



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

Chair. Jackson: Hello, and welcome to the special meeting of Oakland Police Commission for December 9th. It is now 6:32 and I'd like to call to order and do a roll call. Roll call is vice-chair Milele.

Vice Chair Milele: Present.

Chair Jackson: Thank you. Commissioner Gage.

Comm. Gage: Present.

Chair Jackson: Thank you. Commissioner Harbin-Forte.

Comm. Harbin-Forte: Present.

Chair Jackson: Thank you. Commissioner Howell.

Comm. Howell: Present.

Chair Jackson: Excellent. Thank you. Commissioner Jordan is going to be absent, so he is excused. Commissioner Peterson.

Comm. Peterson: Present.

Chair Jackson: Thank you. And commissioner Hsieh is also going to be excused. We do have a quorum and I would like to move forward with our agenda.

So we have been adopting the resolutions each month to continue to conduct meeting using teleconferencing. And while in the new year, we will be coming back together. Hopefully the second meeting in January is the one that we can look to. But in the meantime, I would like to receive a... Well, I guess we can discuss and then go to public comment and then receive a motion to readopt the findings. Does that work for everyone?

Comm. Peterson: Yes.

Chair Jackson: Okay. Terrific. Is there any conversation? We recognize that this is a perfunctory action. So no one is commenting. Why don't we go ahead to you [Rania] and have you take some public comment on this and then we can take action.

Commission staff: Thank you, Chair Jackson and good evening. Good evening members of the public. Anyone wishing to make a public comment on this item, please raise your hand and I'll call on you in the order that they appear. All right, Chair Jackson, it looks like have one person. Youseef Elias give me just one second,



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

please. I will share the timer. Youseef Elias you've been unmuted, when you are ready.

Youseef Elias: I would actually ask that initially [Al Mance] of my office go first if that's possible.

Commission staff: I'm so sorry. Can you repeat that? Who in your office?

Youseef Elias: Al Mance. He's also on the call.

Commission staff: I do not see an Al Mance on the call, I'm afraid. But certainly if Al's on the call, please raise your hand and I'll absolutely call on you. Not just yet, Mr. Elias, how would you like me to proceed?

Youseef Elias: Okay. I am ready to go.

Commission staff: Off you go, let me reset this.

Youseef Elias: So I am the chief assistant public defender for Alameda County. I have been with... Oh, I'm sorry. I'm sorry, this is... It's totally my fault. I'm not commenting on this item.

Commission staff: Okay.

Youseef Elias: I apologize.

Commission staff: No worries. Thank you for that. No worries. Chair, there are no more comments.

Chair Jackson: Okay, very good. Thank you.

Commission staff: But you do have commissioner Harbin-Forte's hand up.

Chair Jackson: Yes, thank you. I'm trying to get Mr. Elias's hand down. Commissioner Harbin-Forte.

Comm. Harbin-Forte: [inaudible] although I was going to ask... I know Mr. Elias and Mr. Mance, I was going to suggest that they may not be making a comment on this particular item. Probably not.

Chair Jackson: Okay, did you want to make a motion on this comment?

Comm. Harbin-Forte: I will make a motion that we adopt the renewal resolution.

Chair Jackson: Excellent. Is there a second?



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

Vice Chair Milele: I'll second.

Chair Jackson: Okay. So I hear Commissioner Harbin-Forte motion and Vice Chair Milele second. And let's take the roll. Commissioner Gage?

Comm. Gage: Yes.

Chair Jackson: Thank you. Commissioner Harbin-Forte.

Comm. Harbin-Forte: Yes.

Chair Jackson: Commissioner Howell.

Comm. Howell: Yes.

Chair Jackson: Commissioner Milele.

Vice Chair Milele: Yes.

Chair Jackson: Commissioner Peterson.

Comm. Peterson: Yes.

Chair Jackson: And yes for myself. We are unanimous. Thank you very much. Now we will move to open forum, back to you Rania.

Commission staff: Thank you, chair. Members of the public... Sorry, members of the public wishing to make a comment on this item, open public forum. Please raise your hand and then I'll call on you in the order that they've appeared, give me just a second, I'll also start the timer for us. Okay. Apologies. And thank you for your patience. First up, I see phone number ending in 1779. Phone number ending in 1779 I've unmuted you, when you are ready.

Mary Vail: Yes. This is Mary Vail. And I want to comment on an item that's important, but not on the agenda. In particular as the chief is stepping up to reform OPD's culture, including having sustainable department and officer accountability. He and you faced some major obstacles. Right now, as demonstrated by not just the Instagram's scandal, we have a lot of cultural and political resistance amongst the members of OPD to some of the changes and challenges that are before you and before the department. Their day-to-day examples of resistance to reform and political policing, just a few examples.

When we had a sideshow in my neighborhood, Glenview District 5, in April, a sergeant called, and this is during the budget process, called the officers who



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

had been present and just sitting there away from the sideshow saying, we don't have the resources for this. Then you have officers who tell the public that as a patrol officer, they observe. When they're asked, why can't you stop that reckless driver right in front of you? They say, "Oh, no, we can't risk being brought up on bogus racial profiling charges."

Just this week, I heard about a situation again, happening in District 5, where a victim of being chased down by a reckless driver, pulls in front of a parked patrol car, talks to the officer about what's happening to her and is told by the officer, "Well, what do you want me to do ma'am?" It's like officers are choosing whether they're going to work. And then you have the... It's been in the report-

Commission staff: Thank you, Ms. Vail. I am sorry to have to cut you off, but your time is up. Mr. Elias. If you are ready, you are actually up next. I've unmuted you my end.

Youseef Elias: Sorry, this time could I have Mr. Mance go first.

Commission staff: Yes. Mr. Mance-

Youseef Elias: His hand should be up. Thank you.

Commission staff: I see him now. Mr. Mance, I've unmuted you, when you're ready.

Youseef Elias: Thank you.

Commission staff: Mr. Mance, I've pressed the-

Alphonso Mance: Can you hear me?

Commission staff: I can now. Off you go.

Alphonso Mance: Great. Okay. My name is Alphonso Mance, I'm an assistant public defender with the Alameda County Public Defender's Office. I've been with the office for 18 years, and I'm currently the supervising attorney for the Juvenile Public Defender's Office. Wanted to talk to you briefly about SB-395 and the requirement that minors be able to consult with a lawyer prior to custodial interrogation. SB-395 was passed back in 2017 and it requires that, because of the fact that adolescents don't have fully developed brains and that they... And this is actually a quote from the law, "The adolescent thinking tends to either ignore or discount future outcomes and implications and disregard long term consequences of important decisions, for these reasons in situations of custodial interrogation and prior to making a waiver of Miranda rights, youth under 18 years of age should consult with legal counsel."



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

And actually in 626.5, the requirement is actually that they shall consult. I've been involved in a number of those consultations. As a matter of fact, I am on the hotline this month. So last night I took a call from two young people at 3:00 AM. They'd been sitting in police cars for six hours. And the night before I talked to four youth around 10:30, who'd been sitting in police cars for about six hours. At the beginning of the call, the officer informed me that he would not be Mirandizing the youth, because the police would not be doing the interrogation of them for quite some time. There was recently a case that we had in which I... Very serious charges, young kids. They were given a consultation with an attorney, however the officers chose not to interrogate them for two and a half hours.

The judge granted the motion to suppress their statements. And the court said, "Here the court has asked to believe that the passage of time two and a half hours would have no bearing on the minor's recollection of a discussion with counsel and the advice received, especially when a minor is tired and hungry." and the court then excluded those statements. OPD is routinely doing this, it appears to be a matter of policy and they are not following through with the spirit of the law. I'm happy to answer any questions that the commission may have.

Chair Jackson: Actually, I would like to hear more. I'm going a little outside of what our normal public comment forum is. Sir, can you email me, [RJackson@oaklandcommission.org](mailto:RJackson@oaklandcommission.org). And to the extent that you are aware that OPD officers are delaying interrogation for the purpose of creating lost memory about what the attorney has advised, can you provide more specific information?

Alphonso Mance: Yes. In the email, or would you like to hear more at this time?

Chair Jackson: Well, a little bit more right now, but then we're going to have to give the rest of the public their opportunity, so I can give you about 30 more seconds, but I would like to have you follow up via email.

Alphonso Mance: Sure. Will do. I'll make it brief. I've talked to dozens of kids in these calls. There are more than 14 police agencies in Alameda County, OPD is the only one that refuses to Mirandize at our request. And these are the only ones in which frequently kids are giving statements. I talked to a kid just a couple weeks ago who had spoken to an attorney. He told the attorney that he did not want to answer the police officer's questions. The police officer then refused to Mirandize him. When I spoke to the youth a few days later, he said to me, "Well, he just started asking me questions about basketball and different things and all those things. He asked me questions about the case, and I didn't know how to stop." So his desire clearly was not to give a statement. And this is a very



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

common thing in, I think it's 80% of the cases, OPD refuses to Mirandize the young people.

Hours will go by, between the time that we have the conversation with the youth in which they clearly... And I don't tell minors not to talk. I ask them what they want to do after informing them of their rights. They tell me that they don't want to talk. I do everything that I can to inform the officer of that and to have the minor inform the officer of that. But the fact is more often than not, they are Mirandized. And I see it in police reports. They are Mirandized hours after they have the conversations with us. And it happens far too often to just be a coincidence. We've all discussed it amongst ourselves. We've all seen it dozens of times. As a matter of a few months ago, I compiled a chart of six months of 395 calls and all of the times in which OPD did not Mirandize at our request and that the youth actually gave statements. They're the only agency that does it.

Chair Jackson: Thank you very much. We will look at into that.

Alphonso Mance: Thank you.

Chair Jackson: Uh-huh (affirmative). Rania, you may proceed. Thank you. Rania?

Commission staff: My bad, I'm so sorry, I didn't realize I was on mute. Mr. Elias, your hand is still up. Did you want your two minutes?

Youseef Elias: Could we have [Kathleen Ryles] go before I do and then I go after she does.

Commission staff: Okay.

Youseef Elias: Sorry to be the director like this, but I appreciate it.

Chair Jackson: So I would like to in the future, have each of those people call in, so that they can each have their own two minutes, because I would not want anyone to infer that somebody's trying to stack the deck and get in front of other people.

Youseef Elias: Okay.

Commission staff: I see Kathleen Ryles.

Chair Jackson: Okay cool, thank you.

Commission staff: Let's bring her on. Ms Ryles, you are unmuted when you ready.

Kathleen Ryles: Okay. Can you hear me?



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

Commission staff: Yes.

Kathleen Ryles: Thank you. Good evening commission, I'm honored to be here today and speak on behalf of our juvenile clients. I'm an assistant public defender with the Alameda County Office. I have been here for 32 years and I am currently the managing attorney of our Lakeside office and our Oakland felony trial and preliminary hearing team. The juvenile Miranda hotline was created so that we could advise our clients as the law mandates of their right to remain silent before they give a statement. The issue with OPD is that they refuse to advise the client while we are on the phone with the client. Other agencies, including all the ones I've worked with since 2018, dozens and dozens and dozens of calls, Berkeley Police, [Bart Police], Alameda County, Sheriff Newark, Union City, Alameda PD, et cetera. All of those other agencies, will Mirandize the client while we were on the phone with the client and then allow the client to invoke their right to remain silent while their attorney is on the call with them.

We have repeatedly asked OPD to do what other agencies do and they have repeatedly refused. We get these calls from OPD when the kids are in the car, in the field, we get them from OPD when the kids are down at investigations. And it doesn't really matter where they're calling from, they have the technology, the minor's sitting right there. We talk with the minor while the police officer is right there and they refuse to do it. Most recently, I spoke to an 11 year old juvenile and a 12 year old juvenile, both of whom were in special ED and both of whom did not understand what was going on. I asked the officer to Mirandize the child and let them invoke in my presence and OPD refused. It's a conscious choice and the only conclusion that we can draw is they are deliberately trying to [inaudible] the law and not comply and have the minor have their attorney be present with them. Thank you for your time.

Commission staff: Thank you, Ms. Ryle. Chair Jackson, can I keep going?

Chair Jackson: Please.

Commission staff: Okay, Mr. Elias its back to you.

Youseef Elias: Yes. Thank you, I appreciate your patience. So my name is Youseef Elias. I'm the chief assistant public defender. I have been with the public defender's office in Alameda County for almost 30 years. And I have handled the juvenile Miranda after hours hotline during six different months. My first time doing it was February 2018, shortly after the law went into effect. And most recently in November of this year. On every call that comes in, I tell the police officer that I want to be on the call when the child is read the rights by the police, or if the police officer's not ready to read the child their rights, to call back when they are. As Kathleen said, most of the police officers have no objection to this



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

practice. OPD is an outlier. When OPD calls the Miranda hotline, the person who calls in is often not the person who's going to question the child.

Instead, they have a different police officer call. This allows them to say that they can't Mirandize the child when I'm on the call, because they're not the officer who'll be doing the questioning. When I ask the officer who's going to be doing the questioning, to them call back when they're ready to question the child, they refuse. And additionally, their practice is to hang up the phone when I've completed my consultation with the child without getting my input, which is the reason for the call. Sometimes the police do the Miranda advisement's hours after the child has consulted with the attorney.

When the child's been sitting in a small, often cold room, alone and is desperate to please anyone who has the perceived power to release them. SB-95, the juvenile Miranda law was enacted in the recognition that it is often more difficult for a child to both understand their Miranda rights and to make an informed decision as to how to proceed and why they may want to wait to give a statement until after the attorney has reviewed the evidence against them and discussed that with them. OPD's practice is an in run around the intention of the law. Thank you.

Commission staff: Many thanks Mr. Elias. Brendon Woods, I see you up next. When you're ready.

Brendon Woods: Good evening. I'm Brendan Woods, a chief public defender at Alameda County. I first notified Chief Kirkpatrick of the problem we're having in May 2018. We've met with OPD in June 2018 and they said there was no legal requirement to have us present in the Miranda [inaudible] of a child. So the problem continued. We've met with Chief Kirkpatrick in April 2019, and her position remained the same. So the problem continued. In May 2021, I sent a letter to Chief Armstrong describing the situation he responded and said, he would work to address the issues. Two weeks later, I emailed him to get an update, I have still not received the response. As you've heard, out of all the law enforcement agencies in the county, we only have this problem with OPD until recently. We now have the problem with the city of Alameda chief police officer there, who's former OPD deputy chief, Nishant Joshi.

In November, I did the Miranda call line. OPD refused to allow me to be on the phone with the minor being Mirandized in 50% of the calls I handled. The same initiative inscribed on my colleagues, I felt. Often OPD would hang up the phone on me. They would not call me back. I would have to yell to tell the minor to yell to the officer, "I want to remain silent." OPD came to the room so I could hear them on the phone. It should not be this difficult and there should not be this resistance to make sure that our children, our children understand their rights. You can only imagine what is happening to adults.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

OPD and Chief Armstrong talk about building community trust, but how is that possible when we can't even trust them with our children. We can't trust them to make sure a 14 year old child, with learning disabilities, has an attorney with them when they're being read their Miranda rights. We request this commission immediately compel OPD to fix this practice and to allow counsel to be present when a child is being read their Miranda rights. Thank you. And I'm happy to follow up.

Commission staff: Thank you, Mr. Woods. Chair Jackson, should I go on?

Chair Jackson: Please do.

Commission staff: Okay. Phone number ending in 9932. When you are ready, I've unmuted you my end. Phone number ending in 9932. Okay. I'll come back to you in just a minute. Anne Janks, when you're ready, I've unmuted you. Oh, give me just a second. Ms. Janks, can you hear us?

Anne Janks: Yes. I'm concerned that we're about to run up on [inaudible] ask if there's anybody waiting to make public comment, who does not typically come to these meetings?

Commission staff: Ms. Janks your sound is coming in and out. We can't hear you. So I'm going to pause your time. Do you want to try again?

Anne Janks: Can you let me in on this other device?

Commission staff: I don't know what this other device is.

Anne Janks: [inaudible]. Okay. Well, you can hear me.

Commission staff: I can hear you now. Yeah, let's go. Okay.

Anne Janks: I'm asking if we could see if there's anybody waiting for public comment, who does not normally come to the commission because I'm afraid we're about to run out of the paltry 15 minutes for public comment. And I would give my time to a person who's waiting to speak, who does not normally come to commission. Is it possible to do that?

Commission staff: You don't need to do that Ms. Janks, I don't have too many hands up. This is your time.

Anne Janks: Okey doke. Well, first of all, I want to thank all of the public defenders who came. I'm embarrassed that we're doing worse in Oakland than the Alameda County Sheriffs. I'd ask the commission not just to address the issue that they



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

raised, but to go beyond it and look at the treatment of children a little bit more broadly. The issue for me is not only the issue of loss of memory of the attorney's advice, the Oakland officers who are doing this have in their union contract protections against being interviewed when they are tired or hungry.

And the children shouldn't be sitting in the back of cars for three hours just to make them tired and hungry, so it's easier to get what they want out of them. I'd also like to mention that there is a policy that is not enforced, where officers are supposed to give any under 18 person that they engage with their business card, they don't do that. While we're talking about treatment of youth, let's throw that in there.

And the real reason my hand is up, because I just wanted to mention to everybody that the job announcements for the MACRO responder team jobs are out. You can apply even if you have a criminal record, that you do not have to have a degree. You only have until December 15th. Unfortunately they're not on the fire department's website. You need to search for open jobs at the city of Oakland, and then look for the jobs that have MACRO in the title. You have until December 15th. Thank you.

Commission staff: Thank you, Chair Jackson, congratulations on getting MACRO off the ground. Let's try phone number ending in 9932, if you can hear me. I've unmuted you my end. Phone number ending in 9932. Still no joy. Hello. Yes.

Nino Parker: My name is Nino Parker, I am a [inaudible] black advocate, Lake Merritt. I have to inform the commission tonight that I was assaulted by a man named [Adam Garrett], at the tiny homes, a village at Lake Merritt. The Lakeview tiny homes. He is a person that works there on the side where we've been having a issue of discrimination of whites from Alameda on one side and blacks from Oakland on the other side. We have been protesting for 22 days. The day before yesterday, they stole some of our protest signs. Yesterday they stole some more of our protest signs. And then today, when we went there, they were yelling at a 76 year old black woman, f-off, f-off. And I asked them, you shouldn't be talking to her like that. He got loud. I had my hands by my side. He busted me in the chest.

I went back about five feet. I've been to Kaiser. I got bruises on my chest. I made a police report. I was in a Rules Committee meeting, telling them that this guy had threatened me and put his fist up the day before. And before the meeting was over he assaulted me, so I was able to go back into the Rules Committee meeting and tell them I'd just been assaulted and I'm on my way to Kaiser. I just took [inaudible] the police report. The officers came and met me down at [Luckies]. And I'm going to follow through with this. I've been assaulted by someone because I don't want whites on one side and blacks on the other side.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

I've been assaulted for fighting against discrimination at the Lakeview tiny homes. I want something done about it. And the officer's said they're going to follow through with it. But I'm going to make sure and I'm asking Chief Armstrong, because I asked for police protection a few days before, because we've been threatened by the personnel there and we've been threatened by other people. We've had the police call three times on a 76-year-old woman and a 67-year-old black man, it was so dangerous and threatening. It's ridiculous. You're wasting police money and police dollars because of our protest, and sending police out there to chastise us or whatever you think is going on with that. But this is more than we can handle. We had the right. We've been protesting 22 days-

Commission staff: Thank you, Mr. Parker. I am so sorry to cut you off, but unfortunately your time is up. Ms. Rashidah Grinage, I see you up next. When you are ready. Ms. Grinage, can you hear us? Ms. Grinage, I've unmuted you my end.

Okay. All right. Share... Oh, wait, I see another... Let's see if we can get this other Rashida. Ms. Grinage, do you want to try now?

Rashidah Grinage: Yes. Thank you.

Commission staff: Thank you.

Rashida Grinage: I wanted to add my comment to appreciate the public defenders who arrived and gave testimony. It's shocking what they have revealed. And I'm hoping that the commission will actually follow up with the chief when he makes his presentation this evening. I understand that you'd like to have more details via email, but I think that we've heard enough testimony to be able to question the chief about this testimony when he gives his report. So I'm hoping that the commissioners will follow up with that. Thank you.

Commission staff: Thank you, Ms. Grinage. Chair Jackson, that's all I have for you. Public comment.

Chair Jackson: Thank you very much. And I will say that I've already reached out to Public Defender Woods. So we will get a meeting on the books, and we'll talk with the chief tomorrow. Thank you. Next up, we have an update from the chief, Chief Armstrong.

Chief Armstrong: Good evening, Chair and fellow commissioners. I'll be giving my brief update tonight. Just a status on where we are in terms of crime throughout the city. Talk a bit about one of the things that you requested, which was department staffing report that is included in today's agenda packet. We are into violent crime, we're up 11%, overall crime, we're up 4%. We currently have 129 homicides to date, shootings are up over 24% with over 560 shootings. One of



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

the challenges we've been having is the huge increase in robberies, particularly armed street robberies, they're up 48% with the firearm. And then our carjackings have been up significantly, 85%.

We've been trying new strategies in order to have a greater presence in the community. A couple things that we've been combating, as of late, it's been the armed caravan robbery crews that have been impacting not only Oakland, but other cities in the Bay area. We've been working with the district attorney's office to make sure that we can secure charges on those that we have been able to apprehend. They've had a significant impact on our marijuana dispensaries across the city. I've convened meetings with the marijuana dispensary owners to hear from them, and trying to respond to their requests to add additional protect to their business, which we'll try to do in the future by pre-assigning officers to areas to be prepared to address those issues. It's been a challenge thus far, but one in which we have been trying to manage.

We continue to make strides when it comes to addressing gun violence in terms of recovering firearms. As of today, we're approaching over 1100 firearms recovered, 25% of those recoveries are of what they call privately manufactured firearms, known to some as 'ghost guns'. We've seen a significant increase in those firearms in our community. We also been working with the ATF, to try to figure out how we can stem the tide of guns continuing to flow into Oakland, seeing that we don't have a gun job in Oakland, but we still see a significant number of firearms. We've been meeting with the ATF and found that Arizona and state of Nevada provide the most firearms that enter the city, both legally, as well as illegal. And also we've been working with our legislators locally to begin to push some more legislation on actual ghost guns, and making sure that those weapons get serialized.

So those are some of the crime specific things that we are working on. I think inside the packet as well, you'll see that we have a picture of some of our, we have a couple of our press releases, one of which is the press release that we released related to the homicide of the security guard that was protected, the media group that included the picture of the vehicle involved in that crime, which is a 2004, 2008, Acura TL, white in color. We also included a couple of our missing person's request, as well as we continue to push those out with the work that we're doing with the missing persons group, just to continue to show the commission that we are following the steps and practices that we put in place, regarding releasing and the photos of, and write ups of missing persons in a timely manner.

And then lastly, to date, our staffing numbers are down to 675. The department has fell below the 678 mandate of measure Z. And if you follow the report that we put into the actual packet today, it demonstrates that the same time last



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

year, we had 723 officers. So you can see that we've lost nearly 60 officers compared to where we were last year. That's having obviously a significant impact on not only our ability to respond to calls, but also to fill some of our primary units like ceasefire, the violent crime operations center, as well as our criminal investigations division.

On page three and four, it really illustrates the increase in our call volume, and the amount of priority one call in particular that we see. So we are seeing a significant increase in those calls. As you see every month, they're trending up, with the last month related to this report was 22.78 priority one calls. And we also seen a significant increase in priority two calls as well, along with the crime numbers. We also brought in some of the staffing numbers that you asked for in terms of what our numbers look like, both from the attrition perspective of what we're losing, what we're projecting. We started off the year projecting that we would be losing around five officers a month, that number has increased to eight at the most recent council meeting. Our new projections based on the last seven months is that we're losing an average of eight officers a month.

We are really grateful to the city council who voted to increase the number of academies that we have adding two additional academies. The reason that is really important, is that every time we fall below 678, it does have an impact on the city's ability to actually collect measure Z dollars. So we want to stay up over 678, but also have it below 678, has a huge impact on our ability to respond to the high call volume in the crimes that we are addressing.

As you see on page seven, you asked me specifically, or others have asked for a breakdown of where our officers live, and the cities that they live in, as well as the counties. That's broken down in here. The racial demographics of our staff is also included in the report. And also some, of our recruiting efforts and locations and places that we've been doing target recruitment, in order to try to grow our force and get additional people into our academies. Our projections to start each academy is around 36. We are anticipating graduating about 30 in each academy. We started our last academy at 187 with 39 people. So that was higher than what we expected, what our target number was. We went higher to that, and we hope that that trends continues. And then we'll start our next academy in mid February. So we are continuing to make strides to try to grow the department and deal with our attrition.

A couple of things that we mentioned in here, as well as some of the things that we're learning in our exit interviews, we were asked about the exit interviews. We are conducted exit interviews with each officer that leaves. 68% of the individuals that have left the department are actually leaving through



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

resignation. That was something that we didn't anticipate, and the average resignation time of service is between six and eight years.

And so that was something that we learned during, as we looked through the reasons for exiting the department, and resign and to go to other departments. And so we began to talk about how we can work on a retention plan in the department. Our retention plan is really centered around really communication with our officers, having better understanding of what is driving officers outside the organization. So we've done small focus groups within the department with officers. We've also met with all of our sergeants and supervisors is in our department, and we've also met with command staff, to make sure that we are effectively communicating and trying to resolve issues with our staff, prior to their leaving. And I'm sorry, I gave you, it was 63. It was actually 73% of the people that resigned left through resignation were not at a retirement age.

So as we approached this year 2022, where 78 members of our department can retire in 2022, is our effort to try to retain as many officers as we can. So we'll continue to work with the council and the mayor's office, as well as city administrator's office, to try to come up with strategies, to hopefully retain our officers, and see if we can hopefully find some way to incentivize those that choose to stay here. I think that is the easiest path. It's great to hire new officers, but it's better that you keep those that you have already trained, because we know that some local departments are specifically poaching.

Oakland police officers are using incentives like \$10,000, even \$20,000 to leave Oakland, and to go to their agency. So we're trying to figure out a way to manage that, try to offset that by hopefully the finding some incentives that we can give to officers to stay. It's cheaper than putting someone through the academy. And so we'll look to work with council to see if there's a possibility. And then on the 21st of December, the council will hear another resolution to discuss funding that they want to pay lateral officers to enter the department. And so we'll know what the outcome or decision is with that. After that meeting on December 21st. With that, I'll take whatever questions you have.

Chair Jackson: Commissioner Peterson.

Comm. Peterson: Thank you, Chair Jackson. Looking at some of the reasons that were given for, I guess, leading the department, dissatisfaction with OPD leadership, lack of support from city leadership, heavy discipline, and family. Putting aside the family one, dissatisfaction with OPD leadership, what exactly was said beyond just that bare answer? Was there something underlying that?

Chief Armstrong: Yes, I think that's a combination of things. I think high discipline, I think that is definitely been a concern. The level of discipline that's been administered, the



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

level of accountability that we expect in the department. But I think that is also something that I believe is directly centered around lack of communication. I think officers have to understand the discipline process, and how we arrive to certain and discipline. Our discipline process is really transparent. We have a discipline matrix that lays out what that discipline would be if you commit said offense. And so we are trying to work with command staff and supervisory staff who also weigh in on discipline, and have discipline recommendation that they present to me as the chief, and how they arrive at their discipline recommendations as well is critical.

And so I believe that discipline is designed to change behavior. The discipline should not be punitive. We shouldn't try to penalize people through discipline, but we should make sure that the discipline is fair, but it's appropriate, whatever that might be based on the action that we're dealing with. So I think it's just making sure that that discipline is fair and consistent, is what officers would like to see, as well as support from internal staff, as we talk about hiring. I think we've also heard from our officers that they would like us to also discuss retention. Not that we want to see officers leave so we can replace them with new officers, but I think they would like them for us to pay more attention to them.

So we're doing a couple things in terms of officer appreciation, in terms of spotlighting officers who do great work, and do things in line with what we are asking them to do. Officers that participate in community engagement, and go to extra mile to work with community. We want to honor and recognize that. We'll be starting that program in the next week or two, with the support of the Oakland Police Foundation. They're going to help us so that we can actually award the officers when they do get recognized for positive behavior that they do every day.

We're also doing a new project, reset training, which is a training around culture, a training around having direct conversation and trying to come up with solutions to issues within the organization. So there's a couple things we're trying to explore, to try to manage that concern that some officers might have for leadership.

Comm. Peterson:

I guess what I'm trying to get at, is that if they are leaving, but because the leadership has changed and therefore not accommodating behavior that officers were engaged in prior to your leadership, or when they say lack of support from city leadership, what are they getting at? Are we missing something in terms of best practices? What do you think is underlying all of this?



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

Chief Armstrong: Well, I think it, like I mentioned, we often hear from officers, and this support was brought out in the OPA survey that they conducted as well as test that, how officers are treated, and how officers don't feel appreciated for the job that they do. That is difficult to work as a police officer, but if the only thing you face is criticism, then it becomes no reason for you to stay. It's not rewarding for you, it has no value for you personally, if all you do is get criticized all the time, and that's what you face oftentimes here in Oakland. And so I just think if we could find a way to balance that.

Accountability is something that I think is important, but I also think accountability comes from how we treat people as well. And so how we talk to people, some of the ways in which people talk to officers, officers could never talk to people like that. So we also have to model the behavior that we like to see. And also, I think in all fairness, if people are going to be critical of people constantly, they should also recognize when they see good work. The thing is that if you don't have a happy work environment, I don't care where you work, if the person is unhappy because their way they're treated, you can rest assure that they're going to look to go somewhere else. And so if people come here every day to be criticized and told that they're horrible people, and that they lie, they do all these things, there's no reason to stay here.

And I think other departments take advantage of that, because they say that, "Hey, if you come to our department, we won't treat you like that. If you come to our department, we will appreciate you." So I think it's just that balance of making sure that we hold people accountable, but also appreciate when people are doing good work, and doing things the way we want them to do it. And a lot of officers are, the vast majority of these officers are not getting in trouble, the vast majority of these officers are not doing anything wrong, but they oftentimes are lumped in with that idea that everybody in this department is bad, when we got a pretty young department where people haven't been here very long, and they weren't engaged in some things that may have happened even in the past.

Comm. Peterson: Well, thank you.

Chair Jackson: Chief Armstrong has issued more discipline than both of the last police chiefs, and so that is considered very different, but it is more accountable. And we can talk offline about city leadership if you need some more information. Signing in to city council meetings, which is another thing, would also tell some other tale. Commissioners Howell, followed by Harbin- Forte.

Comm. Howell: Can you hear me?

Chair Jackson: Yes.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

- Comm. Howell: Okay. Chief Armstrong, I was on the city Oakland website, and I came across some documents. One of the ones that I found, was the sworn officer attrition data from 2016 to June, 2020. And it has all those years, and it has the separation reasons why they left. And then the most current one terminates in June 3020. Is this something that's updated regular on the website? Do you know that?
- Chief Armstrong: Yes, we do put the reports up on the website, they are public with because we come to counsel with them quarterly. The report that's actually in your packet tonight is the most current report that we have. That was the last one that we went to public safety with. We are mandated to come quarterly, and bring it quarter staff and report, which includes the attrition rate. It includes all of the information that we've been talking about tonight, essentially. What is the reasons for officers leaving, are they leaving as a result of retirement, service retirements, or are they leaving resignations, terminations, medical retirements, all of those things are listed in the report as well.
- Comm. Howell: What page is that on? What were you looking... Are you seeing that right now? You're looking at it?
- Chief Armstrong: Yeah. If you look at page six.
- Comm. Howell: Okay.
- Chief Armstrong: Page provides that table, and the table lays out all of the specific areas and months that you see where they're leaving. As you might look on there, the highest month that we seen attrition was June 2021, where we had 10, well, it started in April, we had... I'm sorry, we started in May at nine, June and 10, then nine in July sixth.
- Comm. Howell: Okay.
- Chief Armstrong: Yeah. So just so on.
- Comm. Howell: So you guys don't do it in this format? I don't know if you can see this. You can't see it, huh?
- Chief Armstrong: I'm unable to see it in that format.
- Comm. Howell: Okay. It's just a little different format. Okay. But yeah, I follow. All right. Thank you.
- Chief Armstrong: No [inaudible].



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

- Chair Jackson: Commissioner Harbin-Forte.
- Comm. Harbin-Forte: Thank you, Madam Chair. I have a question about policies and procedures, not what you've reported on tonight, but is there a written policy or procedure regarding mirandizing juveniles?
- Chief Armstrong: Yes, we do have a policy and procedure on Miranda. We follow that policy, we also have brought forth the concerns that have been brought today by the public defender. We brought those to our city attorney who was doing the research on that. We have been told that our actions are within the law. And so we have not been, in our meetings with the district attorney, as well as our monthly meetings with the judges, we have not been advised that our officers are violating the law in any way.
- And I know we can't talk it because it's not agendized, but I know we'll meet with Chair Jackson and go through our entire process. There are some NSA related processes that does take lengthy time, and I think it's important before we make complete judgements that we look at how these processes work, and how these processes sometimes prevent us or cause significant delays in us getting a juvenile into the building, until these investigations are complete.
- Comm. Harbin-Forte: Yeah. And I didn't want to engage in any substantive discussion because it was raised in, I just wanted to know whether there is a written policy.
- Chief Armstrong: Yes ma'am.
- Comm. Harbin-Forte: There is. Okay. And what is that policy number? Do you I have it off hand?
- Chief Armstrong: I can pull it up. Give me a second. I got about a 400 of them, just give me one second.
- Comm. Harbin-Forte: Well, don't worry about it then. We can up on it. Don't worry about it.
- Chair Jackson: Commissioner Harbin-Forte, if we can request the chief to send it to all of us, would that be acceptable to you?
- Comm. Harbin-Forte: Oh, that would be perfect. Thank you.
- Chair Jackson: Okay.
- Comm. Harbin-Forte: Thank you, Madam Chair.
- Chair Jackson: Tomorrow, if you could, Chief, have someone send it to the whole commission.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

Chief Armstrong: Staff is taking care of it now.

Chair Jackson: Okay. Terrific. Thank you.

Comm. Harbin-Forte: And thank you. I have nothing else. Thank you for your report, Chief.

Chair Jackson: Chief, I have a follow up on the item that you referenced around city council, in this \$50,000 payment to external officers. My concern is that if in fact you favor new people who are unproven, that that will increase the attrition because of the people who are working diligently, who aren't getting that consideration. The other thing is, the Bay area is so overpriced, that \$50,000, while a lot of money, I'm not certain that the people that would run to Oakland for \$50,000, aren't running away from something else.

And I'm not sure that people understand that there will also be additional expenses around background checks, because people won't send human resource files, you actually have to go to where those people are and sit down and review the folders, right? And so if you can't get it done in one day, airfare, plus hotel and all that. So I think that we are throwing money at a problem that is a critical problem, but I am concerned that, while I'm very pleased with the new academy, that is kind of a rooted in Oakland academy. And I am hoping that more people inside Oakland or who are already familiar with Oakland, are the ones that we can prioritize outreach to, or that they are coming from cities that are like Oakland, cities like Detroit, cities like Baltimore, where the circumstances that we deal with are very similar.

But I did want to hear your thought about attrition, and the vulnerability of attrition, in light of the \$50,000 offer. What is your thought about that?

Chief Armstrong: Well, it is my primary concern. I think I don't want officers to believe that those that are here are not worth it as much as those that we are seeking to bring in. And I think it's going to be challenging for us to suggest that an officer that has been here, and has been helping us make the cultural change we've asked them to engage in, sits next to an officer that got \$50,000 to come in, and has to actually adapt to the culture that they've helped to create. So I just think that is challenging. And I'm definitely concerned about attrition.

I hope that we can have discussion about retention. I think retention is much more an effective way to actually keep the department's numbers high rather than necessarily just bringing in people. If our current attrition is eight a month, which is higher than we anticipated, our number was five, but if we can find a way to keep our officers here, bring that number down to four a month. That means that we're losing 50%, less people, and our academy graduates will cover



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

that attrition rate, and allow the numbers to grow without needing to bring in laterals.

Now we have attempted to hire laterals before, we were not successful. It was one of our worst classes that we actually hired, and drove a lot of discipline and issues that we face. I think some people believe that if you offer this level of money, we might get high quality laterals, I don't know if that's true, we just haven't had any success with laterals. Obviously the council will make the final decision. I think our recommend and is to support the hiring of local hirees, Oakland or some connection to Oakland. Like you said, some similar area, can demonstrate some type of history of working in the community, engaging with community, understand what it's like to work in an environment like this, is willing to at the high level of accountability. And so I think those are the type of people we're looking for. And so it's my hope...

We want to build through recruitment at our local colleges like Laney College, re-bolstering our partnership there and working with [inaudible]. We were there two days ago doing the presentation, working with their athletic department. We also continue to work with our Marin College Public Safety Academy up there, so strengthening that relationship. And then lastly, trying to grow our cadet program. I think it has shown to be effective in terms of transitioning officers cadets from the program into officer positions.

And so I think if you can have a robust cadet program that has 40 young people that are college students, and preparing to finish college, and as soon as they finish college they transition into the department, that is 40 some odd new people who are already a part of the culture, transition as easier, have a higher success rate. So I think there's a lot of discussion to go into this. I think \$50,000 is a lot of money and I would like to see us make sure that we don't forget about the people who are doing the job today, and don't make them feel like they're worth less than the people that we're asking to come in and help us out.

Chair Jackson: Chief, thank you for that answer. I'd also like to ask without getting too far into the weeds of HR, are there incentives connected to performance evaluations?

Chief Armstrong: Yes, there are. The officers start off at the lower steps, they have five steps. They start off at the lower steps, and then incrementally as they complete probation, as they complete their first year, their step increase is attached to their yearly appraisal. If they are fully effective in doing a good job, or exceeds expectations, doing a great job, then they get a pay raise by moving up to the next step. So that is an incentive, but I think we have to deal with the reality. I think there was a report that was released today by our department of race and equity, that advise us about hundreds of thousands of people who have just



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

chosen to leave jobs, and go other places, that that is a major concern based on the pandemic, is how do we...

We're dealing with a different generation that don't necessarily come into this profession preparing to stay 30 years like I did, not that I'm going to stay 30 years, but I thought that. But they don't, they see themselves as being here for some time, and then potentially moving on to somewhere else. I think we have to do things now to make sure that we can keep them engaged within the city of Oakland, as we've invested so much money and time into these officers, that it would be a shame to lose them to another agency for nothing.

Chair Jackson: Yes. Well, I don't know what the process is, but it also might be helpful to take a deeper dive into educating them on how to ensure not just satisfactory performance, but outstanding performance, so that they are incentivizing themselves and being reminded not only that they're wanting to do excellent work, but that excellent work will be rewarded, in addition to potential promotion into higher ranks with more money. So anyway, I just wanted to offer that. Commissioner Howell, I see your hand up.

Comm. Howell: Yes. Chief Armstrong, with the cadet program, are you working with the criminal justice departments in each of those colleges at Marin and Laney? And then what is the minimum requirement? Do they need a bachelor's, or an AA?

Chief Armstrong: They don't need either to be in the cadet program.

Comm. Howell: Okay.

Chief Armstrong: Just to be over the age of 18, and a full-time student in college. And so that will qualify them. They go through a testing processes, but it's not, obviously, as rigorous as a police officer job, but what they are allowed to work up to 20 hours a week. They get paid, get the train with the department, and they also get the opportunity to go to school at the same time. So you don't actually need to have either degree or a BA, you can just be enrolled a full-time student in college.

Comm. Howell: Okay. So fully enrolled, 12 units. And now do you guys have flyers or anything that you distribute to the campuses? Or how do you get the word out that you're looking for cadets?

Chief Armstrong: Yeah, so we have been prioritizing our police officer hire, because of our attrition and the number of police officers we need. But we have recently began our recruitment of cadets. Our cadet positions were frozen. Several of them are frozen in last year's budget freezes. So we are now beginning to invest back in, because the group of cadets that we had all entered the academy. So we



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

essentially depleted our cadet program through them transitioning into our police academy-

Comm. Howell: Okay.

Chief Armstrong: ... and because we had put frozen positions, and we had maxed out our hiring, it left us in a place where we didn't have an active list. So right now we are fully open to higher cadets, all the positions are open right now. So we're going full out recruitment. We'll be dropping off flyers at both... We've been up to the Laney College, we've been at Cal State, East Bay, we'll be up at Chabot. They have a list of schools that they'll be dropping off flyers at, and then doing presentations at. We've also been doing all of the local job fairs as well. It'll include moving forward, both police officer training, which we still want to prioritize, but we will also have the cadet program as well.

Comm. Howell: Thank you very much.

PART 2 OF 7 ENDS [01:04:04]

Chief Armstrong: Still have the cadet program as well.

Comm. Howell: Thank you very much.

Chair Jackson: And I'm going to pick up some brochures next time. I'm at the OPD because I've got some kids that are in the cadet program and obviously they may want to be joined by others. So at this point, Ron, I think we need to go to public comment.

Commission staff: Thank you, Chair Jackson. Members of the public wishing to make public comment on this item, please raise your hand and I'll call on you in the order that they appear. While I do that I'm also going to try and set up [inaudible]. Okay. Thank you for your patience. Anne Janks, I see you up first. Let me get you able to talk Ms. Janks when you are ready.

Anne Janks: So I'm a little saddened by Chief Armstrong defending what the officers are doing with the youth by saying it's not breaking any law. I'd like to think that we could have a better standard than that. And I would ask that the Commission think about asking the Chief while he's sending you the other policy, to also send you the policy that's on the books, but it's not being utilized. For every interaction with a young person the officer is supposed to give them a business card, not if they're asked, but just give it to them. And because I've talked to a lot of caregivers and public defenders who have said they would love to know, because the kids tend not to know who it was that they were engaged with.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

I'm really concerned about all of this conversation about attrition that's predicated on the narrative that's being pushed by the OPOA and it turns out that OPOA is doing the survey. OPOA drives a narrative that there's victimization by the police, they do this constantly. And I don't think that it necessarily produces the real information that's needed as Chief Armstrong pointed out, there's something that's being called the Great Resignation that's happening nationally in all industries, every other department, whether or not there's been any criticism or discussion of reimagining public safety is having staffing problems right now. That's why they're trying to steal from OPD. So maybe this isn't about people are being mean to OPD. There is no public facing job where you're allowed to talk to the public the way you may be spoken to. So I'm very sorry that the police officers are sometimes spoken to rudely, but the idea that you can go somewhere else and do that. That's not a community that we should be wanting to live in.

Additionally, I've asked repeatedly for a list of questions. I was told that I would get answers at this meeting. I sent them as I was instructed to, to the Chief and to the Chair in advance. And I'm kind of befuddled about how we're supposed to get answers to questions. Thank you.

Commission staff: Thank you, Ms. Janks. Ms. Grinage. Rashidah Grinage, when you are ready.

Rashidah Grinage: Yes. Thank you. I was very puzzled by reading some accounts online about a recent incident involving a mentally challenged person who was responded to, evidently, by 14 patrol cars. It raises the question that many people have been asking about deployment, especially with limited numbers of officers, why resources are allocated the way they are. And this particular example where there were 14 cars responding to a mentally challenged person seems to typify the concerns that many people have raised or the years about the number of cars that sometimes respond to a particular incident. That seemed to be quite overwhelming and make those cars unavailable for other incidents in a timely response. So I'm hoping the Chief will be able to respond to that issue. Thank you.

Commission staff: Thank you, Ms. Grinage. Bruce Schmiechen me, I see you up next, Mr. Schmiechen. I unmuted you my end.

Bruce Schmiechen: Thank you. Yeah. What Ms. Greenage just spoke of is very problematic and concerning. There's something I wanted to bring up and if I'm not mistaken, it was quite some time ago. Commissioner Gage suggested a policy on appearance of officers, which would loosen up the, how shall I say? I guess loosen up the appearance requirements for police officers, basically trying to.

Speaker 1: Cameras on. Cameras.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

Bruce Schmiechen: Shall I say more open to some of the younger folks and styles, et cetera, et cetera. And I'm not sure whatever happened with that. But I think given the fact that there's a need really now to try to get new faces, new folks, younger folks, make the departments seem more appealing to people, to whom it has seemed very unappealing in the past. It might be interesting to revisit that policy. I don't know that it was ever passed or really discussed in full. So any thoughts on that or any action on that would be, I think, useful. Thank you.

Commission staff: Thank you Mr. Schmiechen. Next up, Ms. Risa Jaffe. Risa, am I pronouncing your last name right?

Risa Jaffe: Risa Jaffe

Commission staff: Jaffe. Thank you. When you're ready.

Risa Jaffe: Yes. Thank you. I want a second Anne Janks' comment about the legality of follow the youth policy. That's not the criteria, but that's really sad to me that that was brought up as a justification. And some other comments, I want to second Rashida Greenage's concern as that happened around the corner from where I live. And so I saw a lot on social media about that. I would be interested to know what that circumstance was, but something I haven't heard brought up, I've heard a number of times about the recruiting happening at the athletic department. So through the Chair to the Chief, it would be interesting to understand how that's the criteria being used as to why that's a good place to choose our officers from. Thank you.

Commission staff: Thank you, Ms. Jaffe up next Oscar Yassin, when you are ready.

Oscar Yassin: Hi. Can you hear me?

Commission staff: Yes.

Oscar Yassin: Yeah. I want to echo what Risa Jaffe just said. I've been hearing Chief Armstrong make this claim about going to athletic department at Laney. I've heard it maybe 10 times, I've never heard an official ask him what the rationale is for that. Sure, I'm sure there's plenty of athletes who would also good police officers, but there is nothing about being an athlete by itself that makes you a good police officer. So I just wonder what the thinking is here. And I'm just shocked that no one at Police Commission has asked. Also shocked, no one in city council is one thing because it's very politicized body and everyone Zooming everybody over there about the police and the police budget. Everyone's trying to fool each other and everyone else in the public and themselves. But the Police Commission is another story. And you guys aren't running for office.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

So you need to look at these estimates, their recruitment estimates are way off, their graduation estimates are way up. They're providing the documents that say they plan to graduate 30 police officers per academy when their average for seven academies has been 24. Why? What use is that to you or anybody else? It makes no sense. It makes absolutely no sense. Why are they giving estimates that don't correspond to historical averages? And why aren't you asking? I hear a lot of applause for Mr. Armstrong and I don't hear tough questions. I just don't, and Chair Jackson, I'm just surprised that as you run a youth organization, you yourself did not inquire about the issue of youth being Mirandized improperly. I'm just surprised that didn't come out. That instead you just had praise and that's just not what people wanted out of this body. It's very disappointing.

Commission staff: Thank you Mr. Yassin. Ms. Assata Olugbala, you are up next. Can you just one second. When you're ready, Ms. Olugbala.

Assata Olugbala: Yeah. So let me say first, you're not going to see a lot of Black people coming to these meetings because they've given on this Commission being of any value to the many, many issues involving the police and African Americans. I'm very upset about the report out by Council member [Tau] and other members of the police, I'm sorry of the city council around the need to build the police department based on the fact that we need to have more diversity and women. The police department over the last couple of years has had a tremendous decline in Black officers. And anytime you talk about anything Black in this city, nobody wants to uplift it. But the decline, there has been increases in Latinos, in Asians. And I think pretty much the same as it relates to white.

I'm saying that because we had an incident at the protests where a non-Black police officer came both to myself, Mr. Parker, and his whole demeanor was, I'm going to tell you what's going to happen if you don't do such and such. Mr. Parker demanded that his supervisor come, who was a Black supervisor, the supervisor listened patiently with Mr. Parker's concern about Black people and segregation going on, discrimination, redlining, and then allowed him to express himself. And Mr. Parker said, "from now on when [inaudible] thing goes on, I want a Black officer." So we got problems. I'm concerned about the false hate Asian crime. Been asking over and over again, produce the hate crime that says Asians are disproportionately violated in this city. It doesn't exist.

Commission staff: Thank you Ms. Olugbala. I'm sorry to have to mute you. Your time is up Chair Jackson, no more hands back to you.

Chair Jackson: Thank you very much. And to Anne Janks, I'm going to forward those questions back to the Chief and he'll be to respond in our next meeting, which will be December 16th. I'm sorry that they weren't addressed today.



# OAKLAND POLICE COMMISSION SPECIAL MEETING TRANSCRIPT

December 9, 2021

Okay. So moving forward to the next item and I want to provide some context around why we're discussing the 76th Monitoring Team's report. I refer the monitoring team as the IMT, which stands for Independent Monitoring Team. The IMT's last two reports expressly call for city leaders, not just department leaders to elevate our attention to NSA compliance. I agree, everyone in Oakland does. And across this city, the consensus is that the only way out of NSA is across the board compliance. Well, we welcome the opportunity for the Commission to weigh in as city leaders. After reading the report on the agenda tonight, what has drawn my attention is that core aspects of the NSA need to be modernized to better account for a strong, independent civilian oversight entity in Oakland.

After 17 years, this NSA needs to be reconfigured to account for changes to the city charter that created the Police Commission in 2016. And that strengthened the Commission in 2020. What I'm saying is, is that the NSA needs to be reimagined. Since the NSA into effect, many things have changed. Our voters have restructured policing. They vested the Commission with the authority to modify department policies. They gave the Commission authority to oversee an investigation on that double checks the department, they granted the Commission authority to oversee an independent inspector general, which will function like the compliance monitor. These charter powers work to enhance reform of the police department. Despite this, I've noticed that the Commission's charter powers and the Commission's own timelines are increasingly reported by the IMTs somehow putting the department at risk of non-compliance, for example, the IMT takes issue on page three of this report with the CPRA's timeliness, that's potentially causing NSA non-compliance.

These timelines are in the city charter. They serve a pro-reform purpose. The notion that they're preventing, rather than facility compliance is false. And more importantly, this entire issue deserves a detailed conversation with the Commission before the IMT's report is presented to the court as fact. The same concern extends to the Commission's policy making timeline. Do the monitors' timelines factor into the Commission's role in modifying policies at all? I asked because our staff just had to expedite a public hearing on a department policy because of an NSA imposed deadline. That doesn't just shortchange us, it shortchanges our public because they expect an accountable and responsive department. I know that the IMT is getting ready to set a timeline for a social media policy. And I expect that timeline will account for the Commission's policy making authority, under section 604-B of the charter, as well as ample time for legal review of the policy so it's not challenged by the court.

So this is the background of this report. Now I recognize that the questions that I want to pose this evening to the Chief, I want to make sure that our public in attendance tonight understands that you have to respect the confidentiality of



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

your conversations with the monitor. And if you can't answer, you can't answer. I may call on Director Alden to answer some of the questions I have, or to generally add context. So Chief, here's the first question: on page three of attachment five, the IMT's assessment of task two suggests that since CRPA did not complete its investigations within 180 days, OPD was deemed out of compliance. From your understanding of the history of NSA was CPRA's performance ever formally measured prior to this to determine OPD's compliance with task two or with any of the NSA tests?

Chief Armstrong: Well, like you said, Chair, there's not much I can say relevant to the IMT's report, but I simply, I think it's been our effort to try to work collaboratively with the CPRA on our particular timelines. I think we've taken the what's written by the IMT and tried to improve our process by having our IAD Captain Lau who is also here tonight, reach out and work more closely with Director Alden to ensure that we can have a more consistent timelines across the board. I don't know if we've ever been to this point before, I think to be quite honest. And so I think that's where we find ourselves of just sort of understanding where we are as we get, I believe close, hopefully closer to compliance. And so that's really our effort is to try to make sure we're meeting the timelines that the policy requires. But other than that, I can't really speak specifically to the IMT and other ways in which things have been evaluated.

Chair Jackson: Okay. John, do I need to restate this question? Or can you respond?

Dir. John Alden: No, I can. I can answer that Madam Chair. And I appreciate you asking about it. I do want to start by saying that clearly the monitor and the federal corridor we're seeing the NSA have a great deal of influence here. And I want to be respectful of the fact that they might have different perspectives than the rest of us and acknowledge the authority they have here. But that said I do have to say I was surprised in the report that's on the agenda tonight to see that the monitor had looked at some IAD cases and found them out of compliance with 180 day rule described in that task, because four of those cases were still being looked at over here at CPRA. In prior monitor reports, the monitor had indicated explicitly in the text of report that cases of that sort were not being counted to measure IAD's compliance with 180 day rule.

And we took that as an indication of two things. One, the NSA does not mention CPRA or the Commission, both of them were created by Measure LL many years after the NSA was written. And the NSA has never been updated to reflect the important roles that those two entities have. But you then in addition to that, we've never been told at CPRA, and I think this is true of the Commission too, by the quarter of the monitor that we should expect that cases that need more time at CPRA are going to be counted against IAD's timeliness measurement. It's news to us. Now we did spend some time after that report came out, working



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

with IAD to figure out which cases were at issue here. And we found out there were only four cases that caused IAD to fall out of compliance on this measurement.

Only four separate cases. Two of them are ones that candidly, we could have gotten done earlier. Had we known that this was how we were going to be measured. They're both sustained cases. They're both important cases to us. We were emphasizing doing a quality jobs that those sustained cases would continue to be sustained when they go through the Skelly Process and the arbitration process, the appeals that the officers have. If we had known that the city would be potentially held out of compliance on the NSA, because our work wasn't done within 180 days, we could have prioritized differently and moving forward, we're going to look at ways in which we can start doing that if that's what the court requires. But candidly, we just didn't feel it was fair to hold the city accountable in that regard, when that standard wasn't communicated to us.

The third case in that group was one where we're not anticipating we're going to be on the same page with the police department. It's a use of force case. Those are very serious, important cases. If we're not in agreement with the police department, we really need to do a thorough job to prepare for the possibility that it could come to a Discipline Committee here, which is a process that didn't exist when the NSA was created. And frankly was designed to make sure that cases are done well, that there is accountability within the police department. And we think that's a good reason to go past 180 days. And the deadlines we have in the charter agree with that, there should be time for the Commission's Discipline Committee to weigh in.

And it appears to be, from the support, that any time we take a case to the Discipline Committee and the case goes beyond 180 days for that reason, that will be found out of compliance as to that case on this measurement. And I'm concerned about that because I think it creates, it unintentionally creates an incentive to not take cases to the Discipline Committee. And that is absolutely the opposite of what we want here in Oakland. So I'm very concerned about the effect that the application this role would have here.

And just briefly, that fourth case that we looked at was one where it was also use of force case, and it was subject to a special kind of review that the police department has for high level use of force cases called an Executive Force Review Board. This is a process that's actually required by the NSA, but again has never been modified to reflect the existence of the CPRA or of the Commission. And we feel it's best practice for us to see what happens at those Executive Force Review Board meetings before we come to an opinion.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

And for that reason, since those Boards almost never happen within 180 days, we're waiting for that to be done before we reached our conclusion. And we think that makes for a stronger, more thoughtful report. Again, I have to emphasize all four of these cases are sustained cases. And so I am deeply concerned that if we continue to measure the city's performance in the way it appears to be measured in this report, I think that directly undercuts the accountability created by Measure LL. And I'm hopeful that we can have conversation with the monitor, the court, with plaintiff's counsel, all the parties in this case about a way that we can reach a fresh perspective on how to apply this 180 day rule, given the new and frankly, better processes we have here under Measure LL to ensure accountability in Oakland.

Chair Jackson: Thanks, John. In terms of the report that you referenced that said CPRA was not taken into account, I'd like for you to try and find that and send that to me, please because I have no memory. There's so many reports. Now separate and apart from CPRA Chief, what is OPD's current completion rate?

Chief Armstrong: So we were at 83%, our methodology to date on our internal side. This is how we, the methodology that we're using, we are currently to date at 88%. And so we expected to exceed 85%, but before that can be considered to be an actually a real number we have to obviously have the IMT do their own look into the numbers and evaluations. So it's not final until theirs, but from our perspective where we are today, but that could change based on their review.

Chair Jackson: Okay. And so for the sake of internal goal setting, you're saying that you think it's 88%, obviously the IMT has got to come in and look. Over what kind of period are you expected to manage at 88%? Like, would they go back? If you're at 88%, is that through the course of the year or over the last six months or the last three months or the last two weeks?

Chief Armstrong: Yeah, we've been doing month to month lately, but it is evaluated previously by the IMT quarterly. So the end of the quarter would be the end of December. We would appreciate it last month that they did give us an extra review because we did feel like in September we were not as high as we would've liked. So they agreed to do, I mean, October, I'm sorry. Then they agreed to review us again in November, which was which we appreciated, but we've continued to work towards getting over 85%. And so we are trying to make sure that our map, hopefully at some point, that our math is at least close to the IMTS review of the cases. I don't know if Captain Lau, Rania is DC Captain Lau in the-

Wilson Lau: I'm here, sir.

Chief Armstrong: Okay. I'll pass it to Captain Lau who actually lives this.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

- Wilson Lau: Good evening everyone. Chief Armstrong's correct. I do monitor the task two compliance timelines and currently OPD IAD is at 88% for class ones. I don't have the exact number for class two, but we're over 85% and Chief Armstrong, just reaffirm that he's correct, that we do measure these per quarter and that's the monitoring team agreed to that too. But I don't know the timelines on how they assess it because they write their quarterly reports, but every quarter they don't write task two every time. So I'm not entirely sure how often they do the assessment. So, but I do know they measure it by quarterly, Chair.
- Chair Jackson: Okay. Thank you. Now you raise an important question. We have what, five tasks that are either impartial or capacity. So why aren't those tasks reviewed every single time? Why are you having to question when that will be reviewed?
- Chief Armstrong: I'll take that. I don't think we are at liberty to determine when that occurs, that'd be something that you would have to ask the IMT.
- Chair Jackson: Okay, so it's basically a guess, but my gut is that you should be staying ready on all the tasks that are still out of compliance so that whenever they look, you have the opportunity to get into compliance, correct?
- Chief Armstrong: Yes, ma'am, that's t's what we do. Obviously we don't know what specific tasks is going to come up, but we try to be ready for any task that is reviewed during that period.
- Chair Jackson: Okay. So it's my understanding that OPD is diligently working toward 180 day completion rate of over 85%. When can we expect you to hit this performance measure? I mean on a consistent basis, you said you're at 88% right now. What will it take for you to commit to hitting this performance measure as a part of just the regular trajectory of your work?
- Chief Armstrong: Well, I'll bring Captain Lau in. I've asked him to continuously monitor this. And we've strengthened our internal review processes to ensure that we are getting what I call tripwires, when cases are getting 30 days outside of the 180. I get a notification from Captain Lau and we start to really track on those cases and follow up with the command staff to ensure that these cases are getting done. But I think to Director Alden's point, the reason 85% is there because there are 15% of cases, like an officer involved shooting or some high level use of force, where we know that it's going to exceed the 180, because it is an extensive investigation that might include a criminal investigation, that may include multiple statements and video review and even outsourcing of evidence. So, I think we do take into consideration that those cases are going to come and we know that they are not going to be done in 180 days. So that represents that 15% cushion that we need. And because they don't happen often, it's not a lot of them, so that's a reasonable 15%. But I think it's our goal to be over 85%. So



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

I'll let Captain Lau speak to how he's specifically tracking it to ensure that we don't fall below it again.

Wilson Lau: Thanks Chief. So Chair Jackson, there's a lot of benchmarks we've set in place for measurements so we don't miss those timelines. With the current staffing I have right now in IAD it's been working. That's why consistently I felt that the third quarter that we made it, but we were just shy 2% the fourth quarter. Again, I feel like we're going to make it by the end of December. So that's two quarters in a row. And I think as long as everything stays status quo, we have developed the right benchmarks and tracking mechanisms in place to continue this forward.

Chair Jackson: Okay. Thank you. My next question. I'm sorry, but I have a couple additional ones. After reading the 76th report. I wish I understood the IMT's assessment of CPRA well in advance so that city leaders could plan better. Did the IMT make any comment about CPRA's timelines when the 2020 charter amendment was publicly available? Chief?

Chief Armstrong: I wasn't chief at that time. So I'll say I don't recall specifically if there was anything pushed out at that time regarding the CPRA at that time. So I'm not sure. I don't know if John would know, but I'm not completely positive for my side.

Chair Jackson: Okay. Well, I'd like to think that I would remember that too, because that would fall under the Commission since we evaluate and support both entities. John, could I ask how short circuiting the timelines in the charter for CPRA completion might affect your agency's work?

Dir. John Alden: Well, it could affect us in a few ways. If this measurement that we see in the 76th report continues to be the measurement. And I should tell you, Madam Chair, you had asked just a moment ago, was there another report in which we saw a different measurement? And yes, it happened to be the one immediately prior, the 75th report explicitly excluded CPRA cases. So it's quite the change to see that explicitly excluded in the 75th and included in the 76th, just a few months later. So setting that aside for a moment though, if we were to need to move to 180 days in 85% of all cases citywide, we need to keep in mind that CPRA has a smaller caseload than IA and much fewer resources. And we have smaller caseload in part because the charter asks us to look just at the mandated cases, those are all what are called level one cases in Oakland, the ones that are designated as being more severe, more significant one in which an officer could potentially be terminated if it's sustained. And because we have these more serious cases, our cases are the more complicated ones and take more time to finish. And so it is much more likely with the CPRA case that we'll have to go past 180 days, than with a much larger IAD case load, which also



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

includes level two cases, which are less severe, internal complaints, which are often, usually easier and faster to investigate. So we happen to have the toughest cases and fairly lean resourcing, if we're going to make 180 days. I don't think it's realistic to think that we would be achieving the goal described in the 76th report at CPRA with current resourcing, unless we, frankly, we're not doing as good of a job. And I'm really concerned about that.

If we want to meet this 180 day goal in the way described in the 76th report, we would absolutely have to increase the resourcing at CPRA to get cases done really fast. And I'm particularly concerned about what would happen with the cases that we might need to take to a discipline committee, because I think that would require even more time. That require even an adjustment in the formula to say having only 80 or 75% of cases done in 180 days. Those are the concerns I would have about applying this formula and how it affects our work. I really want to keep our investigators focused on doing the best quality job. They're doing tremendous work right now, I don't want to undercut that solely to get cases done a little bit faster.

Chair Jackson: I appreciate that. And we should talk about what that budget looks like. I think I'm disconcerted. 75 explicitly excludes 76 explicitly includes, we can't be going on back and forth and back and forth, especially with no formal communication of expectation, because we could have been planning for this and potentially identifying budget or at least setting you up for success. I know that the measure says it will be nice to be in 180 but at very least it had to be by 240. And that creates a gap that would be out of reach for you no matter what. Now, what is your current completion rate, let's say over the last quarter?

Dir. John Alden: Well we were looking at an average completion date, say last year of 199 days for a case. So that's over the 180 days, but not by a tremendous amount. And just recently we've seen that number coming down closer to 179 to 190 days, depending on the month, over the last few months. So our time to completion is definitely improving. Our overall case load is definitely improving. So we're seeing motion in the direction of getting cases done faster but still well. But I don't think we are yet at the rate of getting 85% of our CPRA cases done at 180 days. And again, as I mentioned, that's a smaller sample of more complicated cases than we see at IA.

Chair Jackson: Yes, but it lets us know that the gap isn't as huge as we might think. And so that is excellent to hear. I've got one last question before I call on you commissioner Harbin-Forte, if you don't mind, on page eight of attachment five, there is a mention of late activation of body-worn cameras and of supervisors' consistency in enforcing the body-worn camera policy. How is late activation defined, Chief Armstrong?



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

Chief Armstrong:

Well, policy says that camera shall be activated prior to making contact. Prior to contact essentially means that before the officer actually makes a stop on an individual, before the officer actually interacts with the individual, before the officer sees that he or she is about to make that stop, that they should have their cameras activated. I think that's what, we follow policy as it's written, we've been advised by the IMT, as you've seen in the report that there are several late activations of cameras. We are sort of working through the challenges that we've seen with late activations. We hope to cure that through the use of technology. Fortunately, the city council did approve funding to purchase new cameras, come with automatic activations. We have received some tester cameras in stock now, and we are testing. And then we are hoping to have our first shipment of cameras in the next week. We will start training and distributing those cameras.

Those cameras we'll include the ability for us to have automatic activation out the holster, so essentially if an officer were to pull his or her firearm, the camera would automatically activate. And then we also have vehicle activation. So when an officer exits his or her vehicle, the camera will also activate. There is a built in two second delay with the automatic activation, but we don't believe that should prohibit our officers from being able to capture the entire incident. And so I think that's what we have been focused on is trying to cure this issue of late activations through the use of technology. What we haven't seen is any sort of malicious intent by officers to not do that, to not activate cameras. In those instances, we have open internal affairs investigations when we've seen egregious failures to activate cameras. We have also have had cases jointly with CPRRA sustaining officers when we have intent, officers intentionally fail to activate for whatever reason. Or a late activation, that's significant and actually does not capture some of the incident and the officers should have had the camera activated.

So those are some things that we've been getting feedback from the IMT and trying to work on. One of the things we have strengthened in the department is I have met with all the sergeants and command staff and been clear with them my direction has been, I will begin to discipline moving up the chain of command. So I've installed a new protocol that essentially says, if you review it and put your name on it, every issue that was related to that particular investigation should be identified by that supervisor or commander, or the officer doesn't just get discipline or an SNF, supervisory [inaudible] file entry if you would. That everybody in that chain assigned that review, is subject to discipline. I've conveyed that message, we have not done that previously where the chain of command that reviews, it actually gets discipline as well. But I have instituted that protocol that if you have reviewed it and you missed it as well, the entire chain gets documentation or discipline if necessary.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

- Chair Jackson: Thanks, Chief. That sounds good. I'm going to have more questions about the 77th report at the next meeting, because it was issued after we agendized this meeting, but we do have two more hands. This is absolutely disconcerting. So commissioner Harbin-Forte followed by Commissioner Howell.
- Comm. Harbin-Forte: Thank you. And my comment really related to the 77th report that was just issued yesterday. So I don't know if the CPRA cases are included or not, but it would be interesting to see if they are back to the 75th format or staying with the 76th format in terms of factors to consider. So that was just a comment, thank you.
- Chair Jackson: Okay. Thank you. Commissioner Howell. I think you might be on mute Commissioner Howell because you're talking, but I can't hear you.
- Comm. Howell: Yeah, my bad I was on mute. Yeah I got a question for Chief Armstrong. Are cameras activated in juvenile arrests?
- Chief Armstrong: Yes. Our cameras are activated for each one of our stops or arrests. Yes, we do activate our cameras for juveniles.
- Comm. Howell: Okay. And would that capture, at that same time, would it capture the Miranda them reading the Miranda right at that time? [crosstalk]. Okay, all right.
- Chief Armstrong: Well, I want to make sure that there's a distinct difference between the two. So there may be, there's body-worn cameras that are on when the police officer is dealing with the juvenile. When the officer turns that juvenile over to an investigator, if you would, that is recorded on our interview room cameras. So we have in-camera video that captures the entire interaction.
- Comm. Howell: Okay.
- Chair Jackson: Thank you, Commissioner Howell. Commissioner Milele.
- Wilson Lau: Thank you Chair. My question for the Chief, I wasn't able to tell from the report, I don't know if it was my ability to read it, but for the body-worn camera issue, I couldn't tell how many, what percentage of officers needed to have the... Let me see if I can reframe this question. I couldn't tell what the margin of error is. Are we allowed to have five officers who didn't initiate that camera? It looked like it was a hundred percent that needed to do it perfectly every time, or is there some wiggle room, assuming that human beings won't all always be able to do a particular activity perfectly?
- Chief Armstrong: So we don't have, like other tasks when it comes to camera activations, we don't have a cutoff. I think we activated our cameras this year, several hundred



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

thousand times. So over 150,000 times or, so our cameras were activated. So no there is not a set percentage. But think what we know is that the late activations that were identified by the IMT, were a result of actual use of force investigations that were reviewed. So they are specific to those use of force investigations. There is no threshold, but the concern that the IMT has brought forward to the department is their belief that the camera should have been activated. And I think we are reviewing some of them. And some of them we have questions about, but I think overall, we hope that the whole cure is the technology that will automatically activate it.

Wilson Lau: Yeah. And I'll reframe it because I've framed it so poorly, the monitor is looking for zero late activations, or a certain percentage, is kind of what I'm looking for. What are we being graded against?

Chief Armstrong: We haven't been given a certain percentage or told how many we can be a little late on or anything like that. So I don't think that I think the... No. So I just was-

Wilson Lau: So what is compliance then? Is it zero late activations? Or we just don't know?

Chief Armstrong: Well, I think the compliance, the particular task that we're talking about is task 25, which is use of force investigations. And so we're talking about, not only the body-worn cameras it's considered within that, that's the actual use of force is the use of force itself in compliance with department policy, is the investigation done complete and thorough? If there were mistakes that were made, did the supervisor in his or her review, actually identify those mistakes or deficiencies? So it includes the investigation, the use of force, the investigation, and whether the investigation identified anything that might have been a potential violation of policy or some potential training improvements that were needed by the officer.

Wilson Lau: Okay. So we don't have a number, or we don't have like a benchmark or something that we can say that we got closer to that particular issue?

Chief Armstrong: No, but I think during their review, if they begin to see less late activations, I think that'll be something that hopefully we are advised because they will tell us that, hey we've seen improvement in certain areas that they have found challenges with previously. So they will say if, one month when they review, they say, hey you had a number of body-worn camera footages. And we actually increased the amount of training that we provide, or we provide new documentation or direction to our officers. They will give us a couple months to see if there's any improvement. And if there's improvement, they will say like, hey after you guys provided the new training, we have seen an improvement. Less late activations, if you would.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

Wilson Lau: Okay. Thank you.

Chair Jackson: And so Chief, given your discussion about the technology that you're expecting in a week, it might understand that perhaps the entire department will have this new equipment sometime in January?

Chief Armstrong: Yes. Yes the city paid for our entire department to be equipped with the new cameras.

Chair Jackson: Okay. So arguably the equipment will stop anybody from doing a late activation.

Chief Armstrong: Yes ma'am. It should definitely minimize it. We didn't buy car activations for every single car, but the vast majority of the stops and the interactions, which are really the patrol officers, the violent crime officers, the cease fire officers, all the officers that actually make stops, will have cameras or will have automatic activation [inaudible].

Chair Jackson: Okay. Thank you very much. At this point, I think we can go to public comment [crosstalk].

Commission staff: Yep. I'm on it. Give me just one second. This time [inaudible]. 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 that they appear. Oscar Yassin, I see you up first. I've unmuted you my end, Mr. Yassin, when you're ready.

Oscar Yassin: Can you hear me?

Commission staff: I can.

Oscar Yassin: Thank you. So I'm looking at the passage, and unless there's another passage in the monitor's report, I just don't understand the amount of attention that was paid to this. My understanding, and I'd love to know if I'm wrong about this, is the NSA doesn't have any power at all over the CPRA. The city administrator doesn't either. And the direction is to the police department to try to coordinate better with the CPRA which, they can try all they like, but the CPRA is an independent body. It's critical, but I mean this is a time for the commission to review what's in the monitor's report because the police department that you oversee has been under the NSA for the lifetime of the young people you are talking about who aren't getting Mirandized. And that's concerning.

I just don't understand. There should be a level of professionalism and detachment in the way that the commission interacts with the Chief and with the police, because you are grading them on their performance. I hate to say it this way because I'm not your boss, but you aren't their allies, the police



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

commission isn't the ally of the Oakland Police Department. It's the oversight body of the Oakland Police Department. And I just don't see a lot of oversight. I just don't see it. And it's alarming to me, some of the tones, some of the lack of interest or curiosity, there's so many opportunities to get so much data out into the public. And there's no interest at the commission, it's really worrisome. I wonder if the problem's in the selection committee or where it is. It's just not cool.

Commission staff: Thank you, [inaudible]. Ms [crosstalk]-

Chair Jackson: [crosstalk] next person. I'm sorry. I just want to clarify that the NSA, the defendant in the NSA is the city of Oakland, not just OPD. I did clarify that in my earlier statements. So there is some problem with the interpretation and it is inconsistent. And that's what I'm interested in trying to address. Go ahead, Rania, thank you.

Commission staff: Thank you, Chair Jackson. Ms. Olugbala, you are up next. I've unmuted you when you're ready.

Assata Olugbala: I wish [Alden] would stop this arrogance about they're doing tremendous work. Wait till you get the report of cases that have been solved. Not one case were your investigators able to sustain. How can you brag on an office where you don't even have black investigators. Going to the report it says the breakdown of 69 cases that were reviewed by the monitor, level three and level four, 71% excessive force cases they reviewed were African Americans, 20% Latinos, 4% white and 6% Asian. And by the way, it's not the 17th year, it's 19 years, you're getting ready to go into. We have a situation here again, where we are dealing with excessive force, racial profiling, and we got CPRA can't who are the individuals by race that are asking for an investigation. The police department can do it, but you can't produce a report?

This is important because in this city, you refuse to deal with the issue of the disproportionate number of African Americans at every level, with the police department, with jobs, with housing, with homelessness, African Americans. You want to say people of color. When I look at that issue of 71% of the cases reviewed were African Americans and CPRA is doing a great job, and you don't even identify who are, by race, the individuals saying that they need to have an investigation into racial profiling and excessive force. Mr. Alden, you need to stop this, that your CPRA is doing anything that's creating police behavior change. It's not happening.

Commission staff: Thank you Ms. Olugbala. Next up, Anne Janks. Just one moment, let me get you ready. Ms. Janks, I've unmuted you my end.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

Anne Janks: I'm calling from a different, oh, I'm not going to tell you because I'm using my time. So when I was a young pup was trained and supervised by sister [Pat Dridack] from the Religious of Jesus and Mary. And only one time in four years, did I actively disagree with her, and I thought I was going to be struck by lightning. And I'm feeling that again because Chair Jackson's statement about the deadline and that this was a pressure from the judge, isn't really the entire case. OPD on repeated policies has delayed engaging the commission until up against the deadline. I don't pretend to know what the intention behind that was, but the impact is to prevent public and commission engagement in a deep and meaningful level.

The reason for the need for a hurried last minute public meeting, instead of robust engagement on the CID policy, is because OPD consulted with many entities over months before presenting a [inaudible] complete policy to the commission close to the deadline. And it's up to the commission to decide if they're going to accept that, ongoing, or if they're going to insist upon OPD respecting their role and engaging them during and immediately, at the beginning of the process. And I really hope I don't get struck by lightning, thank you.

Commission staff: Thank you Ms. Janks. Chair Jackson, you have no more hands raised, so let's bring it back.

Chair Jackson: Okay. Thank you very much. So we have had quite the discourse on this subject, and I'd like to know what the commission, how you all want to move forward. I am going to agendize future reports so that we can see consistency, but I really do think that we need to reimagine the NSA. Vice Chair Milele, please.

Wilson Lau: Thank you Chair. I'd like to suggest that we draft a letter suggesting that the NSA be reimaged based on the changes over the last few years, with the commission and some clarification around specifics on CPRA and how their outcomes are tied to IAD, et cetera. So yeah, I'd like to make a motion that we draft a letter around this.

Chair Jackson: I'll second your motion. And I appreciate that, thank you. We've already had public comment. So I would like to put this to a vote to see how the entire commission feels. So, Commissioner Gage?

Comm. Gage: Yes.

Chair Jackson: Thank you. Commissioner Harbin-Forte?

Comm. Harbin-Forte: Yes.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

Chair Jackson: Thank you. Commissioner Howell?

Comm. Howell: Yes.

Chair Jackson: Thank you. Commissioner Milele?

Vice Chair Milele: Yes.

Chair Jackson: Thank you. Commissioner Peterson?

Comm. Peterson: Yes.

Chair Jackson: Thank you. So we are unanimous. I will get on drafting the letter. Obviously refer this also to our council since this is involving the whole federal situation. And I appreciate the public's commentary as well as all the questions that were raised. We've got to get to the bottom of this. So we can go to the next item. Rania, thank you. That looks like John.

Dir. John Alden: Yes, it is. Thank you, Madam Chair. So this item is our report and review on CPRA pending cases, completed investigations, staffing, and recent activities. You'll see that tonight I included a cover memo that goes into a fair bit of detail because we have had a lot going on just lately. I will not reiterate everything in that memo, because I want to be respectful of your time, but I'm happy to answer questions about it. There are a couple things in that memo that I would like to emphasize. And I'd start with some of the points at the very beginning in response to questions we had at our last meeting. I do want to try to be in the habit of answering people's questions in a way that's Brown Act compliant. So I took notes about questions from a previous meeting and repeated them here. One of them is that we cannot link these cases that CPRA investigates or that IA investigates to any civil cases. The current penal code just does not permit that.

That said, how can we ask about quality of cases? We had a comment earlier tonight asking that question. And one way we can start doing that is that increasingly we're able to make more of our cases public, I've included a link in the memo to all the materials for a case in which two different people we're bitten by police dogs in the same incident. I do want to warn the public that if you go through those materials and watch the body-worn camera, it is quite graphic. It's very disturbing honestly. But that said, this is a case in which CPRA had a completely different set of findings than IA. We sustained officers for excessive force in that case. We sustained a supervisor for failure to supervise. And I think that case makes clear that if it weren't for CPRA, cases like that one wouldn't be sustained. I'm really proud of the work we did in that case.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

I want to also flag in that case, this was a case where we intentionally waited for the executive force review board to be completed on that case, in order to understand better what had happened in the course of that situation. And because we waited for the executive force review board, and we had thoughtful questions we were able to help present there. Some of the material that came out at the force review board really changed the analysis in that case. And I think that is one reason why it's really important that CPRA take a little more time and wait for the work of the force board to be completed before we reach our conclusion. And I think moving forward, that's a practice we should continue, but it's also one that's going to require taking more time.

And I think if we had simply managed to get that case closed at 180 days without taking advantage of the force review board, I don't think this case would've been sustained. And I think that would've been a tremendous failure for the city as a whole. So I commend that reading to people with a caveat that it is somewhat disturbing. I do want to make sure commissioners you're aware of and you notice the part of the memo in which I described that we are looking for authorization from the city to have some temporary administrative help in part to help Ms. Adwan, who's staffing you, because I know that you need more staff assistance. We think that we do see sufficient budget savings up until this point in the year to justify a temporary hire for the rest of the year, and hope to have that approved soon.

We're also going to put into our budget request for next year, making a position like that permanent. So that starting in July this year, we'd have permanent funding for a position like that. Hopefully. Of course, there are many other people that need to take a look at that. And I know the city council's got a lot of tough decisions to make about funding, but that is a request we're going to make. I do particularly want to draw the commission's attention to the material in the middle of that memo, about the scope of work for a contractor that the city council has given you funding for, already, that would be helping with the transition of some of the resources and responsibilities from internal affairs over to CPRA. So as you may recall, during the budget process of few months ago, the city council said that that proposal, that idea, from the re-imagined public safety task force, was one of their top priorities.

And they have asked you to help spearhead that by finding a contractor who can help both work with the stakeholders to design what that would look like, and then secondly, help implement it. So we've created a scope of work here for that position. We at the staff level can take care of most of the administrative work of getting a request for proposals out, getting bids back, and then bringing them to you so that you can pick the final contractor. But the one part that really would benefit from your input, should you have any, is whether you think the scope open work looks right or not. The rest of the materials vary, it's



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

important, but it's pro forma and tends to be the same from proposal to proposal. This part's unique to this one project, and I want to make sure it meets with your approval.

So I'm eager to hear back from you about whether you think that scope of work looks right, or whether you think it should be adjusted before we move forward with an RFP, so we can bring you some contractors in which you can pick. And then the last thing I wanted to mention is, we have included in here that we intend to ask the city council, the city administration, and the council through the budget process for someone to help with the mediation program. This is something that Chair and I have discussed. I know that there's interest in this at the police department as well. And there's been a lot of interest in community groups about it. I'm hopeful we can have that funding. I do think that would help both with speeding up some cases, but also making people in public feel stronger sense of procedural justice and the complaints they bring in. So those are the highlights here. I'm particularly interested in your feedback on the scope of work. And of course, any other issues you might have.

Chair Jackson: Thank you. Commissioners, are there any questions or comments? Oh, I saw a hand up. Let's see here. Okay, Commissioner Harbin-Forte followed by Commissioner Gage.

Comm. Harbin-Forte: Thank you, Madam Chair. Just a question in terms of the RFP, the scope of work, et cetera, will there also be any indication about minimum qualifications? And I ask that because we've had discussions here and I've had discussions, Mr. Alden, about how sometimes it appears that for jobs, and everything else there, it's kind of an assumption that certain language in terms of qualifications ought to be in there. For example, like requiring a bachelor's degree or equivalent. And sometimes my concern has been that those kinds of qualifications aren't necessarily job related. And that often it will discourage applicants of color from applying for positions so that I have been encouraging us to look and see that we make sure that the qualifications aren't saying, in other words, people of color need not even apply. So, I don't know if there will be those kinds of issues in terms of what you raised with the consultant and others, but I hope that we are keeping that in mind, as we talk about even other staffing that's also addressed other staffing positions and increasing staff.

Dir. John Alden: I think that's an excellent question. This request for proposals does not include any form of minimum qualifications. So, you would have the ability to look at any and all applicants, and it would be up to the applicants to explain why anything about their background, their experience, their training, their past work, or any other factor might make them particularly well qualified to do the work. It also provides, at least as it's written currently, and how I'd like to keep it is fairly broad so that people who are interested in applying for this particular



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

work have the flexibility to explain how they think they'd want to do it and why they think they'd be good for it. And that way I think we get the broadest possible set of applicants in many regards. And I agree with you that minimum qualifications can sometimes be exclusionary and so those are intentionally not here.

Comm. Harbin-Forte: Thank you.

Chair Jackson: Commissioner Gage.

Comm. Gage: Thank you Chair. I'd like to briefly express my thanks to Director Alden. Staffing is certainly going to be a continuing issue for our commission and I'm grateful for his foresight and looking forward to the future budget cycles to secure some additional staffing resources. We have a lot of work we need to do, lot of work we're being asked to do, and we can certainly use some capital, thank you director.

Dir. John Alden: You're welcome. Thank you.

Chair Jackson: Are there any more questions or comments before we go to public comment? Okay. And I think, Mr. Alden, I will weigh in on the scope tomorrow on our regular check-in. Very focused on a few very specific things, so I may have some comments.

Dir. John Alden: Excellent. Thank you.

Chair Jackson: Okay, thank you. So, Rania, if we can go to public comment, please.

Commission staff: Chair Jackson, you actually have commissioner Harbin-Forte's hand raised.

Chair Jackson: Oh, I'm sorry-

Comm. Harbin-Forte: No, it was a [crosstalk]. Thank you. It was a late raise. I just want to clarify. With respect to the other part of your report and the other positions that you want, will there be minimum qualifications for those positions as well that you want to include in the budget?

Dir. John Alden: That's an excellent question. Full-time staffing positions of the sort described in that part of the report all are linked to position descriptions that are controlled by human resources. So, to change any of the minimum qualifications in those we to go through a process of working with HR and changing them, that includes meaning and conferring with the applicable union, and then taking the change in the job description to the civil service commission. In most cases of the sort that are described in this report, these kinds of more general positions



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

that we might have anywhere in the city, we have the ability to either take lists that the city has already created in that regard with the minimum qualifications they already use or use another process called selective certification, in which we tell the city, "Hey, in this one case, we want someone a little bit different." And that gives us the opportunity to, I wouldn't say quite not have the same minimum qualifications, but explain what alternates are available to the minimum qualifications.

So, for example, if a minimum qualification said they want a bachelor's, we could say, "Well, in this case, we think that could instead be three years of experience in a relevant field." And so, that way, we are not, I guess I want to say, we are not as wed to those descriptions as might otherwise be the case. And so, I think that's the procedure I'd recommend we use in that regard. If we wanted to change the minimum qualifications citywide on those positions, that would be very complicated and would probably take a year to do, but this selective certification process I've talked about would allow us to not only get someone who's really targeted to the skills we need, but also help us control the interpretation of minimum qualifications in a way that we think is more expansive and more equitable, more accessible to a wider variety of people.

Comm. Harbin-Forte: And if I may, Madam chair, so it may take a year, but when can we get it to start? And I'm particularly concerned as well about any openings that may arise in CPRA, particularly as we look at the lack of diversity among the investigators and others. So, what can we do to get it started so that the new policy, the new standard, is not a whole bunch of qualifications that are not job related and that may well disqualify any diverse work applicants-

Dir. John Alden: Well, I think, I would rephrase a little bit. In the existing classifications we have, I don't think we have any minimum qualifications that are not a related. And one of the reasons I say that is that they all say, "X or equivalent experience." And so, for all of the descriptions we already have, we have the ability, particularly in the CPRA, specific ones, to say to HR, "We think these kinds of experiences would substitute for a bachelor's or for an AA or the like." And I'd be interested in working with you commissioner on what sorts of equivalent experience you might think would work, because our existing system already gives us that flexibility in this CPRA classifications like investigator. And I think that's something that is a... That is a faster way to get there, and one around which you and I and the commission have more control. And so, I'd recommend using that tool, which exists now, and I think we could use immediately.

Comm. Harbin Forte: All right, great. And the alternative qualifications might also need some tweaking because it's basically describing things that, again, a large number of people are not going to be able to meet. Then you may as well say we want a bachelor's degree, so... But I think that, yes, I will... So, we can talk offline on



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

some other things, but I'd certainly like to participate and reimagining the qualifications. Right, thank you.

Dir. John Alden: I like that.

Chair Jackson: That's the word of the night. Okay, so if there aren't any more comments or questions from the commissioners, we can go to public comment.

Commission staff: You got it, chair. Thank you so much. Members of the public wishing to make public comment on this item, please raise your hand and I will call on you in the order that they appear. I'll also get the timer going. Thank you for your patience. First start Ms. Assata Olugbala, when you are ready.

Assata Olugbala: How can you have a report when you don't have the presenter giving the number of cases that this report reflects that resulted in unfounded...

Commission staff: I'm so sorry, Ms. Olugbala. I think, I accidentally muted you. Can you hear me?

Assata Olugbala: Can you hear me?

Commission staff: Yes, let's start again. I'm so sorry.

Assata Olugbala: No, don't apologize. You're fine. Okay, you got the clock at the wrong time. Can you start at two?

Commission staff: Yeah, got it.

Assata Olugbala: Okay. I'll wait for you.

Commission staff: There you go.

Assata Olugbala: Thank you. How can you have a report that deals with cases that have been resolved and you don't get the number of unfounded, the number of exonerated, the number of sustained cases in this report? No cases were sustained. This is a common thing. Very few, if little cases, are sustained when it comes to excessive force or racial profiling. You get cases is that are sustained related to performance of duty. The number one thing that you have to ask about CPRA, "What is the work of CPRA that has resulted in change of police behavior related to excessive force and racial profiling?" And you won't deal with that. Do you realize that the lives of black people are... And I'm not talking about, I'm talking about black people.

The lives of black people for 19 years have been disproportionately impacted by officers who have used excessive force. Your job was to make a change with



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

that behavior. That's what Measure LL is primarily supposed to do, and you spend little or no time holding sipper accountable for what they do with their investigations and the results that they produce. How in the hell are they saying that they're doing wonderful work? What is the wonderful work if we are not holding officers accountable? And if you don't identify that these are individuals who are black that are being impacted... You all got a hard time bringing up black. You won't deal with the Bay case, that's black. You don't seriously deal with the black police office grievance, you don't seriously deal with the racist texts and sexist texts that impacted black people by white officers and latino officers...

Commission staff: Thank you, Ms. Olugbala. I am sorry to have to cut you off, but unfortunately your time is up. Chair Jackson, I see no more hands at this time.

Chair Jackson: Okay. Ms. Olugbala raises a good point. I thought, John, that we did have a distinctive identifier broke down how many cases came out of unfounded, so that we can look at like a legend that helps make it easier to identify the groupings of investigative results. Am I misunderstanding or misremembering?

Dir. John Alden: I forgot I was muted. Pardon me. I would say two things. One, any given monthly report does go through the finding in every single allegation, so you can look through that and see which are which. In addition to that, we do an annual report, which includes statistics for the whole year, broken down in a number of ways. Race of the person who made the complaint, also, where in the city, the complaints were made, what kinds of allegations were sustained and how frequently did we sustain which kinds of allegations. Our 2019 and 2020 annual reports are online and our webpage and they get into vastly more detail than our monthly reports, and they cover all of the questions that you just described, Madam Chair.

Chair Jackson: So, the question that I'd like to pose then is we have to read hundreds of pages of reports to prep for each meeting, is it asking too much to have a legend at the bottom which identifies or correlates with, if you're reporting on 20 investigations, that five were unfounded and five were sustained and whatever, so that it makes it a little more efficient for us. Is that possible to be done?

Dir. John Alden: I suppose I need to have some conversation offline about exactly what you're looking for. I think I'm not quite following how that's different from the product we created, but I would like to have that conversation to make sure that report meets your needs.

Chair Jackson: Okay. Very good. Thank you. Okay, onto the next item. I think this is you again, John.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

Dir. John Alden:

Indeed it is. It's a busy night for me. Thank you for taking the time with me this evening. So... Pardon me. This item has, instead of to do with the CPRA staffing, has to do with staffing budget and resourcing for this commission. And I've separated those out because we do have separate categories within our budget in which we're able to track those. And I think, moving forward, it's really important for particularly the public to understand that this commission really needs its own staff and its own resources entirely separate from what's happening at CPRA or the Inspector General's office.

We've included in, in this memorandum, some follow up on a conversation we had in October with a commission about how we staff ad hocs and committees. And so, one of the things that we have advanced here, again, following up on the conversation we had in October, is confirming our understanding that the commission agrees that we should have discipline committees roughly every other month set up on a rotating basis so commissioners can anticipate those are going to happen, know when they are, and also, so that CPRA knows when those are going to be, so if we have cases of that sort, we can bring them to your discipline committees.

Also, confirming what we have mentioned before, that we think our current staffing, which is really just Ms. Adwan, is sufficient for roughly four ad hocs and a standing committee, but not more, which is why in our next annual budget we're going to ask for more staff for you because I know that this commission has a tremendous amount of work to do, and really is going to need more staff to do it. I do want to flag that, I think, one thing maybe I didn't convey well enough in this memo and maybe the one previous is that when we only have one staffer, there is a tremendous human toll on that staffer of having lots of evening and weekend meetings, and we're doing our best to keep up.

But I do think that it is a City of Oakland value to think about how we treat our employees and I want to make sure that we are treating any employee who's working for CPRA or working for you in a way that we have a workload that is... One that is sustainable, right? And I think that when we talk about four ad hocs in a standing committee, we're really talking about the ad hocs meeting maybe once or twice a month at the most. Such that there's no more than maybe two evening or weekend meetings that your one staffer has to do in a given week. And I want to make sure had an opportunity to check in with Ms. Adwan and see if there's anything I'm missing there. Or if there's some more detail we need to understand about how much work the existing caseload really is.

Commission staff:

Thank you, Director Alden and through the chair. It's nice to be here. Thank you. I've turned my camera on to personalize this staffer. I mean, kind of plus onto everything that Director Alden said, and I had the opportunity to weigh in on the memo, but I also came online in case I can answer any questions for you.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

Chair Jackson: So, Rania, I know that when we talk about trying to get forums and some of the Saturday ad hocs and all done that we talked about the fact that there were several ad hocs that were getting ready to sunset. Do you feel like maybe we ought to prescribe a schedule that looks out across each month to identify where the work passed on a regular Monday through Friday nine to five, and then take a look at starting you later on, let's say, the day of a police commission meeting, so that we are not piling on 10 and 12 hour days.

Commission staff: I appreciate that thought. I think that's certainly an option that I'd be open, or certain, that we ought to consider. I think another, that I would like to include is perhaps prioritizing... And it's something that's been on my books, and certainly I know it's been on the mind of this commission and OPD, is almost prioritizing the work that needs to come down. So, ad hocs related to policies, for example, I would consider those a priority, anything that requires a revision [inaudible]. I know we've already got some that we are looking to establish. Haven't had the time to even go about starting to initiate that or getting people's attention to it. So, actually being quite intentional about which ad hocs are coming up, which ones need staff support, which ones the commissioners are able to do.

There are some things that commissioners aren't able to do. As volunteers, for example, you're not allowed to post to the city website. So, that's something that I wouldn't ask you to do, but if it's a simple ad hoc and I can show you how to run the Zoom, then I think it's... Then just being able to... It's almost like the quality of the ad hoc or what the ad hoc could be the focus area. I think that might be a way to start and plan and manage. But even that planning and management kind of requires space and time and we haven't even really had that, but...

Chair Jackson: No, you're correct and I appreciate that and of course, what I'm going to do is ask you to begin to prioritize based upon the way in which you see it, because there are several ad hocs that do not use your time that are coming to a close, and then there are several that do. And then we can try and figure out if there is a training opportunity for one or more commissioners in running a Zoom or what have you, so that we can limit expanding you, even and if we are anticipating a little bit of admin support coming up in the new year. So, how does that sound?

Commission staff: Certainly one avenue. I would also like to propose that the other... One of the recommendations in the memo is that we, as we're considering the budget that you are asking for the next cycle, that yes, the admin passing is in there, but that you really do consider how much support that you want for your ad hocs moving forward and your standing commissions. The standing committees. So, yes and please.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

Chair Jackson: Okay, no problem. So, why don't we spend a little bit more time talking about this in our one-on-one tomorrow, and then we can begin and to parse out what will work best.

Dir. John Alden: You know, Madam Chair, if I may, there's another issue flagged in this memo that I want to make sure the commission's thinking about tonight too. Which is, which standing committees would the commission like to move forward with in the future? And I think this is a good time to think about that issue for a couple of reasons. One is, we at the staff level took away from a previous meeting, it sounds like it's the commission's desire to create a standing committee for [inaudible] equipment. I'm not sure I saw necessarily a motion and a vote on that, so I want to make sure that I understand whether that is or is not the direction of the commission. But more broadly as the standing committee, as we've discussed before, there is a requirement that those have to be approved by city council and city council will ask us, "Do you have the resources to staff these committees?"

And right now, not three or four standing committees, no. And so it would be incumbent upon us to also say to city council, "We'd like X number of standing committees. And if we don't have staff, here's the budget ask." This happens to be very close in time to the beginning of budget season when we start making those asks, so if it is the will of the commission to have more standing committees than we currently can staff, then I think it would be incumbent upon us to also make an ask in the budget, starting in January, as to how much staff we think would be needed for the standings that the police commission desires. So, this is the right time of year.

Chair Jackson: Yeah. And so, some of those things were things that I was going to have us try to address in our commission retreat so that we could figure out whether we were all on the same page about that. Having been on a standing committee, which was the personnel committee, it was pretty arduous in terms of, that was back in the day when we were in person, scheduling agendas, I mean, at the same exact requirement for a commission meeting and then having staff to seat it. And it's part of the reason that we went to ad hocs because there was more flexibility. So, hopefully I'll be receiving some proposals. I don't know if they will all be in by the next meeting, probably January, just in terms of record recommendations.

But if it would be the commission's pleasure to discuss this for our next meeting, then we can put it on the agenda, otherwise I think January might be a good time to get some real clarity around the prioritization, around what if we don't get the budget money for the admin or the one admin, and they're only part-time for us. Because it's very easy to try and stretch one body out over three or four things and it's not fair and it's not reasonable.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

Are there any other comments on that subject? Okay, am I hearing none? Why don't we go to public comment and if anything else comes up, we can discuss it afterwards.

Commission staff: Great. Thank you so much. Members of the public wishing to make public comment on this item, please raise your hand and I'll call on you in the order that they prepared. Also, start the clock for us. Excuse me. Ms. Olugbala, you're up first. Have I muted you?

Assata Olugbala: I got to go back to this statement that you got to go have a sidebar on whether you can count the cases by category. I just went and did it. Unfounded 27, exonerated 15.

Commission staff: Ms. Olugbala, I'm going to mute you. This is public comment for just this item. If you'd like to make public comment on anything else that you heard, can I ask you to raise your hand on the open forum part two, please. Members of the public wishing to make public comment on this item, please raise your hand, and I'll call on you in the order that they've appeared. Anne Janks, you're up. Give me just one second. Ms. Janks, when you're ready.

Anne Janks: Thank you. I just wanted to comment during this staffing discussion because having had conversations with a broad array of people, there's been a very broad misperception about prior statements, about the impact on staffing, of having community engagement and having transparency, especially during ad hocs. There are ways to enable ongoing thoughtful engagement and transparency of the work of the commission without overburdening staff, or, I would argue, increasing significantly the work of the staff. And I would hope that staffing issues are not used as an excuse to limit either the engagement or the transparency of the work of the commission. Sister [inaudible] always told me never to tell people to do something without volunteering to help. And I would be glad to sit down with any commissioners who want to figure out how to increase community engagement and transparency without overburdening the staff. Thank you.

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

Chair Jackson: Okay, thank you very much. It sounds like we need to, like I said, get a meeting to clarify some of the priorities and as well to determine whether or not we want to delay a more robust conversation in the midst of a retreat that we will be having in the next month or two. So, with that, I guess, we can go to the next agenda item.

Commission staff: Chair, Jackson, you do have Commissioner Gages hand raised.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

- Chair Jackson: Okay, did not see that. Thank you. Commissioner Gage.
- Comm. Gage: Thank you chair and thank you, Ms. [inaudible]. I'd agree that the retreat does seem to be an appropriate place to have a more extensive conversation. I would ask though, that staff be prepared to present some alternative proposals with respect to what different staffing allocations could look like. I was really glad to see work towards that goal included in the staff report for today's agenda packet, but I'd like to see that fleshed out and perhaps presented as perhaps a pair of packages of what a staff compliment could look collect moving forward. Given that there appears to be a request for direction from the commission in this report, I would move that we request staff prepare and forward for commission consideration, at least two proposals for staffing allocations to include in our budget cycle request.
- Chair Jackson: Okay. I'll second that. We've already received public comments, so why don't we vote to make that official? Commissioner Gage?
- Comm. Gage: Yes.
- Chair Jackson: Thank you. Commissioner Harbin-Forte?
- Comm. Harbin-Forte: Yes.
- Chair Jackson: Thank you. Howell?
- Comm. Howell: Yes.
- Chair Jackson: Thank you. Commission Milele?
- Vice Chair Milele: Yes.
- Chair Jackson: Thank you. Peterson?
- Comm. Peterson: Yes.
- Chair Jackson: And yes, for myself. We are unanimous. So, why don't we chat... We'll be talking tomorrow, both Rania and John, and we can try and figure out a timeline by which you might be able to prepare that information.
- Commission staff: Thank you.
- Chair Jackson: Let's go onto the next item. I believe it's commission reports, ad hoc reports. Oh no, it's not. Consideration and selection of the commission council. So, I believe, Commissioner Gage, you were going to handle this one.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

- Comm. Gage: Thank you chair. Yes. I'll make a very brief introductory statement. The commission has previously voted to approve and issue an RFQ for commission council pursuant to our new authority to directly hire commission council in both the original measure, as well as S1 revision measure. The RFQ has been posted for 90 days. As of this evening, my understanding is that we have one responsive proposal. That responsive proposal's been received from our current council. The action of the committee for this evening is whether we wish to take action on the RFP received to date, whether we wish to repost the RFP for additional parties to potentially submit proposals or any other action. I would move that we adopt the proposal of current counsel, that we approve them to continue as commission counsel and I'll leave that motion on the floor for action post debate and public comment.
- Chair Jackson: Yes, I would second that motion. Why don't we go ahead on to public comment then? Oh, I see Commissioner Peterson's hand.
- Comm. Peterson: With the motion, I just want to be clear, when you say current counsel remain, is that in order to reopen the RFP to get more activity or what does that mean?
- Comm. Gage: Thank you, commissioner. My intent is to have current council continue as commission council. Of course, it's not necessarily a continuation in that they would switch roles legally into the new commission council as articulated in the RFP they submitted. So, given that they have submitted a responsive proposal, I'd asked that we adopt that responsive proposal.
- Comm. Peterson: I see. Thank you.
- Chair Jackson: Commissioner Harbin-Forte.
- Comm. Harbin-Forte: And I was just going to say, for clarification, that we agreed to close the proposals and then to vote on the council that had as applied for the position. Okay.
- Chair Jackson: Yes, so are you asking that Henry accept a friendly amendment?
- Comm. Harbin-Forte: Yeah, so that it's real clear exactly what we're doing.
- Chair Jackson: Okay. So, I will ask Commissioner Gage to restate your motion so that I can decide if I'm going to second it again.
- Comm. Gage: Sure. I would ask for a brief clarification from council. My understanding was that the RFP process would close after 90 days per our prior action. Is there a need that council sees for us to take specific to close the RFP process at this time?



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

- Conor Kennedy: It always helps to be clear about what the action is. I don't think that it would... I think that closing would be implicit in the originally stated motion, but of course it's a friendly amendment that elaborates on what's going on. Essentially, as Commissioner [inaudible] just wanted to clarify, it would close any new bids and you would move forward in this case with our firm on, not just closing the actual process, but sort of moving forward as the agenda reflects. So, our staff would return with an engagement agreement with our firm and as the agenda reflects staff would also want to coordinate with contracting in the city just to make sure that you're complying with all the internal contracting rules. Hopefully that provided a useful answer Commissioner Gage, and I'm happy to restate if I didn't answer your question.
- Henry Gage: Thank you, counsel. I'm going to try to restate this motion in a way that makes sense, given that advice. I'd move that the commission direct staff to prepare an appropriate engagement agreement to execute appropriate supporting documentation as required by the city, and to return to commission with appropriate documentation for us to secure engagement of Garcia Hernández Sawhney as commission council.
- Chair Jackson: I second, why don't we go to public comment, and then we can come back for a vote?
- Wilson Lau: Thank you, Chair Jackson. Members of the public wishing to make public comment on this item, please raise your hand and I'll call on you in the order that they appear. Just one second. Ms. Olugbala. When you are ready, I've unmuted you.
- Assata Olugbala: I'm not understanding. I didn't even know you guys had somebody legally there. I rarely hear this person speak. But over the years, there's been so many legal representatives at the table, and in your discussion today, I don't get what the qualifications are, how much is going to be paid, and the most important thing, not the most important, but one of the things, I saw a lawsuit in a closed session of the city, where you're being sued. The question is, when you're being sued, are you represented by your counsel, or are you represented by the city attorney who represents the city as well as the city counsel, city administrators, so forth and so on? When there are legal suits against you as a body, does your legal counsel represent you, or does the city come in and represent you? That's the question that I have. You don't have to answer it, because I don't care what you think. I'm finished.
- Commission staff: Thank you, Ms. Olugbala. Chair Jackson, that's all you have for public comments.
- Chair Jackson: I'd like to clarify, just for the benefit of folks that sometimes miss things, we posted the RFQ, I want to say back in June or July.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

- Commission staff: It was in August.
- Chair Jackson: August? Thank you, it was on the website. When we are sued, we do have our counsel, which is the counsel of Garcia Hernández. I actually think that they've done an outstanding job, and they've been with us for several years. The process of responding to an RFQ is pretty arduous, so that may be why we don't have a lot more people applying, but I'm not certain. That said, yes, we are planning to close the process. We do have a substantive, qualified entity that has been advising us for some time, and I think that we have... We'll see with the vote, but I think that we have determined that we'd like to continue to work with them. Hopefully, that answers the question.
- Conor Kennedy: Chair, if I may. Oh, I'm sorry. I think it looks like Commissioner Harbin-Forte was unmuted. If I interrupted you, Commissioner, I'm so sorry.
- Comm. Harbin-Forte: No.
- Chair Jackson: Her hand did not [inaudible]
- Comm. Harbin-Forte: No, my hand was not up. Thank you. I just had it unmuted. Sorry.
- Conor Kennedy: Okay.
- Chair Jackson: Go ahead, Conor.
- Conor Kennedy: I just want to briefly respond to the member of the public, who often makes clear that they're not looking for a specific answer, and I want to respect that. I would just refer them to the part of the charter that gives the answer about whether OCA, the Office of the City Attorney, or individual counsel to the commission takes on individual lawsuits. That's section 604(i)(2). It's at length. I won't read it. But I just want to provide that reference, either for the member of the public or anyone else asking, about where the answer is. It's in the Oakland City Charter, section 604, subsection i, number 2. Thank you.
- Chair Jackson: Yes, and I would add to that that S1 was the initiative that... I think it was 83% of the citizens voted for, which clarified that we had the opportunity and the responsibility to hire our own general counsel. That was in direct opposition to the City of Oakland City Attorney's Office's interpretation, which was on the several reasons that we actually worked on measure S1. Now, I do see your hand up, Commissioner Harbin-Forte.
- Comm. Harbin-Forte: Yes. I just want to be clear that our action tonight is to select current counsel as our counsel. I don't want to quibble, but that wasn't real clear in terms of the



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

motion, so we're actually selecting and directing staff, basically, to implement that selection. Okay.

Chair Jackson: Yes, and that's my understanding, but Commissioner Gage, his hand is back up, so I'm not sure if you want to re-clarify that, Commissioner Gage, or...

Comm. Gage: Thank you, Chair. Pardon me, thank you, Chair. My understanding is that in order to effectuate that commission action, we would require staff to take specific action to accomplish a number of other things as prerequisites, so given that we are asking staff to take reaction with respect to this specific respondent, I believe that's implied in the motion, that we are selecting a particular firm.

Chair Jackson: Thank you for that clarification. I'm going to second it again, the clarification of the motion. We have taken public comments, so we can now vote. Commissioner Gage?

Comm. Gage: Yes.

Chair Jackson: Thank you. Commissioner Harbin-Forte?

Comm. Harbin-Forte: Yes.

Chair Jackson: Thank you. Commissioner Howell?

Comm. Howell: Yes.

Chair Jackson: Thank you. Commissioner Milele?

Tyfahra Milele: Yes.

Vice Chair Jackson: Thank you, and Commissioner Peterson?

Comm. Peterson: Yes.

Chair Jackson: And yes for myself, so we are unanimous in re-selecting the counsel of Garcia Hernández. I think, Miss Adwan, you will help us take the steps forward to ensure that all of that is worked out from an administrative perspective.

Commission staff: [inaudible]

Chair Jackson: Okay. Thank you. Onto the next item, which I think is committee reports. Thank you. The first item being inspector general search ad-hoc. Commissioner Peterson, are you reporting out on that one, or is that-



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

Comm. Peterson: I believe so, and-

Chair Jackson: Okay.

Comm. Peterson: ... really, we're pending the completion and passing of a background check. We decided to defer announcing our selection for the IG position.

Chair Jackson: Yes, and I think we are very close. We may be able to do it in the next meeting. Is that correct?

Comm. Peterson: Yes.

Chair Jackson: Okay, terrific. Thank you very much. For missing persons ad-hoc, I will report out, since Commissioner Jordan is not in attendance tonight. We are hearing from a couple more subject matter experts on Tuesday's meeting, December 14th. I think that we believe that we are like 95% there, and once we finish speaking to those senior... excuse me, subject matter experts, that we should be able to tie up the policy. I think that we are pretty proud of it. It's had some extraordinary community involvement, and given the fact that missing persons is such a daunting issue, in Oakland but also across the country, it'll be important for us to have the most accountable policy possible. So that is the report out that hopefully after Tuesday, December 14th's meeting, we will be able to finish it up and bring it back to the commission for a vote in our January meeting. For the community policing ad-hoc, Commissioner Harbin-Forte, can you report out? I think you're on mute.

Comm. Harbin-Forte: Okay. Thank you, Madam Chair. I'll be reporting on behalf of the ad-hoc committee chair Commission Hsieh, as well as Commissioner Howell and myself. The community policing ad-hoc committee has been meeting about every other Saturday for the past several months. The meetings are over Zoom, and the meetings are open to the public. Ms. Adwan has been staffing those Saturday meetings. We have a very active and diverse group of featured community participants who have assisted us greatly in fashioning this policy. We spend a lot of time having deep, substantive discussions around the specific language that we want to have in the policy, to ensure that the language reflects the values and the vision of community policing in Oakland.

The final language, the first portion of the policy, will carry over into the actual roles and responsibilities of the community resource officers. Our goal is to have a proposed policy to present to the commission in the next couple of months. We will continue to meet probably every other Saturday, although I don't know if we'll meet again in December or in December, but we do hope to have something to show. It's been a great group, and again, the public participation



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

and featured community participants have been just excellent. We're also working with OPD as one member, to talk about that. That is my report.

Chair Jackson: Thank you very much. And then the CID manual review ad-hoc. Commissioner Howell, did you want to weigh in, or do you want me to?

Comm. Howell: Yeah, go ahead. Go ahead.

Chair Jackson: Okay. No problem. We have had a couple conversations with commissioners, one, Hsieh, that has been traveling, and then Commissioner Howell and I, in preparation for the public forum, which we had yesterday. It was attended by a very small group of people who provided some critical recommendations for language, and then we were able to determine, based upon Lieutenant Turner's knowledge, that there might also be some information that was included in the use of force policy, which spoke about expectations for community and familial engagement, so we're going to take that wording. Lieutenant Turner is working to get us a new narrative piece to add to that CID manual, and then we hope to bring it back next week for approval.

Again, want to make sure that people understand that the policy that is currently on the books is more than three years old. I believe it's about 11 years old, and what we've found, based upon the Pollock case, was that it was woefully incomplete. So there was a deep dive that was both done by the police department as well as the monitor, and has been brought for our comment. We very much appreciated the community folks that did weigh in. They gave some outstanding guidance, and then we'll be able to bring that back next week so that we can have a far more stringent and accountable policy on the books, that the police can support. With that, I don't know if there are any questions from commissioners or if we should go to public comment. Oh, I'm sorry. Commissioner Howell, did you want to add anything to that?

Comm. Howell: No. No, you covered everything. You got it.

Chair Jackson: Okay. All right, great. Thank you. Seeing no questions, Rania, we'll go to you.

Commission staff: Thank you. Members of the public wishing to make public comment on this item about the committee reports, please raise your hand and I'll call on you in the order that they've appeared. [inaudible] Just one second. No hands, Chair.

Chair Jackson: Okay, very good. Thank you. We'll go onto the next item then.

Commission staff: I think the next item is public forum. Sorry, give me just a second. It seems my...

Chair Jackson: Okay.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

Commission staff: Yes, next item is public forum.

Chair Jackson: Okay.

Commission staff: Members of the public wishing to make public comment here, in open public forum, please raise your hand, and I'll call on you in the order that they have appeared. Ms. Olugbala, I see you up first. When you're ready.

Assata Olugbala: The question is, is it appropriate to mute the public because they're not on the agenda? And then when you are doing things that have to be reported out, and you don't fulfill being on the agenda on the subject matter, you're allowed to talk about anything and everything except what's supposed to be reported out? I'm speaking to cases that have been concluded. Tonight, we got nothing from that. You cannot hold me accountable for not following what should be done and you don't do it. So I'm going to finish what I was saying. It is not that difficult to report out cases as it relates to unfounded, exonerated, not sustained, sustained, no MOR or whatever. Tonight, unfounded 27, exonerated 15, not sustained nine, no MOR one, ICR a four, sustained, zero. A total of 52 cases.

Now, why does Mr. Alden have to meet with you to discuss how we going to go through that process, and I did it in a few minutes? It's insulting how people go through something that's so important, in terms of holding police officers accountable, and you're going to say, "We'll give you that information by race at the end of the year in our annual report." How arrogant. And how dismissive of the need to have that kind of information. But that's the way you people are. You don't hold these people accountable.

Commission staff: Thank you, Ms. Olugbala. Sorry to cut you off. Unfortunately, your time is up. Miss Rachel Beck, I see you. When you're ready.

Rachel Beck: Hi. This will be short. I would very much like to hear more information on the Bey case, at least information about whether it ought to be reopened. I think that much information could be shared without violating any confidentiality. Thank you.

Commission staff: Thank you, Ms. Beck. Chair Jackson, that's all you have for public comment.

Chair Jackson: Thank you very much. Okay, so now we're headed to our training, and Rania, I think that you'll need to share your screen with Conor for him to go through that, or Nitasha to go through it.

Commission staff: You got it. Conor or Nitasha, I think you have that capability now.

Conor Kennedy: Yeah, it's going to be on Nitasha's screen, Rania.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

Commission staff: Okay.

Nitasha Sawhney: Zoom is blocking the presentation mode. Good evening, Commission. I'm Nitasha Sawhney. I'm a partner with the firm of Garcia Hernández & Sawhney. Very proud to have gotten to serve the commission over the last couple of years, and excited to be with you this evening for a short refresher training on Robert's Rules of Order and parliamentary procedure. I want this training to be very useful to the commission, so please do not hesitate to interrupt and ask questions as we go. The goals of this training are really to refresh the commission on how parliamentary procedure works and how it's intended to aid your discussion, your deliberation, and your conducting of the commission's business. Let me jump right in. [inaudible] Sorry.

To get to the rules of procedure, of parliamentary procedure, we first start with the Brown Act, right? Our California state law that requires transparency in conducting the public's business. As the commission for the City of Oakland, you are a commission required to comply with the Brown Act. We also are required to comply with the City of Oakland's Sunshine Ordinance. Both the Brown Act and the Sunshine Ordinance allow us, as a commission, to adopt reasonable rules for the conduct of the commission's meetings, and you've done that a few times, but most recently, in February, the commission, February of 2021, earlier this year, you adopted the rules of order, and those are the rules that dictate your parliamentary process, and how you conduct your meetings, and through that, you adopted Robert's Rules of Order.

Robert's Rules of Order... Oh man, slide out of order here. Robert's Rules of Order are a guide for conducting meetings and making group decisions. There's a long history that dates back to the late 1800s, where this army official needed to run better meetings, and had been having a hard time in his church, so he created these rules to get it done. These rules have now been adopted by groups, and committees, and organizations large and small across the world. They're not the only set of rules that exist, parliamentary rules that exist to run meetings, but they're ones that we do see quite frequently. And the goal is always really to help aid your meetings, like to help aid in the discussion and the deliberation, and to get the information to the members of the body and to get the decisions made through a majority vote.

One of the things that is really important to note is that the commission has adopted the Robert's Rules for Small Boards, and while this is the one that you've adopted, there are some modifications that the commission has made through its commission's rules of order. And as we get into what the rules are and how they work, in at least a few key areas, I want to highlight that it doesn't really matter whose rules we've adopted, in terms of Robert's, or Rosenberg's,



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

or others. All of these procedural rules work at the discretion of the commission.

These are something that you adopt to help your work the way you want to do it as a commission work for you, work for the city, work for the type of goals that you have, that work in your mission and vision, for the scope of the commission's work. It's that while we have the rules, and you've adopted Robert's Rules, you really need to keep coming back to these, and you have through your rules of order a number of times, to make sure that they're continuing to work for you as the commission grows, as the commission develops, as the commission has more staff, as the commission has had more history, and all of those things will continue, and these rules can support you and your practice as you grow. We do always have to comply with the Brown Act and the Sunshine Ordinance of course. Under the commission-

Chair Jackson: [crosstalk]

Nitasha Sawhney: Please.

Chair Jackson: ... Sawhney, I'm sorry to interrupt. We need to extend the... No, we don't need to extend the meeting. It's 9:30, right?

Nitasha Sawhney: Yeah.

Chair Jackson: Okay, my apologies. I was thinking it was 10:30. It's been a long day.

Nitasha Sawhney: I will be done long before we reach the 10:30 mark.

Chair Jackson: We're good. I'm so sorry.

Nitasha Sawhney: That's okay. No problem. The chair is your meeting manager. This is an important part of your commission rules of order. The chair position is charged with presiding over the meetings and making sure that you're able to get the business done that's on your agendas. The chair also has to recognize commissioners before a commissioner may speak. Oh, I see a hand. Commissioner Howell.

Comm. Howell: Yeah. Yeah, I didn't mean to interrupt, but I just... Can I get a copy of this PowerPoint?

Nitasha Sawhney: Absolutely, yes. You'll have it, and it'll be made public for all the members of the community as well.

Comm. Howell: All right, thank you.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

Nitasha Sawhney:

The chair, as I was saying, runs the meeting. She serves as the manager, and in this case, Chair Jackson, and then also calls on commissioners to speak, and your rules say that commissioners shall speak for no more than five minutes on any matter without the consent of the chair or a majority of the commission.

A few other key rules from your rules of order, that quorum shall consist of five members of the commission, that the commission acts by majority vote of all members present, not including alternates, unless the alternate has been escalated to the commission seat to make quorum, and that an alternate can temporarily cast votes when there's no quorum and the chair designates an alternate to establish quorum. That is not a rule I see in all of our public agencies, and in the other clients that we serve as a firm, but it is one that is very critical to the commission's work, and I think we're very lucky that that's part of our charter here in the City of Oakland.

A few other kind of rules of order, kind of foundational elements. Before a subject can be considered, it must be placed before the assembly in the form of a motion. What does that mean? You have an agenda. Your agenda lists the number of topics that you'll be discussing. The formality comes in the word motion, in creating motions, right? It's what sets the debate, so the importance that motions carry under Robert's Rules and every other parliamentary procedure is really the core of what parliamentary procedure is for any organization.

So, you have an agenda item, item three. It comes up. How do you get going? How do you start? How do you discuss? How do you debate? In agency to agency, there can be different stylistic points on how an agenda item is handled and how a motion is made. At the commission, typically the item comes up, the chair will ask if anyone has a motion, and then after that motion, debate goes forward. In some agencies, in some public agencies, you'll see a staff member will be called upon to first present the item, and then you'll have the consideration of the motion, then you'll have the debate.

These things can change, and should change, based on what the item is, and that's true at the commission or any agency, any community group, any body that's considering taking action on agenda items. You have the agenda item come up, you have someone present on it, you have the chair introduce it, and then you consider a motion. When we have motions in front of the commission, there is a specific process that the commission has adopted, that I'll go to in just a moment.

To make a motion, a member must obtain the floor when no other question is pending. That is intended to make sure that business is being handled sequentially. You're not jumping from item to item, or in the middle of a debate



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

on one item considering another motion. Each motion has to be taken one at a time, to make sure that the order of business is clear, and transparent, and congruent, and makes sense. And a motion starts by being recognized by the chair.

So the process. The chair recognizes a commissioner, who states their motion. Another commissioner seconds that motion. Small note here. Under your Robert's Rules of Order, a second is actually not required, but the commission has adopted a rule to supersede Robert's Rules, that requires a second, or sorry, the common practice has been the second, and that's a really important way to make sure that we have clarity on there being a motion and a second, and then debate.

In our commission meetings, we've had a number of instances where the wording of the motion itself becomes the debate, right? We want to have it very clear, you already have a very... as we just saw earlier this evening, a really clear process of how you will consider a motion and then work together as a team to kind of perfect that motion, to be what you want it to be as it stands, after the commission meeting has ended. That's terrific, and you want to encourage that kind of collegiality in the motion-making process, but what you want to balance is not letting that kind of, "Let me perfect the motion, perfect the motion," be something that then includes the debate of the item itself, right? Let the motion-maker make the motion, let that motion be seconded. If it needs a quick amendment or clarification, absolutely do that, but then enter the debate, right?

Because a motion can be had. You can have debate, and then you can not vote on that motion by letting it die without having a majority vote, and consider another motion. You could amend the motion at the end of the debate, and you can substitute the motion, right? So it's really important that not in the process of creating the motion, that the debate on the substantive issue doesn't happen there. It should happen after the debate on the substance. You have a motion, you have a second, you have a debate.

The chair calls for the vote, and then the vote is taken. Under the California Brown Act, it's very, very important that we have a roll call vote on each and every action. You're a well-oiled machine as a commission on that. You do it each and every time, but it can... Particularly when we go back in person, it is something, as we get tired, later in the evening, you'll see like, "Do I have support on this? Okay, yea," and we move forward, right? That is a violation of the California Brown Act, so it's very important that we always have a roll call vote.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

And under our own rules, we do require, and this is, I think, on a slide that came out of order, that the roll call is supposed to be had in the... according to alphabetical order, with the chair voting last. We don't always practice that at this commission. We probably should improve that, given that that's one of our own rules that we've adopted for ourselves. Motions and seconds. Again, this is that note about it not being required by Robert's Rules, but our own commission rules have required the second. Standard motions, "I move that," da da da da da.

Some common mistakes that are made. "I move to table." Generally, the correct motion is, "I move to postpone indefinitely," but I think the reason we shy from saying that is we worry that indefinitely means we're just putting it off into the future, and who knows? We're not feeling accountable to our community when we do that, so to table means, "We'll come back later," and we mean at the next meeting or soon thereafter, so this is just a note on one of those commonly made mistakes, not at the commission necessarily, but just commonly made in general.

If we do try to change the rules in a meeting itself, and this doesn't happen frequently, and it really shouldn't, because what you want to do is develop your practice around parliamentary procedure in a way that you're complying with your own rules, but if an instance arise where you do need to suspend the rules, that can be done on a 2/3 vote. There are some rules that can't be suspended, but the vast majority of the rules of order can be suspended on a 2/3 vote. In terms of amending a motion on the floor, I've seen the commission do that a number of times. You take a motion, and you offer an amendment, and it's generally when you're looking only at a word or phrase, and not trying to substitute a completely different motion.

These are the rules around alphabetical order. It's rule 2.13. "You can and should vote both for or against a question, and any commissioner who abstains shall state the ground for this abstention." That is a commonly found rule that I see ignored about half the time. And what is that about? Why are we asked to explain the grounds of our abstention when we abstain on something? In part because we're trying to be very transparent about when we can and can't vote. I'll see this commonly when we're considering minutes, and someone will say, "Well, I wasn't at that meeting, so I don't want to vote on the minutes for that meeting, because I wasn't in attendance," and then they'll abstain. So they've explained the reason. Sometimes, people abstain because they feel a conflict of interest in the matter being considered. It won't necessarily rise to the level of a legal conflict of interest, but they feel a personal conflict of interest or a perceived conflict of interest, so they may abstain for that reason. I will say for whenever we do our ethics training, the conflict of interest rules, which do have very specific standards around abstentions and statements of conflict of interest



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

for another training. But do know that when you do abstain, the general rule is that you should explain at least briefly why you're abstaining that vote.

So what do we do when things go wrong? What do we do when the meeting's going forward and we see a violation of our own rules, of any of the rules that apply to the commission? That's when you use a tool called the point of order. It's every member's right who notices a breach of the rules to insist their enforcement by interrupting and raising a point of order. This is really one of the only times that someone is allowed to interrupt, right?

The whole point of parliamentary procedure is to allow each voice to be heard without interruption. It's not supposed to be chaotic debate. That is not a sign of a healthy working body. It's when we take orders speaking. But from time to time, there will be an issue that's like, hold, point of order. Did we get a second on that motion? Point of order. Have we accidentally moved forward from the agenda item without taking a vote on the last? Those are very typically handled points of order. And so those are times when you do interrupt, right? You don't want the commission to get three items down and then say, "Oh, we didn't take a vote on that one". So that's the kind of thing you're trying to catch. And you're doing it in the time, in the moment that things are happening so that you can correct, so that you can follow the rules that you have adopted.

You also are able to reserve a point of order. Let's say you really want to make sure you get to something, but the conversation is in a place where it doesn't feel like you should do it right then. Oh, let me advance my slides. Sorry. And so you may briefly reserve your point of order so that the objection is not waived, but the matter can be handled without interrupting the conversation that is going in that moment.

So if you do have a point of order, and maybe it can be something that's complicated, you can, the chair generally rules. Oh, I forgot to get the second. Thanks. Let me go get the second. Do I have a second on that motion? And that's corrected, it's handled, you move forward.

Every once in a while, a body will have something that comes up where things aren't so clear and the commission chair may have to just make a decision, and the person who made the point of order or another commissioner may feel like, "Hold on. I'm not so sure if this is right." So you can interrupt the speaker who has the floor when you're talking about a point of order. It needs to be seconded by another commissioner where you are doing the appeal. That becomes debatable. And then the majority can vote to overturn the decision of the chair when necessary. In my 21 years of practice, I think I've maybe seen this twice. It is very, very unusual and happens very rarely.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

So our key takeaways, the goal, the purpose, is to make our rules of parliamentary procedure work for the commission, so you can have minority voices be heard and majority decisions be made. That is the goal of parliamentary procedure, is that no voice should be silenced, that everyone should be heard, and that nothing interrupts the ability of the commission majority from getting the work done. And the second, and this is from your goal, from your rules of order, that your goal for procedures are to support your orderly, efficient and collaborative facilitation of the commission's business. So with that, let me open the floor to any questions or discussion on the parliamentary rules.

Chair Jackson: Yes, Nitasha. So with the point of order, we sometimes have the issue come up, but then there, it's more than just point of order. There's a full on discussion conversation about it. Is that supposed to happen?

Nitasha Sawhney: Generally, it will be something quick. Now, from time to time, could it be something more significant? Absolutely, that can be. And then, if you get to a point where the chairs made a decision and the person who made the point of order or another commissioner doesn't feel that that's the right, it can be appealed. And that's where you would have sometimes a significant debate.

Chair Jackson: Thank you.

Nitasha Sawhney: Commissioner Harbin-Forte.

Comm. Harbin-Forte: Yes, thank you. In the boards and commissions and everything that I've been involved in, the chair has always made a ruling on the point of order so that a member raises a point of order, the chair then says, "Point well taken," and then takes corrective action or the chair says "Point not well taken," and therefore the discussion continues. Are we to expect a ruling from the chair when a point of order is raised, so that we all sort of know?

And so the process would be member says, "Sorry, may I raise a point of order?" or rise to raise a point of order. The chair then says, "Oh, if you're safe with the point of order, there's been no second to this motion, chair. So we should take the check in the second before discussion continues." The chair can then say "Point well taken, all right, let's get a second." We second, and then we go on, or the point of order could be we're entertaining another motion without action on the pending motion. But in any event, we should all always expect a ruling from the chair that says either point well taken or point not well taken, so that the record is clear.

Nitasha Sawhney: Yeah. In practice, the way I see that happen on most boards and commissions is a member will raise the point of order, and then the point of order is addressed



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

by correcting whatever needs to be corrected. So for example, there was an, did we have a second on that point of order? Did we have a second on that motion? And oh, did we have a second? Handled. So do I see the chair say "Point well taken, let me rule. My ruling is"? Did I stop for a second? Let us have a formal debate. I generally do not see that level of formality because it's all kind of embedded in the corrective action.

Now where it's going the other way and it's really not a point well taken. Right? That's where, and again, I've only actually seen that a couple of times. I think it is rare. That's where you'll want a more formal motion, motion, second debate, and ruling. And then it can obviously be, you can obviously look to your parliamentarian for support on that as well. But yes, the ruling, the question that you have commissioner around the ruling, that is part of the appeal process, the motion, the point of order process. And it's typically embedded in how the action is handled.

Comm. Harbin-Forte: Right. But the point of order should be addressed one way or the other, not ignored.

Nitasha Sawhney: That's right. That's right. Commissioner Peterson.

Comm. Peterson: Oh, thank you. With respect to the abstention vote, and does a member have the option of saying "I'd rather not say" as the response or do they have to give a response to why they are abstaining and it'd be on the record?

Nitasha Sawhney: Yeah. If you are supposed to give a response, it would probably, basically be worse to say "I'd rather not say", because then you're really saying "I have a reason. I'm not going to say it." In practice, do I see frequently boards, commissions move forward with an abstention without that pause to have the member explain the reason for extension? I do. I see it all the time. But what your rules say and what you should do is when you are planning to abstain, you should have a reason ready and you should be prepared to express that reason publicly.

And under the conflict of interest rules, there are some rules. It's very specific and it's for an ethics training, but there is a rule where you are required that you must stand, make your abstention clear, leave the room, leave the [dias] for the debate to continue after you've stated your conflict which would result in an abstention. Those are for conflicts of interest in which the commission can actually still take action or the body can actually take action. There are other conflicts of interest where the body would be prohibited from taking any at all.

Comm. Peterson: Thank you.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

Nitasha Sawhney: Commissioner Harbin-Forte.

Comm. Harbin-Forte: Thank you. And I get we rarely have abstentions. I've been on the commission for-

Chair Jackson: Five minutes.

Comm. Harbin-Forte: ... more than a year, year and a half, but we rarely have the abstentions. But if no reason is given, let me give you a little bit of history. In terms of the... I was on the rules committee when we were revising the rules, and what we recognized is that we're serving the public. The public has a right to our vote on motions that are before the body, to vote yay or nay or yes or no on motions. And that if we are not going to do what we are supposed to do, that there ought to be a good reason and the public should hear why it is you're not weighing in on a motion and not allow people to just say, "Well, I don't want to go on record one way or the other on this."

So I suppose in those instances when there is no record, no reason given that a point of order could be raised by another member to require at least some decision on whether or not a basis for the abstention should be stated.

Chair Jackson: That's four.

Comm. Harbin-Forte: Or the member may just simply decide that a point of order might be too disruptive and just not do anything at all.

Nitasha Sawhney: That's correct. Yeah. Right. Yeah. You should be in the practice of where if and when there's an abstention, the member abstaining should be prepared to make their statement. That is how you comply with the rules, and there are a lot of really good public policy reasons for why members are asked do that. I also have seen one of my boards in particular, where we have a member who abstains with some frequency. They use it as an opportunity to always explain. And that can also... It's kind of, you all have a platform and when you turn your platform into a soap box, it can be a difficult thing. And so, the rules and the public policy reasons supporting these rules are really ones that we want to think about in our positions as servant leaders, as members of the public that are serving on such an important area and really use to exercise why you're there, why you hold this seat and what you can do with it. Commissioner Milele?

Vice Chair Milele: Just a quick question. Do we need a roll call vote for adjournment?

Nitasha Sawhney: No.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

- Vice Chair Milele: Yeah. Is there a quicker way for us to just-
- Nitasha Sawhney: You do not need a roll call vote for adjournment.
- Vice Chair Milele: Thank you.
- Chair Jackson: Do you need a second?
- Nitasha Sawhney: No.
- Chair Jackson: Okay.
- Nitasha Sawhney: You don't need a motion.
- Comm. Peterson: Oh. At all?
- Comm. Harbin-Forte: You don't need a motion at all?
- Nitasha Sawhney: I mean, if you've completed commission-
- Chair Jackson: Like I said, we are adjourned.
- Nitasha Sawhney: ... business at the end, then it really doesn't require because there's nothing left to do. There's nothing left to work on. And so the chair would say, "We've reached the adjournment of our meeting and I'll so adjourn". I do commonly see the motion, the second and the vote on adjournment as well. So please know you're in very good company when that happens, that lots of bodies do do that. They feel a sense of closure, I think. It helps make very clear to everyone, nothing's coming next. And especially our larger bodies that have really long, two day long, three day long meanings, it is really helpful in those situations. We are adjourning day one. We will resume the agenda on day two. Then it's in very critical.
- But my smaller boards not to have that level of formality, but you should really, I think, do what works best for the commission. You do have a very nice practice around your adjournment. Any other questions? Well, again, I'd like to thank you for your time. And on behalf of the firm, I would just like to say it has been a tremendous pleasure and privilege to support this commission. We have seen so much growth and you just continue to inspire us. And so it's really an honor to get to serve you and to serve the community through your work, and thank you for the opportunity.
- Chair Jackson: Thank you, Natasha. We're going to go to public comment. So if you just hang on, if there any questions from the community, I appreciate it. Rania?



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

- Commission staff: Thank you, Chair Jackson. Members of the public wishing to make public comment on this item, the Roberts rules, refresher training, please raise your hand and I'll call on you in the order that appear. No hands for you, Chair.
- Chair Jackson: Okay. Thank you very much.
- Nitasha Sawhney: Thank you.
- Chair Jackson: Again, appreciate it. So the next item is rescheduling the commission's next meeting. So I know that you all probably didn't want to come back two days before Christmas, but again, we still have quite a bit of work. And so I was hoping that you would consider a December 16th meeting, which would be next week, to allow us to get through a few things. I do not think that our meeting would go past nine o'clock quite frankly, but we'd like to have it so that we're not waiting until into January. Commissioner Harbin-Forte.
- Comm. Harbin-Forte: So may it move that we hold the meeting next week, Thursday, December 16, and cancel the December 23rd meeting.
- Chair Jackson: Thank you very much. Is there a second? I see Commissioner Peterson.
- Comm. Peterson: I second that motion.
- Chair Jackson: Excellent. Thank you very much. So let's go to public comment and then we can come back for a vote. Rania?
- Commission staff: Thank you, Chair. Members of the public, wishing to make public comment on this item, please raise your hand and I'll call on you in the order they've appeared. Nothing again, Chair. Back to you.
- Chair Jackson: Okay. Very good. For those in favor of canceling the December 23rd meeting and replacing it with the December 16 meeting, please vote affirmatively. Commissioner Gage?
- Comm. Gage: Yes.
- Chair Jackson: Thank you. Commissioner Harbin-Forte.
- Comm. Harbin-Forte: Yes.
- Chair Jackson: Thank you. Commissioner Howell.
- Comm. Howell: Yes.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

Chair Jackson: Thank you. Commissioner Milele.

Vice Chair Milele: Yes.

Chair Jackson: Thank you. Commissioner Peterson?

Comm. Peterson: Yes.

Chair Jackson: Thank you. And yes for myself. We are unanimous that our next meeting will be December 16th. Thank you so much. The next item will be adoption of the meeting minutes. Now, Rania, did you say we had a challenge with this or no?

Commission staff: I do. This one's mine, and respectfully, Chair, if it's okay I would like to hold this over to the next meeting, because I think there's a bit more work that I can do on this.

Chair Jackson: Okay. So you're asking that the minutes of November 18th be tabled. Is that what I'm hearing?

Rania: Yes, please.

Chair Jackson: Okay. Can I get-

Commission staff: And I've just learned, indefinitely.

Comm. Harbin-Forte: Postponed indefinitely.

Chair Jackson: I'd like to ask a member of the commission to make a motion.

Comm. Harbin-Forte: I will so move.

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

Comm. Gage: Second.

Chair Jackson: I think that second came from Commissioner Gage. Is that correct?

Comm. Gage: Yes. Second.

Chair Jackson: Oh, okay. Very good. So it's been properly moved by Commissioner Harbin-Forte and seconded by Commissioner Gage. Let us go to public comment before we take a vote.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

- Commission staff: Thank you. Members of the public wishing to make public comment on this item, the adoption of the minutes, moving to next week, please raise your hand and I will call on you in the order that they appear. No hands. Chair Jackson, back to you.
- Chair Jackson: Okay. Thank you very much. Let's take a vote on tabling the meeting minutes of November 18th. Commissioner Gage?
- Comm. Gage: Yes.
- Chair Jackson: Thank you. Commissioner Harbin-Forte.
- Comm. Harbin-Forte: Yes.
- Chair Jackson: Thank you. Commissioner Howell.
- Comm. Howell: Yes.
- Chair Jackson: Thank you. Commissioner Milele.
- Vice Chair Milele: Yes.
- Chair Jackson: Thank you. Commissioner Peterson.
- Comm. Peterson: Yes.
- Chair Jackson: Thank you. And yes, for myself. We are unanimous in that we'll table that item until Rania brings it back indefinitely.
- Commission staff: Thank you so much. Ready for the next? Oh, we're on next.
- Chair Jackson: Yes. So in terms of agenda setting and prioritization, I know that we need to send back the questions that Anne Jenks had proposed to ensure that they are addressed in the police chief's update as well. We need to bring back this concept of seeing if we can't create a legend in the report so that we don't have to physically add up how many cases were sustained or exonerated. I see a hand from Commissioner Harbin-Forte.
- Comm. Harbin-Forte: Thank you, Chair. And on that one, we might even be able to get like a summary page, sort of a year to date report that shows how many sustained to date in the various categories. So it's sort of like a summary of what the annual report would do. That might assist us, so that each month we get a running total of how many have been sustained and unfounded. That's just a suggestion, if it wouldn't be too too much.



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

Chair Jackson: Okay, good.

Comm. Harbin-Forte: All right.

Chair Jackson: Thank you.

Comm. Harbin-Forte: And then, shall I also suggest another thing for... I wonder if we could agendize the policy regarding mirandizing minors, mirandizing juveniles as a possible agenda item in the near future.

Chair Jackson: Oh, okay. So what I think I'm hearing is having the police chief, he's going to forward to all of us the policy for review, and then we will determine when we can identify an ad hoc to review that. Is that what I'm hearing?

Yes. To get the information first sort of as a report, maybe as an agenda item and then determine. Yes, to do an ad hoc. And I'll just volunteer now. I would love to be on that ad hoc, if you are looking for volunteers on that. As a former presiding judge of the juvenile court, I would really like to know what the procedures are being followed for juveniles.

Okay. Sounds good. Thank you. I see a hand up from Commissioner Peterson.

Comm. Peterson: Thank you, Chair Jackson. At the last meeting, of course, we went through the process of elevating an alternate to a full commission seat, and there was a discussion about a policy or rules around how we would that in the future. Is that something we should keep on the agenda? Maybe not for next time, if it's too soon or... I don't want that dropped.

Chair Jackson: Okay. No, no, no. It's not going to. It's just that we're all so busy. What I'd like to do is I'm not sure that the ad hoc can come together. Yeah, because we have to publish this agenda on Monday. So we won't be able to have it together for the publishing. But what I will do is put it down for our first meeting in January, so that we have time to put the recommendation together and receive feedback. So thank you for the reminder.

I know that there are a few other things that fell off of this agenda because it was just getting too long. I cannot call them by name, and I don't think that the prioritization of work will be ready for the Monday agenda either. So we'll take a look and see when we... Probably will be January.

If there are no other recommendations, I'll put the agenda together and we'll review it and come back with as much as we can. Like I said, hopefully the December 16th meeting will not be a regular length commission meeting, but we can get a few substantial things done. So I appreciate the suggestions that



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING TRANSCRIPT

December 9, 2021

have come from the commissioners as well as from the community, and we will move forward with that and get that. Oh, I know we should be able to announce the IG in that next meeting as well. So with that, why don't we go to public comment, Rania?

Commission staff: Thank you, Chair Jackson. Members of the public wishing to make public comment about this agenda item, the agenda setting for the future, please raise your hand and I'll hold on you in the order that they've appeared. No hands, Chair Jackson. Oh, no, sorry. Just, I have one. Ms. Rachel Beck. Give me just a second. I will tee up your time. Thank you for your patience. Ms. Beck, when you are ready.

Rachel Beck: Thank you. Just reiterating what I said in the second open forum period. I would like to hear a statement on the Bey case and what can be reported specifically, whether it is found that the case should be reopened. Thank you.

Commission staff: Thank you, Ms. Beck, Chair Jackson, back to you. Yeah.

Chair Jackson: Okay. Thank you very much for that. So now we are adjourned and no action is necessary. You all a good night. Thank you very much. Appreciate it. And we... Oh, who said that?

Comm. Harbin-Forte: And we didn't even have to extend the meeting time or anything.

Chair Jackson: How about that?

Comm. Harbin-Forte: This is getting... Hey, hey, hey, hey.

Chair Jackson: Happy holidays, everybody.