, Commissioner Harbin-Forte, did you want to weigh in on that or shall I? Or...

Commissioner Ha...: I'll defer to you. And I think Mr. Alden maybe on too. I'll defer to you.

Chair Jackson: Oh yeah, I see that he is on. Thank you very much, Mr. Alden?

Mr Alden: I don't think I have anything else to add unless there's a question?

Chair Jackson: Well, we haven't said anything. I think that there was an initial call so that we can get in a position to start having ad hoc meetings where the company that



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we are consulting with needed to know, I don't know, who to go to, to get certain information. I don't know if you wanted to add to that. It's just one call, but hopefully in the new year, we will be able to move forward with an ad hoc that allows us to facilitate contributions, questions and thoughts about ensuring that we don't ever have allegations of this sort again.

Mr Alden: I suppose I might add that in the first few months, I would expect these contractors would be doing a series of interviews with people. And in order to make sure they're really getting a straight [inaudible] perspective from each of those people, they might not want to say a lot about what their initial findings are until they've had a chance to talk to each of those people for the first time. So if there's not a lot of news the first couple of months, it's only because they're trying to make sure not to taint anyone's perspectives or skew what they might hear from people as they talk to them about what their concerns are. But then I do think within a few months, we probably would be... It would be up to contractors, but I imagine they would start to have things to report sometime in 2022.

Chair Jackson: Okay. And it sounds to me like, do we have a timeline to understand how many months they're going to take to interview before we are able to facilitate the ad hoc committee space?

Mr Alden: No. When they first gave us our... Their bid, they... And the bid that you, as the commission accepted, they set up a timeline of eight weeks worth of work. But... If I recall correctly, but that didn't mean it would be done that quickly. It meant that's the amount of work that needed to be done. Eight weeks of full-time work, which might be spread out over multiple months, depending on how long it takes to get documents, to interview people, to digest the material. So it would... It's at least two months of full-time of work that would have to be spread out over four to six months, depending on how long it takes to get the materials and complete the interviews.

Chair Jackson: Okay. And that four to six months starts from when we had the conversation? Or when the requests are made? Or...

Mr Alden: Well, it's four to six months is an estimate. And again, Commissioners, I can't really speak for these contractors. If you want more detail about how they're performing, you might want to ask them to come to commission meetings because I am not directly supervising their work and I'm not monitoring it terribly closely because they're the kind of contractors that should be able to do those without us having to walk them through it. That's part of why we hired them. So what I think I might be picking up here is a desire to have them make some regular reports here at the commission. So the public can understand better what they're doing.



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Chair Jackson: Yeah. I think that makes sense. Commissioner Harbin-Forte, wouldn't you agree?

Commissioner Ha...: Agree.

Chair Jackson: Okay. So maybe we can talk John about what the timing might look like in terms of having an initial report out, whether that's maybe March? Certainly it's taken us a long time to get this started and I'm very interested in having us move forward as expeditiously as possible.

Mr Alden: Understood.

Chair Jackson: So do you think that March sounds like a reasonable time?

Mr Alden: Again Commissioner, I really don't know. I'm not the one doing the work. I wouldn't have a way to know that. So I really couldn't give you any thoughtful opinion tonight about that. I'm sorry.

Chair Jackson: Okay. So then maybe I'll reach out to them and ask then.

Mr Alden: Yes, I think we should... As I mentioned before, I think that's something you have to get directly from the contractors. And I think having them come here to give that report would be appropriate.

Chair Jackson: Okay. That sounds good. Commissioner Harbin-Forte, did you have anything that you wanted to add to that? Or...

Commissioner Ha...: No. Thank you.

Chair Jackson: All right. Thank you very much. Moving on to rules of procedure. I think that's your shop now.

Commissioner Ha...: Yes indeed Commission Gage is absent tonight. We have... We're sort of in a holding pattern on the rules committee. We... One of the last projects we worked on was the ad hoc protocols, which was referred over to the public outreach or community outreach committee. So we're waiting for that committee to come back with their changes to the ad hoc protocols.

One of the things that we are trying to gear up for is to work on some rules for when the commission takes up cases for review on its own motion. So we think that we may want to try to have some rules in place for that process. And finally, the only other thing that we're doing is continuing to try to have a landing page for the rules ad hoc on the commission website, but we'll need some final decisions on what kind of assistance we can expect from the staff if



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we're going to try to hold meetings, that will be publicly accessible. And aga... If we go into in-person meetings, for example, what we'll need to do. But that is what we're doing. And our other project we reported on earlier tonight was to try to make sure that we reformat the rules of procedure and our code of conduct and get those so that they are... Can be posted on the commission's webpage. That's our report. Thank you.

Chair Jackson: Okay, thank you. I see Commissioner Peterson's hand up.

Comm. Peterson: No, I should take it down. We moved on from the IG.

Chair Jackson: Okay. No problem. Thank you. Are there any other questions or comments from the Commissioners on the reports? I'm seeing none. I think we can go to public comment.

Ronya: 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 they appear. No hands raised Chair Jackson.

Chair Jackson: Okay. Thank you [inaudible]. It looks like we can move on to open forum part [crosstalk].

Ronya: Yeah absolutely. All right, members of the public wishing to make public comment on this item, open forum, please raise your hand and I'll call on in the order that they appeared. [inaudible]. Oh, I keep losing our clock. I'm sorry. First up, Miss Olugbala, when you're ready, I've unmuted you.

Assata Olugbala: Yes. I think it's important that [inaudible] the body be aware that closed session today had two cases where the police commission is [inaudible]. One, the police officers who were involved in the [Polik] shooting and the other one, [Marie Sachs], can't remember what she suing you all for. But I was hoping that your lawyer was there in closed session to represent the police commission. The other thing is at the meeting of public safety, when the Monitors Report was presented, one of the council members wanted to hear from the police commission and nobody was there. I think it's important that you keep up with public safety meetings to see if there's an item for which you think you need to be in attendance, not only to address if you're called upon, but to keep up with what's going on when items reflect things that you are also involved with.

The Bay case, I hope whoever this Inspector General is, because you have said the Inspector General will handle the Bay case as it progresses... Well, it's not progressing, but in January, the council is having a discussion on the Bay case. So your new Inspector General, I hope they'll be prepared to go before counsel and report on... And it's a very simple thing, whether you have found out



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through your independent investigation, should the case be reopened. I don't know what the secrecy is about, about that. You don't have to say anything other than that. Yes or no. What did that investigation reveal. And lastly, still cannot get clarity on why we are not dealing with issues like Janelle Harris. Why we not looking at the selection panel and what they did.

Ronya: Thank you, Miss Olugbala. Reisa, you're up next. You're muted.

Reisa Jaffe: Yes thank you. This is Reisa Jaffe. I understand the announcement about the IG was not intentional and my comment really isn't about that happening. My comment is about the process of how the decision was made. The thing that you all are calling a public forum was only an opportunity for us to hear some very small number of questions and was not really an interactive process where we could really get to know the candidates.

And then the discussions that you all had about how you were choosing between them. We didn't get to hear. So those of us who did hear that short, people I spoke to, we weren't impressed with the candidate was chosen. And I'm hoping that this really... I know interviewing processes are weird and the best candidate doesn't always show up in an interview and especially in the way that was happening. So I'm really hoping for the best, but it would've been nice to hear a discussion about why you were choosing the candidate you were chosen. Would've been nice to see some written, more in depth questions that all the candidates had to respond to. So we could have had a better sense of the candidates. I think that in a future process, I hope you'll do it differently. Thank you.

Ronya: Thank you. Rachel Beck, when you're ready, I've muted you.

Rachel Beck: Hi, can you hear me?

Ronya: Yes, we can now.

Rachel Beck: Thank you. I just wanted to reiterate what Ms. Olugbala said about the Bay case. And honestly, I do not think that the Inspector General needs to be present in order to make a simple yes or no answer to the question. Should this case be reopened. Thank you.

Ronya: Thank you, Ms. Beck. Mariano Contreras, when you're ready Mariano.

Mariano Contrer...: Thank you. In regards to the Inspector General selection search ad hoc. I feel like I was hoodwinked. There was a press conference... A press release that was publicly put out. The selection... And announcing the selection of the Inspector General. But public participation was omitted. Even though this press release



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was rescinded to correct some procedural missteps, something was still decided behind closed doors. That's what I feel. I have always said that this commission is my, and my community's commission. You are the only body that stands between me and police misconduct, but you are also the body that should give my voice a platform. Right now, I feel voiceless and invisible. Thank you.

Ronya: Thank you, Mariano. Chair Jackson, that's the end of public comment.

Chair Jackson: Okay. Thank you. I did want to make a comment before we go to the adoption of the meeting minutes, as it relates to the public safety meeting. I actually requested to receive a panelist invite for the meeting and did not receive one, but we did have our chief of staff listening and she did not hear that the police commission was called upon otherwise I'd of broken my neck to try and get to it, but I actually was trying to contribute and there just wasn't an opportunity for me to do so. So it is not that it is lost on us. I'll just have to work harder to ensure that the commentary that I can provide will be coordinated. It's also very difficult to do that when one is doing their day job. But anyway, I just wanted to clarify that. Thank you very much for those comments. Now going item 11 adoption of the meeting minutes. Does anyone have any suggested audit... Excuse me, edits? Okay with no suggested edits, why don't we go to public comment and then we can take action.

Ronya: Thank you Chair. Members of the public wishing to make public comment on this item, the adoption of the minutes from November 18th, please raise your hand and I'll call on you in the order that they appear. No public comment, no hands Chair.

Chair Jackson: Okay thank you. I'm happy to take a motion to approve or adopt the minutes... The meeting minutes from November 18th. Are there...

Commissioner Ha...: So moved.

Chair Jackson: [crosstalk] Harbin-Forte.

Commissioner Ha...: So moved.

Chair Jackson: Okay. And is there a second?

Comm. Peterson: I second.

Chair Jackson: That is Commissioner Peterson. It has been properly moved and seconded and we've taken public comments. So let's vote. Commissioner Harbin-Forte?

Commissioner Ha...: Yes.



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- Chair Jackson: Thank you. Commissioner Howell? Commissioner Howell?
- Comm. Howell: Yes.
- Chair Jackson: Thank you. Commissioner Jordan?
- Comm. Jordan: Yes.
- Chair Jackson: Thank you. Commissioner Milele?
- Comm. Milele: Yes.
- Chair Jackson: Commissioner Peterson?
- Comm. Peterson: Yes.
- Chair Jackson: And yes, for myself. We are unanimous. So the adoption of meeting minutes for November 18th are past.
- Ronya: Thank you.
- Chair Jackson: Certainly. So we move to agenda setting and I've got a list that I've already taken, I think from [inaudible] and cease fire police and Asian [inaudible], as well as perhaps trying to find out why we don't have more diversity in the area of CROs. We will have a special presentation on the youth policy or the Mirandizer. And of course, also an update from that meeting. We will... I'm hoping that we'll be able to review some proposals for the upcoming leadership retreat. Are there any other items that Commissioners are hoping to put on the agenda for the first meeting in January? Okay. Without suggestions, I will work with the vice chair to produce an agenda at that point. And why don't we go to public comment?
- Ronya: Thank you. Members of the public wishing to make public comment... Sorry, on this item, please raise your hand, and I'll call on [inaudible] one hand raise. One moment please. Miss Assata Olugbala, you're unmuted when you are ready.
- Assata Olugbala: Yes. I think it would be very important for this body to hear a presentation that I heard at OUSD on the police department's involvement along with 100 black men with the OK program. And the reason why is because sometimes it's good to see something that's positive coming from the police department, rather than as I do a lot, concentrate on the negativity or the problems. There are good things that are happening no matter who's doing it. Everybody, everybody has the potential or are doing something worthwhile. So I just thought if you had the opportunity to hear this program and it's been in place for a while, it



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involves black police officers on their own time working with youth to stir them away from, and to encourage them from crime and to encourage them to seek some growth in their potential job careers. And, a lot of young people spoke about how they've been impacted with the relationships they've had with 100 black men and the police officers who give their time to it. Okay. That's it.

Ronya: Thank you. Miss Olugbala. Chair Jackson, no more public comment.

Chair Jackson: Well thank you very much. So it is nine o'clock and we are adjourned. Everyone be safe. Happy holidays. I'll see you in the new year.

Commissioner Ha...: Happy Holidays everybody. Good night.

Ronya: Good night.

PART 5 OF 5 ENDS [02:33:40]