



**CITY OF OAKLAND  
OAKLAND POLICE COMMISSION**

**Special Meeting Transcript**

**Thursday, December 12, 2019**

5:30 PM

East Oakland Youth Development Center  
8200 International Boulevard, Oakland, CA 94621

- Regina Jackson: Good evening, everyone. If I could have your attention please. Hello. The time is 5:45. Sorry, we're starting a little late. I'm sure that the rain has delayed folks.
- Regina Jackson: My name is Regina Jackson. Very excited to have you here in my own establishing at the East Oaken youth development center for our community meeting.
- Regina Jackson: The first order of businesses is a call to order, and so I would like to start with Jose Dorado.
- Jose Dorado: Here.
- Regina Jackson: Henry Gage.
- Henry Gage III: Here.
- Regina Jackson: Here for myself. Edwin Prather.
- Edwin Prather: Here.
- Regina Jackson: David Jordan.
- David Jordan: Here.
- Regina Jackson: And we have a quorum. I'd like to ask if there are any speakers for the closed session. Hearing none. We are going to adjourn to our closed session.
- Regina Jackson: We will be back at 6:30 and again, I want to make a statement about the bathrooms. There are private or two and three stall bathrooms directly out the door to my right, or there are multiple bathrooms that the children use out the door to the left. It'd be far better for you to go out the right. If you need any assistance, my administrative staff is there to help you.
- Regina Jackson: Any questions? Okay. Thank you so much. We will be back shortly.

----- Closed Session -----

Regina Jackson: We're going to call the meeting to order in just a moment, we had a couple of bathroom breaks. Oh, here. I can just move over.

Speaker 1: I can just move.

Regina Jackson: Okay. Okay, thank you for your patience. It is now 6:57 and we're going to again call a meeting to order. We've actually had a little bit of a shift. Commissioner Anderson joined us while we were in closed session. Commissioner Prather is not feeling well and finished the closed session and left to go home. So, why don't we take roll call once again. Thank you. Commissioner Dorado.

Jose Dorado: Presente.

Regina Jackson: Commissioner Gage.

Henry Gage III: Here.

Regina Jackson: Here for myself. Commissioner Anderson.

Tara Anderson: Here.

Regina Jackson: Commissioner Jordan.

David Jordan: Here.

Regina Jackson: Commissioner Brown.

Chris Brown: Here.

Regina Jackson: Okay. As it stands, we had called Commissioner Jordan into the meeting in order to make the quorum in the beginning, and so we will once again have you moved from alternate into commission based upon having lost our other commissioner. Okay? All right, we got a thumbs up. Based upon the closed session, there was no reportable action. Now we're going to go to open forum, and I'd like to call, let's see, Michelle Lazano. Sorry, it's a little out of order. [Sokati 00:01:53]?

Male: She's actually not here.

Regina Jackson: I'm sorry?

Male: She's not here.

Regina Jackson: Not here. Got it. Gabriel Garcia and [Roushmakin 00:02:08].

Michelle L.: Thank you. My name is Michelle Lazaneo and I'm here again representing the Jonathan Bandabaila family. According to the California Department of Justice missing persons statistics, Alameda County has the highest amount of missing persons reports in all of the nine Bay Area counties. OPD's 2017 annual report states that they investigated 1,473 missing persons cases.

Michelle L.: On December 3rd at the public safety meeting, Commissioner Harris and I were told that OPD only has two detectives assigned to missing persons cases. Two detectives investigating 1,473 cases. That ratio is a recipe for failure and disaster. No detective can give sufficient attention to 731 cases. Remember that each one of those cases represents a person, a son like Jonathan Bandabaila and a family who needs help from the police to locate their family member. How many cases remain unsolved? Are any of those lack due to lack of timeliness, lack of resources, lack of supervision. Jonathan has been missing for seven months and since then, both the detective working the case and his direct supervisor have moved on to new assignments outside of missing persons.

Michelle L.: Think about that for a moment. Now you've got one experienced detective, a new detective to hire, and a new sergeant to supervise. How do those two recent changes impact the quality of service and level of investigation that Oakland residents will receive? The training is very specialized for detectives and especially missing persons cases. Detectives receive added training that is acquired by working each individual missing persons case. We need this unit to retain detectives once they're fully trained. Is there a minimum commitment of five years for this assignment? If there isn't, there needs to be for the sergeant supervising as well. We need this commission to evaluate this division and force Chief Kirkpatrick to assign more personnel immediately and get them trained as soon as possible. Otherwise, we are expecting miracles from two detectives. We can't rely on miracles. We need sufficient trained staffed with adequate supervision.

Michelle L.: If we don't recognize the urgency, missing people are in jeopardy and may never be found. So far, Chief Kirkpatrick isn't making these changes on her own. This commission needs to speak to Mayor Schaaf or force the chief to implement changes; otherwise, hire a new chief who will.

Michelle L.: We met with Oakland yesterday, thanks to the intervention of Commissioner Harris. There's still little updates, but the updates that did come were only from pressure during these seven months of waiting. These same things that are being done now could have been done seven months ago, so we're really asking you to please to get involved more than just assigning the liaison, which is Commissioner Harris, and to please continue to support her because she's the only, one other than Ms. Jackson, that has helped this family.

Regina Jackson: Thank you. Excuse me Michelle, do you know who, what the investigator, who the investigator is that is now working on the case?

Michelle L.: They're leaving the investigator who started the case assigned, but he's no longer in that division, which is I guess good. He's still assigned to the case and we met his new supervisor yesterday.

Regina Jackson: Okay. Thank you.

Gabriel Garcia: Good evening, folks. My name is Gabriel Garcia. I'm the policy and advocacy manager for Youth Alive. We provide a wide range of services to folks, community members in Oakland that have experienced some form of violence. I'm here to bring the attention of the commission something that a number of our clients have experienced, which was they experienced a violent crime — whether a shooting, stabbing, assault — survives, got to the hospital, recovered, only to return home and find out that their vehicle was towed for evidence. It would've been one thing if they could contact the police department and retrieve their vehicle or have it returned, but instead they found out that they now owed a tow yard hundreds if not thousands of dollars for the price to retrieve their vehicle.

Gabriel Garcia: Now what this does is retraumatizes victims of violent crime and penalizes them for something that was not their fault. We definitely appreciate the effort of the police commission to look into this issue because our current towing practices not only impact our victims of violent crime, but also our unsheltered folks in Oakland, as well as just folks in poverty who cannot afford to renew the registration, pay their parking tickets or even gas in their car to move it after 72 hours. So being able to look at towing policies more holistically is part of the solution, but definitely here to voice what our clients have brought to us as a practice that needs to change. Thank you.

Bruce S.: Bruce Schmiechen, Faith in Action East Bay and Coalition for Police Accountability. I was privileged on Saturday to participate in a listening session at All Of Us Or None, which was an informal invitation. All the commissioners weren't invited because they didn't want Brown Act stuff so it was an informal listening session with Henry and David were able to come. It was basically formerly incarcerated folks sort of telling their stories, being heard by the police commissioner.

Bruce S.: I'll just read real quick. It was held to bring experiences of formerly incarcerated residents to the commissioners. The complete session is transcribed, which I'm going to give you all copies of who weren't there as well as a report back to the entire commission as they revise OPD policies to meet the highest public safety standards across our communities. Although much of the discussions beyond the boundaries of Oakland Police Department and the commission's jurisdiction, it is important to understand the trauma so many of our community members have experienced, which frame even minor encounters with the police. Then that spirit of the [inaudible 00:08:11] self-determination pledge, people are speaking in their own voices. This was also chaired I think rather brilliantly by John Jones, the chairman of the selection [inaudible 00:08:19]. It was quite a

wonderful afternoon. I think you folks will really enjoy reading this. I gave one earlier. These are nine copies and I gave one to Regina.

Regina Jackson: Thank you. I now have two more speaker cards, one for James Burch and one for Kathleen [inaudible 00:08:38], and if I've messed that up, my apologies.

James Burch: My name is James Burch. I'm bit confused. We're planning to present on Oakland's use of force policy, but I don't think we'd be able to do that in four minutes, so ...

Regina Jackson: No, no, no. Okay, that's fine. We'll go ahead and move that back. Thank you. That's fine. Thank you.

Female: When that portion comes up, she'll call you back.

Regina Jackson: Yeah.

James Burch: Okay great, thank you.

Regina Jackson: So that is all I have for open forum. We'll move forward to Item Seven, which is the draft ordinance on the military police equipment. Commissioner Gage.

Henry Gage III: Thank you, Chair. I'll give a quick report out on the current progress with respect to the draft ordinance. For members of the public, in the agenda packet is a version of the draft ordinance that would regulate the Oakland Police Department's acquisition and use of certain categories of militarized equipment. Now the version that is in the agenda packet is the same version that was in the agenda packet in our prior meeting in November. That is because we have not yet amended this version pending further meetings with both members of the community and members of the department. We've conducted two of these meetings to date, one with community and one with the department. We have not finished our review with the department and we've scheduled a follow up with the department to do so. I believe it's next Tuesday, if memory serves. We'll be coming back before this commission with a report out on our progress to date once we have completed that meeting and we'll have additional discussion and a new version for both members of community and for the department to review at a future time.

Henry Gage III: For now, thank you folks for taking a look at the version of the agenda packet and we would like to say that this should be held over an no action should be taken on this item at this time.

Regina Jackson: Thank you. So that meeting is scheduled for December 17th then?

Henry Gage III: That sounds correct, yes.

Regina Jackson: Okay, so do you think it's likely that it should go again on the January 9th agenda or after that one?

Henry Gage III: I would very much like this to be finished and ready for the January 9 agenda. However, given the turnaround, we'd have to have something in the first week of January. Therefore, prudence would dictate that late January would likely be more likely to occur.

Regina Jackson: Okay. I just want to schedule it for that. Thank you. I have a speaker card for John Lindsay-Poland on this item.

John L.P.: Good evening. Meant for tall people. Good evening. I want to express appreciation to the members of the ad hoc committee who are working diligently on this. For them and for the rest of the commissioners, I want to raise two items related to this that came up from the last meeting when the department did respond to this proposal. One of the responses has to do with the use of the word military or militarized. I just want to read a definition of militarism from one of the most renowned scholar in the fields of policing and police militarization, Peter Kraska, who defines militarism in its most basic sense as an ideology that stresses the use of force and threat of violence as the most appropriate and efficacious means to solve problems. That is, it has nothing to do with whether equipment comes from the Department of Defense but is around how the purpose and appearance of equipment and how it is perceived both by the community and others.

John L.P.: The other thing I want to address is that the department said that these items do come before the public safety committee and city council. We have shared with you a very short memo because we reviewed all of the public safety committee agendas and materials since 2006 and found that rarely are these acquisitions coming before the public safety committee. Sometimes there are grants that include references to equipment or vehicles. In 2008 there was a proposal for \$95,000 for AR 15 rifles but it does not include any of the information, the capabilities, how long, how it works, community impacts, alternatives, use policies, or reporting on uses that are included in this ordinance. So although it's useful to have things come before the public safety committee, that has not yet been happening. Thank you.

Regina Jackson: Thank you. Mr. Gage.

Henry Gage III: Thank you, Chair. I'd like to express some thanks to both members of the department for good faith meetings as well as members of community and in particular to Mr. Poland ... pardon me, Mr. Lindsay-Poland of American Friends who has been coordinating the community coalition with respect to this item. If any members of the public wish to make amendments, additions, provide further feedback, please feel free to contact either myself or Mr. Poland who's been heading up community response. We'd appreciate that feedback timely so we can incorporate it into a future draft. So thank you.

Regina Jackson: Does anybody else have any comments on it? Okay, thank you. So we'll be looking to get an update from you and possibly scheduling this again late January.

Henry Gage III: Indeed.

Regina Jackson: Thank you. Moving on to Item Eight, report on policing of Oakland's unhoused communities.

Regina Jackson: I know that this has been a long overdue culmination of an extraordinary forum that was organized in its entirety by the Coalition for Police Accountability. We very much appreciated that overture and are excited about the final report that we're going to hear. There actually have been different members on the commission since that time so hopefully you all will get an earful. Do we have ... oh, and Lorelei Bosserman is going to address us.

Lorelei B.: Hi. Thank you. Do I adjust this? No, I don't.

Regina Jackson: Mr. Lindsay-Poland, would you like to pull it back down for her?

Lorelei B.: Thank you. So hi. I wanted to remind you all that you actually heard the report at the last meeting but did not get a chance to discuss it because it was moved. I want to express some irritation that someone who doesn't normally come to meetings, who is not a member of CPA, a member of the public, came to give a report and the people at the meeting decided to move that to the next meeting. So he is not here tonight to give that report. He came up for the public comment portion of that agenda item and gave a two-minute version of the report, I believe. You have, I think, the full report in your agenda packet so you can read it. I would like to complain to those members of the commission who voted not to hear that report from a member of the public at that meeting. Thank you.

Regina Jackson: Thank you Ms. Bosserman. My sincere apologies on behalf of the commission. I was not in attendance at that meeting. I'm sorry that that happened and certainly, if that gentleman would like to come back and address us ... He won't? Okay, that's fine. Thank you. Okay. Commissioner Anderson.

Tara Anderson: To the chair, the individual who came and spoke was an advisor on the project. I would love to hear from the authors directly and just commend all of the work that went into both the event and this extensive report. I found that I appreciated the public deferring, multiple deferments of their own two minutes to ensure that a portion of time, albeit greater than two minutes but not sufficient given the work that has gone into this document, and the fact that he was standing in actually for the authors and the authors were not present themselves. I look forward to hearing more opportunity to discuss how we take this to action. I think we've had a lot of conversation and figuring out what our

role is in executing the kind of recommendations that are found within the document.

Tara Anderson: As not having been at the larger event and only having the summary of seceded time to hear, and to only hear from someone who [inaudible 00:18:08] I could be wrong by this, but from what was described during the last meeting, indicated they were advisor, not a primary author. Knowing the nature of Goldman School of Public Policy, being an alum of the school and myself and the great work that goes into these real world client solution engagements, I really want to ensure that we do provide the authors the opportunity to engage with us further and hear directly from those who were at the forum that are in the commission about how do we make this real now. What do we do with this?

Regina Jackson: Thank you. Ms. [Anne Janks 00:00:18:52]

Anne Janks: The students are in fact students and their time is limited. They were unable to come on that day and they were actually unable to come today as well, although I was unable to promise them that they'd be heard given their experience last time. The stated reason that the commissioners voted to delay the agenda item was because too many people had signed up to speak. I would just urge the commission that when people have signed up to speak, that is the worst possible reason for a group of commissioners to vote to delay an action. You're not ... I mean I didn't ask Richard to come back because how many times am I going to ask him to come back? He was involved from the inception all the way through. He interviewed people along with the Goldman students and he was simply as good as you were going to get.

Regina Jackson: Okay. Thank you very much. Ms. Janks, if you would provide me via email the contact information for the students and Richard, I'm happy to meet with them myself in hopes that we might be able to come out with some policy recommendations that will make our own process that much stronger. Because it is weak and there are a lot of people that are continuing to be moved around this city like rag dolls because they are down on their luck and have nowhere to go. So if you could do that, hopefully they will speak to me. Thank you.

Regina Jackson: Are there any other questions on this item? Okay, thank you. Oh yes, Commissioner Gage.

Henry Gage III: Thank you, Chair. Chair, is it our intention that we are to request a further speaker to come before us to speak on this item?

Regina Jackson: What I'm getting from this is a feeling that the people that did so much work to bring forth this forum did not feel appreciated, and so therefore I would not put them in that unenviable position. But I myself am happy to give them the attention that arguably they should have received in hopes that some of the recommendations that are coming out of this document can actually find their way into an updated policy for the unhoused. So the short answer to your

question is no, but I would like to make sure that ... you know, that forum was the first under our watch and albeit we attended, but we really didn't do any heavy lifting. It was magnificently produced. I mean, people were picked up to be brought to us. One of our own fellow commissioners talked about his time being unhoused. We recognize that in the city of Oakland, we have a ... tenuous is not a big enough word ... relationship with our unhoused. There are so many encampments that are being shut down without places for people to go. I believe that although the commission was brought forth to deal with racial profiling, what we also know is that there is a an overarching number of people of color that are unhoused and that is a very direct racial profiling issue.

Henry Gage III: Thank you, chair. I would like to express my interest in sitting on that meeting with you. I previously committed to doing some work with respect to the towing policy mentioned previously and I do believe that conversation would be useful to that project. Additionally move that this commission accept the report with our apologies to the original presenter for their inability to speak at that time.

Regina Jackson: Excellent.

Ms. Osada: One clarification.

Regina Jackson: Ms. Osada, can you approach the podium, please? Thank you.

Male: Do you need a second?

Henry Gage III: Yes, please.

Male: Second.

Ms. Osada: When you speak of who is unhoused or homeless and you say it's people of color, 70% of the homeless are African-Americans, 3% are Latinos, 13% are white. It's not a overarching people of color. It's African-Americans who are the dominant group that are homeless and unhoused.

Regina Jackson: Thank you, Ms. Osada. I stand corrected. It is African-American population that is most disproportionately and adversely impacted. We have no more speakers on this subject. I had it moved and seconded that the report was to be accepted by the commission with our apologies. Now that we don't have any more speakers, can we take that vote? Commissioner Dorado?

Jose Dorado: Aye.

Regina Jackson: Commissioner Gage.

Henry Gage III: Aye.

Regina Jackson: Aye for myself. Commissioner Anderson?

Tara Anderson: Aye.

Regina Jackson: Commissioner Jordan.

David Jordan: Aye.

Regina Jackson: It is unanimous. Again, our apologies to the authors and I will look forward to getting the contact information so that most likely in the new year, we can sit down and facilitate that thoughtful conversation. We are at Item Nine, the report and review on CPR pending cases, completed investigation, staffing, and recent activities. Mr. Alden.

Mr. Alden: Good evening, commissioners. This is a fairly short report. The item I want to lead with is unfortunately a sad one. One of the folks in our office [inaudible 00:24:55] our administrative assistant has been with us since CPRB days. She didn't come into work earlier this week and we've since found out that she's an intensive care and hasn't been conscious for several days so we haven't been able to talk to her. We're very concerned about her. Everyone in the office is very upset about that, as you can imagine. I'll keep you posted about how she's doing. If you have a practice about sending someone while wishes in that kind of situation, now is the time. She's a real pleasure to work with, very nice lady, so we're all wishing her well.

Mr. Alden: We've been doing a lot of internal work over the last few weeks on a training policy, expectations around how we work on our cases. We have seen our caseload go down. You'll notice in the report this time around we've got 89 pending cases, which is a significant improvement, we're continuing to work those numbers down.

Mr. Alden: I'm looking forward in the new year to us being able to move closer to some of our other goals about timeliness, like completing cases in 180 days after they originally come forward. I think we are still a ways off from that but we've made some really good progress and I'm really pleased with staff about really pitching in on that. We spent a fair bit of time since we saw you last involving ourselves in the ongoing conversation between the commission, the police department, and the community about how our use of force policy here in Oakland is going to be changed. As you'll be hearing in the next item on your agenda, that use of force working group has some revisions relating to AB 392 and making sure we're compliant with state law. We had a very good, I thought, working relationship between CPRA and the department and the members of the public and the commission who all participated in that over the last month or two. We will be continuing on all those fronts into the new year and so I'm hopeful that in January, February, and March, we're able to continue to show you improvements in our case load coming down.

Mr. Alden: I also should say that we've had a lot of sustained cases and I have appreciated staff's work on working those cases through the system and I've also

appreciated the level of cooperation we've gotten from internal affairs at OPD in terms of getting us materials in those cases and discussing those cases with us when it came time to reach concurrence so I think we're off to a really good start in that working relationship as well over the last few months. Any questions for me?

Regina Jackson: First and foremost, to get those kind of details on Ms. [inaudible 00:27:31]. My heart goes out. I will send a card on behalf of the commission and hope that whomever is keeping vigil around her bed might read it out loud. I'm not sure what else we can do to support, but you let us know, okay?

Mr. Alden: Will do.

Regina Jackson: Excited to hear that the pending case load is lower. Excited to hear that we are getting closer to trying to get our deadlines of 180 days. Certainly it is a testament to your leadership and just want to thank you. Are there any questions or comments? Commissioner Anderson?

Tara Anderson: Through the chair, thank you. You identified what I inferred as an increase in sustained findings. Is there anything that you would specifically attribute to that?

Mr. Alden: Well, I think as a general rule, the more time we have to work on a case, the more thoroughly it will be investigated. As a result, we're more likely to come to either ... to come to a conclusion one way or another. What I often see in police oversight agencies like ours is that if the case load gets too high, we just can't get enough information in a given case to reach decisions. So then you see a higher level of not sustained findings, meaning findings in which the agency couldn't conclude what had happened one way or the other. So as we are becoming more efficient in working on our cases, getting the cases to investigators earlier, giving the investigators more support, more training and the like, they're better able to figure out what actually happened and so they're more likely to reach sustained findings, also more likely to reach exonerated findings as opposed to the "I don't know what happened, not sustained" finding. I've actually seen increases in both, I think, and a decrease in not sustained or "I'm not sure what happened" findings.

Tara Anderson: Good. As a follow-up through the chair. Will we have summary statistics on what you just described so that we can see these trends over the last quarter or month so that we can ... I think we're talking a little bit from anecdote here and I would love the opportunity to respond to the real trends that we're seeing.

Speaker 2: I'd like that too. In fact, one of the things we've also done over the last month is renewed a conversation that was going on about a year or so ago with the Department of Technology about how our database could be better used. We've had several meetings, four over the last four weeks, about the kinds of reporting we'd like to see out of that database in particular. I'll add that idea to

one of the kinds of reports that we'd like to see and perhaps we could get you something in the new year that would show calendar year 2019 statistics.

Regina Jackson: Thank you. Commissioner Gage.

Henry Gage III: Thank you, Chair. Good evening. We've previously spoken about the issues with respect to reports out on statistical information as per Commissioner Anderson's request. I'm curious about when do you think we can expect to see that sorts of information included in these agenda packets? Because I know that's something that's been flagged a number of times. I'm curious about when we'll see that kind of analysis as well as this list of 33 of our pending cases.

Mr. Alden: I'd certainly hope sometime in the spring. The last conversation we had with Department of Technology, we flagged a few kinds of reports that we'd like the database to be able to generate because we think that's going to be more reliable. So the report you have in your hand that's part of Exhibit 10, we're generating more or less with a hand account and an Excel spreadsheet each time we have a commission meeting.

Mr. Alden: We're told so far that it looks highly likely that we should be able to automatically generate that report sometime in the spring. I would think from there, moving to the statistical information that Commissioner Anderson was talking about shouldn't be too hard of a leap, so we'll add that into our next set of conversations with the Department of Technology about how it can best pull those and see what kind of timeline they give us but I'm going to anticipate in the spring sometime.

Regina Jackson: Thank you. Are there any other questions?

Henry Gage III: Oh. Could you refresh my recollection, the number of current [inaudible 00:31:49] investigators, is that six right now?

Mr. Alden: Yes, that's right.

Henry Gage III: Okay.

Mr. Alden: And complaint investigator, three.

Henry Gage III: And all the new complaint investigators, are they taking a full caseload at this point?

Mr. Alden: Nearly. They all have cases assigned. They all-

PART 1 OF 5 ENDS [00:32:04]

Mr. Alden: They all have cases assigned. They all have four, five, six cases. One of them has fewer, but she has some very complicated cases. She already had a lot of

experience coming in, so giving her the more complicated cases was a good way to get those moving faster. They're all still continuing to do some training, but we've completed the lion's share of the entry level training we need to do with them. So, certainly in the new year, I expect to see a lot of productivity out of all of those investigators.

Speaker 3: I'm looking at just under 90 pending cases. I believe that puts us a couple of cases short of your previously expressed 12 case per investigator cap. Do you anticipate reaching that cap at the same time we can anticipate receiving some stat's information in these reports?

Mr. Alden: That's probably about right. I mean it does depend on how many new cases we get between now and then. That's something we can't directly control, right? But I think that's a reasonable estimate.

Speaker 3: Okay. Thank you, and nothing further, Chair.

Regina Jackson: Okay, and I wanted to say I did stop by earlier this week and had the opportunity to meet several of the investigators and it was just really nice to have them all on board, and looking like they're happy in their digs and handling business in a productive fashion.

Speaker 3: Wonderful.

Regina Jackson: Thank you. Any other questions?

Speaker 3: Great.

Regina Jackson: Okay, thank you. For speakers, I have Ms. Assatta.

Speaker 5: Love life. It's very important that we don't start to underdress, or to make something appear that it's working when it's not. So, there is a high probability that you see a reduction in the cases that are being pursued by the public is because if you had so many unfounded, or exonerated reporting out, that people in the public begin to say, "This is not working." And so, they're not investing in the process because they don't see the results that are needed to hold people accountable for the misbehavior. So, we don't know why. We can't just identify why it's happening by saying it's happening because we are doing a better job. We need to investigate to find out why that reduction, and there are many probabilities of what the reasoning is for the reduction in cases. And I just gave my example, he gave a probable example, okay?

Speaker 5: So, I take this serious, and I don't want anybody at any time to get up and start talking about something and without giving data to support the conclusion, and that's what you were alluding to. Give me the data that supports what you're talking and speaking to. So, I hope from now on, whenever we come to a conclusion about anything, we'll have the [substantant 00:35:11] information

data research to support that. But don't get up here and just make blunt statements because this is too serious, and most of the complaints are excessive force, racial profiling. It would be good to identify by age groups, or race, who's being violated, or potentially being violated. I don't want to conclude that all officers are committing wrongdoing until we do the investigation.

Regina Jackson: Thank you very much, Ms. Assatta.

Speaker 4: I'm sorry. I didn't sign up because I couldn't see. I didn't find where the cards were.

Regina Jackson: Just hold that one point. Mr. Alden, when you're doing the updated data, can you focus on capturing in terms of age ranges and the suggestions that Ms Assatta made? It would be very important for us to understand that as well.

Mr. Alden: We can certainly try. One of the things that is sometimes a little tricky with a couple of the questions asked there, like age of the person making the complaint, is that the complainant we often have a fair bit of information about because they've come to us or come to the police department. That is not always the person who was suffering some treatment that others felt was inappropriate. In fact, it's pretty common that the complainant is an observer, or a third party, or someone who heard about it later on. So, we will have to be thoughtful about how we present that data as material about complainants doesn't necessarily tell you about the demographics of people who are suffering the alleged mistreatment.

Mr. Alden: So, we'll try to tease those two out. So, I tell you that now because it is often harder to get the information about the person who allegedly was mistreated. So, it does make the data a little hard to work with, but when there's still enough that one can get some trends out of that. We'll talk to department of technology about getting that out of our database. In some of those kinds of data we currently capture, others we don't, but in the medium and longterm we could start capturing them.

Regina Jackson: It's important that we actually get started so that you know, it's kind of like baking the cake. It's a really important ingredient and if you know there was no vanilla, that cake doesn't rise right. We need to make sure that the vanilla, or in this case typically the African American, is able to be teased out or identify. So, if those are additional questions that have to be asked, let's make that part of the inquiry. Okay?

Mr. Alden: Sure. [inaudible 00:37:56].

Regina Jackson: Thank you.

Speaker 4: I was wondering, just looking at the...

Regina Jackson: Can you just hand it to me? Thank you.

Speaker 4: Just looking at the list, there was only one sustained allegation, but I don't know if this actually is a good idea, but it might be a good idea when there's an allegation that's sustained. If we could get a synopsis of what occurred because just the broad strokes of that make it look very disturbing. It's a use of force of a taser, then the police officer apparently turned off their camera in the process of it. So, it looks a little, it might even look worse than it actually is, or it might be worse than it looks. So, is there any possibility of that?

Regina Jackson: That's a really good question. Can we get an answer?

Mr. Alden: Sadly, the short answer is no, because of state law, but I've always been an advocate of changing that law. So, that could be something, we here in Oakland could get pretty active about. We are trying to get our toes right up to the line on state law limitations about what information we make available off of our cases. You'll hear a little bit more about that in tonight's POBRA presentation that I'll be giving later. In short, there's a provision that allows us to give out some statistical data but not information about specific cases, and particularly not identities of officers for sure, and we have interpreted that to probably mean identities of complainants as well.

Mr. Alden: So, a summary, say a sketch of what occurred in the case, I don't know anyone in California that thinks that's currently lawful, for better for worse, which makes our work very difficult because these cases really do turn on those factual changes, and statistical information gives one a certain lens about what's going on and in a very important one, but it is also hard to know whether or not any given case should have been found, exonerated, or sustained unless one can really dig into the details and unfortunately we can't disseminate those to the public. It is one of the great challenges of oversight in California. It's a very frustrating.

Regina Jackson: Are there examples in other States where they are moving the needle on that?

Mr. Alden: Well, intriguingly, the state of Utah is vastly more transparent than the state of California. Well that was the reaction I had to. In addition, they, in addition to a much higher level of transparency, they have a state level Commission that licenses officers in the same way let's say a lawyer or a doctor is given a license. California has a similar organization called Post Peace Officer Standards and Training, but they don't directly intervene as to any individual officer's license. In Utah, there's a public hearing whether an officer should be stripped of their license if they've committed misconduct with live witnesses, conversation amongst the Commissioners about what the result should be and those are routinely reported.

Mr. Alden: If you read periodicals in the Salt Lake City Gazette I want to say is the name of the newspaper, I might be wrong about that. They routinely have articles about

how those proceedings went. So, a dramatically different model than we have here in California. The Sacramento Bee and the Los Angeles Times have been covering this issue a little bit in the last couple of months.

Regina Jackson: Okay. Thank you very much. When you're looking to do these broad brush strokes in terms of the trends, I understand that you want to be able to move that needle. I don't know how much information or how much the triangulation needs to be between LA, Sacramento, what have you. So, maybe you put that on your back burner as an effort to put it on the front burner.

Mr. Alden: Absolutely.

Regina Jackson: But let's pay attention to it. Okay, thank you. Sorry. Any other questions?

Speaker 3: Okay, we're moving to the use of force working group, item 10 commence to begin. Oh, we could start with the police department. Deputy chief Armstrong. I didn't even recognize you in a suit.

Speaker 6: The chief will be stepping back in shortly, and I'll start off by saying that first of all, I want to thank everybody that's participated in Ad Hoc group. So, Ad Hoc committee so far, I thought they've been very productive meetings, both from the police Commissioners, the community members as well as the members of the department, and others that we have invited to be a part of that process. So, what we've submitted before you as an Ad Hoc group, I think the Commission has taken the point on that and tonight we also want to acknowledge that the Commission had it reviewed by the ACLU. They had recommendations, the chief has reviewed those recommendations and has agreed with the recommendations set forth in the report as additions to the draft that was included in the agenda.

Speaker 6: And so, we all sat down as a team and the department felt like those additions were fine with the department. We understood them and we thought they were appropriate. So, we submit to you this evening that the department has no disagreement with anything that is in the amended version that was forwarded by the ACLU. I know the Commission will speak to it.

Regina Jackson: Thank you very much. The members of the Ad Hoc committee are Commissioners, Anderson Harrison Gage, Commissioner Harris is not here at the meeting tonight, but we'd love to have you all make some commentary about maybe what was most important to you, or highlights, or areas of flexibility. And if you all, if anybody has any questions of the deputy chief, we'd like for you to ask those as well. I know that you all recently received the edits and I'm hoping that you've had a chance to review them. .

Regina Jackson: Sorry, Commissioner Anderson, then Commissioner Gage.

Tara Anderson: Thank you Chair. Something that was extremely important to me as was reflected in kind of three different parts of what you find in attachment 10 associated with your agenda, and one was an express commitment from the department, and everyone who's involved in the Ad Hoc, that AB 392 be seen as the floor, not the ceiling and that this is just one step towards the overall reform of the use of forced general order that would need to take place. Two was to see real edits in the document itself. I know many times we've gone through the policy process, and myself as a Commissioner, someone who works in policy, and the public collectively, members of the Commission as a whole have struggled to make sense of what has been presented in the past to us. So, that's why we emphasize actually having the edits within the K three itself, and that's what you see before you, along with highlighted sections where changes were made.

Tara Anderson: The third thing that's come up is the training plan. So, what does it mean? How do we enforce what we're making as a change, and how do we institutionalize it and hold officers accountable to it? You can't do that if they haven't been trained. If this is one step towards an overall policy reform, what is the iterative process? What is the longterm process that we're going through to realize the goals of making this the floor and not the ceiling of the reform that we need here in Oakland. And so, it was inadequate to just have us commit, to be in compliance with the law and rush to make a minor targeted amendments. That we had to commit to a timeline where we would revise the policy as a whole.

Tara Anderson: And so that you see reflected in the documents before you as well. And so I want to appreciate the chief and the team on any given meeting, 10 to 17 officers that she had from leadership to those responsible for carrying forward the trainings themselves. She wanted them to hear directly from us as Commission representatives, as a part of the Ad Hoc, and really understand the process, which I do think was valuable, and to being responsive to my repeated requests for pushing the envelope and asking us to go a little bit more in the weeds when we had the opportunity to, and make sure that we were using person first language and appropriate language when referring to individuals.

Tara Anderson: So, I appreciate that, but I don't want to congratulate us here, because we have a ton of work to do and this is only to be in minimum compliance with the law. So, I want to be clear that any affirmative action that I'm a part of today is just to be in compliance with the law and a strong commitment to complete the work that needs to be done. So, that's what I just wanted to share the materials that you have before you and explain some of the various documents and how they came to be, and the way I see it as the memo at the beginning, the actual K3 revisions, and then the training plan.

Regina Jackson: Thank you very much. Commissioner Gage and then police chief.

Henry Gage III: No.

Regina Jackson: Okay. Chief Kirkpatrick>?

Speaker 7: Good evening, Commission. I wanted to also express explicitly our commitment. So, thank you to the Commission and the work on the Ad Hoc. We have told you one on one, and I wanted to state it in front of our audience and our community who will listen by video that we have been very, very pleased with the collaboration. We have found all of you to be extremely thoughtful. We have also appreciated you listening to us, and we want to listen to you but I wanted you to know there is a commitment. This is only step one. It is minimum and that we are committed to a total overhaul of our use of force. Met the ACLU attorney as well at this meeting. I want a collaborative relationship with ACLU at the table, the community at the table and I just wanted to express that so thank you.

Regina Jackson: Thank you, Chief. Commissioner Gage.

Henry Gage III: Thank you, Chair. I'd like to echo many of the comments made by Commissioner Anderson with respect to the hours of work that many people have put into this revised policy. Both members of this Commission, members of the police department, and members of the community who have provided substantive input into this temporary revision of K3, and Commissioner Anderson is quite right in pointing out that this is a temporary revision. We have a lot of work to do. I have to express a degree of apology as well, because we as a Commission can do much better when it comes to how we process this kind of policy. It's quite unfortunate that given the timeline we've set for ourselves and this particular temporary revision, we need to work on this and pass this tonight, which means that when we receive edits, additional amendments, additional work, and good work I might add, that makes us policy much better.

Henry Gage III: We can't... I've misspoken. We haven't shared that work with the community. The people who are sitting here with the city at large, in a way that's as responsive as we need to be going forward. For me personally I'd like to express my apologies for that. We can do better. We've already committed to reviewing some of our policies and procedures and rules of procedure in the new year. I look forward to including this sort of substantive process in that new procedure because we can't be showing up to a Deus the night we have to pass something and making edits. The version of this policy that's in the agenda packet is not the version of the policy of we're planning on passing and that's unfair. I'm sorry. I do think it's important to pass that version because we do want to hold officers accountable to a better use of force policy and it's unfortunate that we could not share, pardon me, it's unfortunate we did not share this work prior. That said, I do believe... Were there copies made of the revised version?

Regina Jackson: The ACLU version. Well. The final version with the ACLU edit, excuse me.

Speaker 4: I don't think I've ever seen it.

Regina Jackson: Okay.

Henry Gage III: Okay. Well...

Regina Jackson: When I sent the clean copy to the Commissioners, I thought I copied you on that, but I did not. It's not something that I printed.

Speaker 9: [inaudible 00:00:51:26].

Regina Jackson: Okay, that certainly possible.

Speaker 9: [inaudible 00:51:31]

Henry Gage III: We can likely attach, we could read it into the record, that is one option. We could simply attach this as a full document, the email so to speak, into the record for future consumption. However, my concern at this point is a matter of process that we must address at some point moving forward.

Regina Jackson: Certainly.

Henry Gage III: Tonight. However, I would love to hear from members of the public with respect to issues they've identified in this current draft, especially because we've addressed many of these issues in the revised versions and I'm hopeful that if we do engage in this process as we need to tonight of doing these on the dice amendments, we can incorporate all of these substantive edits in a way that makes sense.

Regina Jackson: One of the things that I have spoken to the police department about in terms of 2020 and actually moving toward the use of force general policy is creating working groups where some of us, other Commissioners who are not on the Ad Hoc committee, can be at libraries, churches, community centers with an officer, and have, and post those, and have any citizen come up and talk about what they'd like to see, what concerns they have. And so that is something that we are planning to do. But as we were told, and I remember there was some confusion even about that as to whether January one was a drop dead date, so to speak, and it was clarified that it was, and our next meeting after this isn't until January 9th. Well, because on the agenda, we do intend to move to not meet the day after Christmas. Having said that, we do have someone here from the ASLU who can speak to, to some of the highlights in terms of the proposed edits. Ms. Grenash?

Speaker 8: I have a legal question. I'm not an attorney, but my understanding is that you cannot pass something that is not noticed properly. We haven't seen the amended version that you are prepared to vote on and my understanding of the Brown Act is that you can't pass something that is not properly noticed.

Regina Jackson: Yes?

Henry Gage III: [inaudible 00:54:07] made a motion.

Regina Jackson: Nope. Nobody's made a motion yet, but that's where it was going. Yeah.

Speaker 10: They can amend [inaudible 00:54:13].

Henry Gage III: [inaudible 00:54:18] that's attorney [crosstalk 00:54:18]

Regina Jackson: I think you need to talk into the mic so everybody can hear you.

Speaker 10: Right, so just to address this Brown Act question. If there's a policy that is being taken up and there is an amendment that is made to that policy in public, then you can take a vote on the amended version. Obviously part of the Brown Act is to ensure that the business of the Commission is done in public, but if you want to take up emotion and pass it through the normal parliamentary procedures and then ultimately pass the policy after taking that up, that is consistent with what the Brown Act requires, which is again transparency as to the topics that the Commission will take up. If there's a question about whether the policy itself has satisfied some ordinance question, from what I understand, this is a policy, it is not an ordinance that is governing the city in any way. So, I don't know if any specific California government code requirements are being invoked, but certainly not under the Brown Act.

Speaker 10: Is there any problem with this Commission taking up a policy that was properly agendized, put into a packet, and then amended in front of the public? And that's my advice to the Commission.

Speaker 11: [inaudible 00:55:33] the document in the agenda is the same document being voted on?

Speaker 10: And to address that question, if I may, Chair?

Regina Jackson: Mm-hmm (affirmative).

Speaker 10: To address that question as I may, it's important to point that out, and if there was a vote right now without a proper motion in front of the public that was taken up by the Commission, seconded and then passed through a majority, then that point is very well taken. It is important now, from what I've heard, that the Commission go through that motion process and vote on it before that that happens, but you can do that right here. That's my advice.

Regina Jackson: Shall I read it into the...

Speaker 10: Yeah, as long as everyone understands the full amendment that's happening right now. That's right. Just, you can say, "Motion to adopt this following amendment, so long as everyone here understands what it is." And then you take a second on it, and then you go.

Regina Jackson: Okay, and then I'd also like to clarify that we received this on Tuesday, so it was not able to be in the agenda with the edits. So, I'm going to read this into the agenda. I'm sorry, what'd you say?

Tara Anderson: I would propose if there are changes in a document that many people haven't seen, and they would be specific amendments to sections of what we have before us, that we would call out the changes as amendments, as a part of that motion. So, just being sure that if that was the direction you're going, that you're doing so from the amended copy from those last edits that came from the ACLU.

Regina Jackson: Okay, I'm going to pull up the track changes as they are in the Commission email, and that way people will be able to see what the, or hear what the changes are. Is that correct?

Tara Anderson: Yeah. Yeah, where they were properly, yeah.

Speaker 4: Was there a presentation coming up?

Regina Jackson: Yes. There was a presentation coming. Okay, hold on a sec. I'm just trying to pull this up.

Speaker 12: Hello. Just a point of clarification. It keeps being mentioned as the ACLU edits when the justice teams that work in anti-police terror project played a critical role in those edits as well. And so all three of those organizations were involved in the editing process. I just want to make that clear for everybody.

Tara Anderson: Thank you. Could you restate all three organizations, please? Thank you.

Speaker 12: Sure, they're on the top of the presentation up there.

Tara Anderson: Oh my gosh. Thank you.

Regina Jackson: it's okay. Looking behind, most times we don't look behind ourselves, so thank you. Hold on, I'm just pulling this up and then again, we'll have the information I'm sharing so that we can clarify any other questions. Okay, I sent to you guys.

Tara Anderson: Thank you. [Inaudible 00:00:58:46].

Regina Jackson: No, no, it's okay. I'm just... A lot of emails. Henry, can you pull it up on your phone? It's not...

Henry Gage III: [inaudible 00:59:27] version?

Regina Jackson: Yeah. That's the one that I emailed you. I emailed the entire Commission. What's today? Thursday that I sent it to you? Okay, that's fine. Thank you. Email or text?

Henry Gage III: Text [inaudible 00:59:52].

Regina Jackson: Okay. I don't see it. Did you text or email? Oh come on. I could kick this right now.

Tara Anderson: Just take it from him. So, all of the red line is the collaborative work of the represented parties.

Regina Jackson: Okay. All right.

Tara Anderson: So, we would read into the record each one, you want [inaudible 01:00:22]

Regina Jackson: So, for those of you who have in the packet the information, thank you. Thank you chief. I am going to read into the record the edited pieces so that you can know what is being edited. So, under use of force, the first edits are in section D. Members... 1D, yes, I'm sorry. Members are required to deescalate the force when the member reasonably believes a lesser level, or no further force, is appropriate. Members shall deescalate whenever safe and feasible.

Tara Anderson: So, if you indicate this to strike out that, and replace with...

Regina Jackson: Excuse me. Thank you.

Regina Jackson: I'm going to reread the words that are to be struck and then also read what's being replaced. So, strike members are required to deescalate the force when the member reasonably believes a lesser level, or no further force is appropriate. The replacement language is, members shall deescalate whenever safe and feasible. Then we go forward to II. Force Considerations A1C. To be stricken is the determination of reasonableness is not based on the 2020 vision of hindsight. Evaluations of the decision by a member to use force shall be done from the perspective of a reasonable officer in the same situation based on the totality of the circumstances known to, or perceive by the officer at the time, rather than with the benefit of hindsight, and shall account for occasions when officers may be forced to make quick judgments about using force. That is entirely stricken.

Tara Anderson: I don't think there are all these red line changes.

Regina Jackson: Mm-hmm (affirmative).

Tara Anderson: Yeah.

Regina Jackson: Okay, so then under E, Moving Vehicles, number five, language that shall be added is members shall use available resources and techniques other than force if reasonably safe and feasible to an objectively reasonable officer.

Tara Anderson: Which makes what was five becomes...

Henry Gage III: Chair.

Tara Anderson: What was five becomes six.

Regina Jackson: So, what was five becomes six? Commissioner Gage.

Henry Gage III: Thank you, chair. Chair, I have a proposal for members of this Commission. I am more than willing to sit and work through these line item edits if that is the will of this body. I'm more than willing to do that. However, I'm concerned that if we engage in this process, we're going to get something wrong.

PART 2 OF 5 ENDS [01:04:04]

Henry Gage III: I learned that if we engage in this process, we're going to get something wrong and that it might be more efficient for us to allow this draft to go out for public dissemination, come back on January 9, and vote to approve it at that meeting. Yes, we'll miss out on nine days of potential compliance, but given the process we'll likely have to go through tonight, this seems like a very dangerous road to walk down. I was originally thinking this is possible, but I also thought we would have copies available for the public, so this doesn't seem like a good idea.

Regina Jackson: Totally understood. So, we will properly agendize this on the January 9th agenda with both the edits as well as the clean copy so that people can compare and contrast.

Henry Gage III: Oh, Chair.

Regina Jackson: Commissioner Gage.

Henry Gage III: Thank you, Chair. I do believe we also have a presentation to hear. I think that's appropriate here at this point.

Regina Jackson: Yes. So, we have an informational presentation if you'd like to approach.

James Birch: Great. Thank you. My name is James Birch. I'm here representing the Anti Police-Terror Project and the Justice Teams Network, here with Kathleen Guneratne, all right, I did it, representing the ACLU of Norcal. We've been working together on AB 392 and 931 before it. So on this use of force policy for a long time. Very pleased to be here before you, and I hope what we can do tonight is make some sense of a lot of the changes that need to be made for the policy to come into compliance. So when we do this on January 9th everyone can be very clear on why the changes are made and can put their input in accordingly.

James Birch: So, I'd like to thank Ginale Harris and the police commission, for making this opportunity possible, APTP, Justice Teams Network and the ACLU, and everyone else who worked on 392, and also Peter Bibring and Adrienna Wong from the

ACLU of Southern California and [inaudible 01:06:07] I don't know your last name, [inaudible 01:06:08] from the ACLU of Northern California for working on this as well.

James Birch: So tonight, Kathleen's going to be discussing the differences between current policy and 392 and then I'm going to go over some proposed changes to the policy that were attempted to be read into the record and why those changes need to be made.

Kathleen G.: Okay. Thank you. Thank you. So we have a clicker too. We have a PowerPoint and so we will try to use the slides and the clicker to talk about the changes. So I am also very happy to be here and also very happy and looking forward to the fact that Oakland is being so proactive about implementing AB 392, which was the California Act to Save Lives, and represents a huge change in policing and in the use of force in California. And with this new law, California will go from one of these states with the weakest uses of force in policing to one of the strongest.

Kathleen G.: Let me turn this on. So, it's just to look back very quickly at what the state of the law was prior to AB 392. State law was... there were two penal codes that governed the use of force. One was 835a, which governed the use of force that officers could use to effect arrests and that said basically that force has to be reasonable. There had to be reasonable cause to believe that a person committed a public offense and then the standard was reasonableness. There was also a penal code that hadn't been amended since 1872, governing justifiable homicide by police officers, 196, and it was essentially if it was committed to affect arrest and it was reasonable, the homicide was justifiable.

Kathleen G.: There's also California negligence law that didn't really get affected by the change. The constitutional standard, which is the floor, the federal constitutional standard is primarily governed by two US Supreme Court cases, both from the 80s, which dealt with the officer's ability to use deadly force. And Tennessee versus Garner was a case that set forth a number of factors that are considered, including the harm that the suspect poses, the immediate threat to the officer and specified that a warning is feasible, it should be administered.

Kathleen G.: But Graham versus Connor is the case that really set forth the federal constitutional standard for when an officer can use deadly force and that standard is force must be objectively reasonable. It's important to look at that standard because we'll see that AB 392 differs very significantly. So objective reasonableness is the federal constitutional standard. And it's important to recognize that that standard has with it some inherent room for vagueness. How do you determine what's objectively reasonable? Is it determined by the customs and practices of the police department, of the place in history, of how that officer's trained, trained by their counterparts? So it is subject to some vagaries.

Kathleen G.: It's also important that Graham versus Connor said that the perspective that we look at when we look at the application of deadly force, is that it's evaluated from the perspective of a reasonable officer on the scene based on facts known to that officer at the time, not in hindsight. And the test also requires us to look at the totality of the circumstances, which includes threat to the officer and severity of the crime and other factors.

Kathleen G.: So, that's the federal constitutional standard. And because it's a federal constitutional standard, nobody can go below that. However, that doesn't mean, and shouldn't mean, because this standard has essentially allowed police officers to kill suspects, unarmed suspects when it was not necessary to do so, when there were alternatives, when lethal force was not necessary. It was important, and I think wholly appropriate, that California for years has tried to change this and become more restrictive in how police officers are allowed to use lethal force.

Kathleen G.: So the purpose of 392, which was passed in... Really led by a hundred families whose loved ones had been killed by police and who testified in Sacramento. Also, groups such as APTP and other organizations co-sponsored the legislation. It was really passed to address these shootings and killings in California. I mean the statistics are startling. California police officers kill more people than any other officers in any other state. There was a 2015 report that said that Kern County per capita killed more people than any other place in the world. And the disproportionate brunt of this is on black and brown young men in California.

Kathleen G.: There was a study that was found that police violence was the leading cause of death for black men in America. And you see the statistic there that was in The Guardian regarding an Oakland shooting. So the purpose of AB 392 was to curb the use of lethal force from officers killing folks, primarily black and brown young men. And it reflected data that focused on stricter policies and policy changes and uses of force by different cities, such as Seattle and San Francisco, where they had adopted stricter use of force guidelines and there was data to show that that effected lethal uses of force.

Kathleen G.: So this is really at a high level, what did AB 392 do. To step very far back, what 392 did was, it changed the standard, the state law standard, for when officers can use deadly force from whenever it was reasonable to only when necessary in defense of human life. Only when necessary in defense of human life. That language is from the statute. So it puts specific limits on the use of deadly force against fleeing people, people who are fleeing the police and suicidal persons. We'll talk more about that when we get into the statute. It also very clearly sets forth definitions on who is posing an imminent threat to a police officer and what deadly force is.

Kathleen G.: And it expressly considers the officer's conduct in leading up to the use of deadly force. So whether or not the officer escalated a situation or created a situation where deadly force then became necessary. It specifies and mandates

that officers shall use other available resources and techniques if they're reasonably safe and feasible.

Kathleen G.: And then it updates the standard for when police commit justifiable homicide. It essentially says that they have to use appropriate force and so it incorporates the language about the force that they're using. That's in 835a, and says that if they're using force that's justified under 835a, the homicide is justified. And it's very important. There has been some sort of statements in the media from some police lobbyists that AB 392 doesn't really change anything. It's just the same old standard. That is absolutely incorrect as we'll look at just from the plain language of the statute.

Kathleen G.: So it's really important to recognize that what AB 392 does... If the police are using nonlethal force, the standard is still objective reasonableness and you'll see that reflected in the new statutory language. The only insertion is that the word objectively has been inserted into that statute. But a peace officer who has reasonable cause to believe a person has committed a public offense may use objectively reasonable force to affect an arrest, prevent an escape, overcome resistance. So for nonlethal force, the standard remains reasonableness. But for lethal force, the standard is now necessary.

Kathleen G.: So I'm not going to read through the entire statute, but I do think that it's important that any use of force policy track the exact language because the exact language lays it out. Deadly force is justified only when the officer reasonably believes force is necessary. And for essentially two reasons. One is to defend against an imminent threat of death or serious bodily injury. And the other is to apprehend somebody who's fleeing. But it's not just any person who's fleeing. It has to be a person that's fleeing from a felony that resulted or threatened to result in death or serious bodily injury. So not just any nonviolent felony. And the officer has to also reasonably believe that person will cause death or serious bodily injury to another person unless they're immediately apprehended.

Kathleen G.: And then the statute also requires an officer to make reasonable efforts to identify themselves as an officer and give a warning that deadly force will be used, unless they have objectively reasonable grounds to think or believe that a person is already aware of those facts. So it absolutely marks a change, a dramatic change in the standard for the application of deadly force. And it doesn't sound like that's something that this department or this commission disagrees with. But if you hear that in the news, you really just need to look here to the operative language of the statute, to the intent of the statute and also to the legislative history, which very clearly says that this bill would exceed federal constitutional standards set forth by the US Supreme Court in Graham and Garner.

Kathleen G.: So it also changed the statutes. The statutes got... and they incorporated some of the things that we talked about. And now, we can talk a little bit about that

statutory framework. And the definitions in the statute were how we approached and we looked at, and I think James is going to talk a little bit more about this, we looked at these kind of questions because these questions are things that are changed from prior law under AB 392.

Kathleen G.: And so any kind of use of force policy should really look at these questions and say, "Okay, are we doing this? As a department, are we training our officers to do this? Are we recognizing this new necessary standard for deadly force? Are we requiring officers to use other available resources and techniques if safe and feasible?" Right? "If an officer can reposition herself and back away, or take cover, or de-escalate the situation and it's safe and feasible, are we requiring that to save lives? Are we considering the officer's conduct leading up to deadly force and limiting the justification for use of deadly force against a fleeing person, requiring a warning if it's feasible?"

Kathleen G.: And the new statute is very clear that if somebody is suicidal and posing a danger only to themselves, that deadly force is prohibited against that person. And then, the statute defines, very clearly, what an imminent threat is and an immediate threat and also really is mindful and expressly notices that certain folks with disabilities are going to have a harder time responding and the police should be mindful of that and take that into account. I don't know how far... Okay, so James is going to talk about the changes in the policy in terms of AB 392.

James Birch: Great. Thank you so much and I'll keep this brief, or as brief as possible, because I know it's been a long night. Okay. As Kathleen mentioned, there are a number of changes that need to be made to the policy to come in compliance with 392. Where are we? Okay, great. Let's just start here, with the proposed changes that we've made to the policy. In section one, there's a policy statement that uses different types of language that is no longer allowed under AB 392.

James Birch: So, first the policy must always be clear as to whether or not we're covering lethal or nonlethal force. As was mentioned, we're delineating between the two as there's a different standard for both. And so the proposed policy always makes clear whether we're talking about lethal or nonlethal force. Second, the necessary standard needs to be clearly articulated. Members may use lethal force only when necessary to defend human life.

James Birch: Third, and unfortunately we didn't get this one highlighted in red, but the sentence after that, member shall de-escalate whenever safe and feasible, that's taking language from 392 as well. The safe and feasible languages is the operative language that we used there. And then fourth, we include the AB 392 language requiring the use of available resources and techniques other than force, if reasonably safe and feasible to an objectively reasonable officer. Again, repositioning de-escalation, that's a requirement that officers take any additional steps that need to be taken.

James Birch: Here, the reasonable force section needs to be changed to account for the fact that nonlethal force is governed under a different standard. So again, all we're doing here is saying a reasonable nonlethal force, and then the standard can remain the same. Here in this section, we're doing a lot of work, and I think the biggest thrust of the changes. We're taking the language in red directly from the language of AB 392 and kind of just dragged and dropped it into the legal force provision. There's nothing special there. There's nothing new. Everything has been described by Kathleen, but we put it all in as was written.

James Birch: Here, there are several areas of OPD policy that use the outdated understanding of totality of the circumstances. The totality of the circumstances test found in Graham, which does not include all of the conduct of the officer up to, and leading to, the use of force. And so we found that in the lethal force section, in the reasonable force section, and I believe in the policy, yes, in the policy statement as well. So in each of those sections, we took the language from AB 392, I hope you're sensing a theme here, and dragged it and dropped it into the policy itself.

James Birch: Here, Oakland's current policy on use of force against a fleeing person appeared in line with what is written in 392. There was only one change that we needed to make and it's here, is the warning requirement that Kathleen described. In Oakland's current policy only for, I knew I was going to forget what SIM stands for, I think it's a what... OPD cause a less lethal, but I'm not sure. Specialty impact munitions. They only have a warning requirement for specialty impact munitions but not a warning requirement for the use of lethal force. So we've plugged that in as well.

James Birch: Okay. Where are we? Okay. With respects to the definition of imminent threat, half of this definition is in compliance with 392 and half of it is not. When it comes to the portion that describes when a person is an immediate threat, that's accurate. I'll read the sentence out loud that's the sentence of concern. "Immediate threat is considered to exist if a suspect has demonstrated actions that would lead one to reasonably believe that the subject will continue to pose a threat of death or serious bodily injury if not apprehended." That's wholly inconsistent with the definition of immediate threat or imminent harm in 392, which labels it as, "An imminent harm is not merely a fear of future harm, no matter how great the fear, but one that from appearances must be instantly confronted and addressed."

James Birch: So, clear in the OPD policy, there's kind of an open time window as to when they consider someone an immediate threat. Whereas, here in 392 that person needs to clearly be an imminent threat at that time. And so that change has been made. We're proposing to just delete that first sentence and drag and drop from AB 392 the applicable language.

James Birch: As was also mentioned by Kathleen, there's an important policy statement that's added, recognizing the disproportionate harm by police that people who

identify as disabled face. And so, this policy statement was implemented in hopes that our OPD can be held accountable for that and be trained in ways to avoid those unnecessary harms.

James Birch: That is the large thrust of all of the changes. I think for the interest of time, we can skip the midsection. Kathleen, I don't want to belabor the point, but I think we've gone over the extensive changes that are required for 392. Happy to serve as a resource between now and January 9th if folks have any conversations that they want to have with the Anti Police-Terror Project. I'll volunteer myself, I'll leave it to Kathleen to volunteer the ACLU to do that as well. But we're really interested in effective implementation.

James Birch: I also want to say I am surprised and pleased that we were all able to come together so quickly and come, it appears, come up with a policy that puts us in 392 compliance that the Oakland police department is willing to sign on for. So thanks to everyone for their work making that happen.

Regina Jackson: So, to both of you, I know that this was kind of thrust upon you in a very short order. And I want to appreciate your flexibility. The quality of the presentation is supreme. And while you might be surprised, I think that oftentimes, these opposing entities, the only way that we're going to get to center, the only way we're going to correct stuff, is to really work together. And so I'm just so glad that ACLU, ADPT, all of the entities came together to support the Ad hoc committee and obviously ultimately Oakland Police Commission and the police department. We all want to get to a better space and we got to stop killing black people. And to a lesser extent, we've got to stop killing as well Latino people. We all lose when we lose our community.

Regina Jackson: So January 9th is the day we're going to be nine days late. But I don't know what that does to us. Do you all have a sense? It'll help us get it right. So Kathleen, I think you have emailed me. I'm not sure that I have Bruce's information, but we can get it. So if there are some additional conversations for you all to have, or for us to just make sure that we notice appropriately, so that we can move this forward. Are there any questions by any of the commissioners?

Regina Jackson: Thank you very, very much. Do you share this? [Crosstalk 01:29:07] If you could send that to me, I can share it with the rest of the group and Mr. Alden and then obviously it can be a part of the January 9th. That'd be terrific. Thank you.

Speaker 13: I have one with me, but if you want to see the presentation on [inaudible 01:29:34], you can stay.

Regina Jackson: I think she's ready to go.

Speaker 13: They don't even have to set up mine, but it's not [inaudible 01:29:41]

Regina Jackson: So while we're doing that, why don't I take a public comment?

Speaker 14: Chair, I'm right here.

Regina Jackson: Yes. Oh, sorry.

Speaker 14: Yeah. Just a quick comment. The policy statement, 1d, is a particular interest to me in terms of the statement that members shall intervene and prevent or stop the use of unreasonable force by other members. I would like to highlight that because I like to see how that safe space is created with an OPD, so that that actually does happen. Oh, thank you.

Regina Jackson: Thank you. And to the component around mental illness or... I'm watching you nod, police chief. We have a significant vulnerability around mentally ill people, so I'm glad that this is being called out and that you all are in agreement because it's just absolutely critical. Thank you.

Regina Jackson: So in terms of speaker cards for item 10, I have Cathy Leonard, Jane Kramer, American Friends Service Committee, but I don't have a name, and Bruce [inaudible 00:27:04].

Regina Jackson: Oh, okay. Got it. In whatever order you like. Okay, can somebody help Ms. Kramer? There we go. Short people rock. Yes.

Speaker 15: Jane Kramer. Other than the legalities, I want to go to attitude of the officers involved. So, this is a bias, but my bias is that I would like to see the officers, after an initial training, develop a camaraderie amongst themselves that requires that they take responsibility for keeping themselves in line. That doesn't mean that's the only thing that's operating here. My thought is that that makes the system work a lot better. It also saves you a lot of money to have to do repeated trainings. Okay. Let's see, what else do I want to say about that? Well, I'll just leave it. I'll leave it at that. I'd like to see the sense of self-responsibility and accountability built into the way the police force works.

Regina Jackson: Thank you very much.

Speaker 16: Love life. No, I got it. Thank you so much. I have a memory that has stayed with me for a long time. This is going to the required NSA appearance before the courts a couple of months ago. And the thing that has impacted me, there were a lot of things, but when the representative for the police union gave his presentation, he presented to the judge that police officers in Oakland are not constitutionally violating citizens of Oakland. And that scared me. And so having said that, related to this, there's going to be a meet and confer with the police union. And if right now, police officers believe that their behaviors in the past and currently are not of the nature of violating any citizens, then we have a problem.

Speaker 16: So what needs to happen, I appreciate, and I know a policy is going to be developed that's relevant and necessary to deal with this issue, but if we don't

have buy-in by the officers, the whole thing means nothing. And so that memory scares me and I'm concerned because I've been wrongly coming and saying, "Oh, all it takes is for me to tell officers, 'You got to do your job. And if you don't, you're gone.'" No, that's not going to work. What's going to work is, as a collective group of officers, they believe that this policy has to be enforced and we agree that we want to do it. And if that doesn't happen nothing's going to change, in my opinion.

Regina Jackson: That's a very, very good point. And that's why the training and the culture shift is going to be so critical. Mr Polan.

Speaker 17: Sorry, I didn't put my name in there. So two things. One is the amended policy makes reference to a couple of general orders as well as two training bulletins. This is in the section on mental illness and mental health. The training bulletins are not published. The training bulletins are not on the OPD website together with the general orders. I believe that when a policy like this makes reference to a document that officers are being instructed to follow, that that document should also be published together with a general order. So I asked that.

PART 3 OF 5 ENDS [01:36:04]

Speaker 18: Document should also be published together with the general orders, so I asked that. Now, when you look at the general order on persons with mental illness that is published, it doesn't really have a solid definition of persons who experience a mental illness. It says that the welfare and institutions code defines gravely disabled as a condition in which persons are unable as a result of mental disorder to provide for their basic personal needs for food, clothing, and shelter. That is a very narrow definition.

Speaker 18: Now, there is an OPD, inspector general report, from 2017 that defines mental illness as an impairment of the mental or emotional processes that exercise control of one's actions or the ability to perceive or understand reality, which substantially interferes with a person's ability to meet ordinary demands of living.

Speaker 18: Whatever definition is adopted, it needs to be one that is clear to the officers, because the definition that is in this particular general order, basically, would not apply to most people who you and I would think of as someone who is experiencing difficulties with mental health. I think it's something that needs to be addressed in the rewrite. Thank you.

Speaker 19: Both your points are very good, thank you. Kathy. [inaudible 01:37:29] Oh, okay. I think I called everybody. Bruce is gone. Yes. Those are all the speakers on this particular item.

Speaker 19: Just to restate, this item will be noticed January 9th, with both the presentation and the corrected or edited version as well as the complete version. And we

intend to vote on it January 9th. That's right. Thumbs up. Thank you very much, ACLU, ATPT, and who was the third? Justice. Okay. Thank you very much.

Speaker 19: Okay, we are moving forward now to item 11, vote to council meetings scheduled for the day after Christmas, December 26th. I'm in favor.

Speaker 20: So moved.

Speaker 19: Second it. Can we take ... Oh, let's see. I have no public. Oh, good night. Yeah, I think we're good. Yes. I have no public speaker cards so if we can take a vote. Commissioner Dorado?

Jose Dorado: No.

Speaker 19: Commissioner Gage.

Henry Gage III: Oh, yes.

Speaker 19: A yes for myself. Commissioner Anderson?

Tara Anderson: Yes.

Speaker 19: Commissioner Jordan?

David Jordan: Yes.

Speaker 19: Okay. And the vote is four to one. Motion passes. Now we move on to item 12, meeting minutes approval. We are voting to approve the minutes from May 23rd, June 13th, and July 11th, 2019. Are there any edits to May 23rd's minutes? Any proposed edits to ... oh, okay. Any proposed edits to the June 13th minutes? Commissioner Anderson? Nope. I wasn't [crosstalk 01:39:45] nope, Okay.

Tara Anderson: Just making sure we don't vote ... we vote on them separately.

Speaker 19: Yes. Any proposed changes to the July 11th minutes? Okay. Hearing none. We will go back and vote on the May 23rd, 2019, minutes. Do you move to approve them?

Speaker 18: Move to approve May 23rd.

Speaker 19: Okay and... [inaudible 01:40:12]... Right, I will second.

Tara Anderson: I have to abstain too.

Speaker 19: Okay.

Mr Kennedy: I have been doing research on this topic after the [crosstalk 01:40:20] regular session. It is not mandated that the commissioners abstain...

Tara Anderson: If we weren't there.

Mr Kennedy: If you were not there. [inaudible 01:40:33] because it is okay...

Speaker 19: Oh, excuse me. Mr. Kennedy, can you go ahead and say all of this into the microphone please?

Mr Kennedy: At the last regular meeting. There was a question directed to counselors to whether commissioners who were not present at a prior meeting could vote rather than abstain on approval of the meeting minutes. That created a dilemma because there was not enough of a quorum to pass meeting minutes. After researching that I found no, in general prohibition against commissioners approving the meeting minutes, including potentially on the technical possibility that the meetings are online. If anybody actually wanted to go through and confirm that everything lined up appropriately rather than there be some need to have less than a quorum to still go through a special process to vote to approve meeting minutes. I'm just going to advise that any commissioners irrespective who are now currently voting on this can still vote to approve the meeting minutes for the sake of efficiency. And I apologize if I didn't deliver that advice prior, but I just wanted to deliver that now.

Speaker 19: Terrific, thank you. You can, you can go ahead and take that as ... yes. So we will vote and see what we can pass given how people feel based upon our attorney's advice. So May 23rd meeting minutes, moving and seconded, properly moved and seconded. So we'll take a vote. Commissioner Dorado?

Jose Dorado: Aye.

Speaker 19: Commissioner Gage?

Henry Gage III: Aye.

Speaker 19: Aye for myself, commissioner Anderson?

Tara Anderson: Aye.

Speaker 19: Commissioner Jordan.

David Jordan: Abstain.

Speaker 19: Okay. And the motion passes four to one that we've approved. May 23rd we will approve. We will vote on June 13th. I will move to accept the June 13 minutes. Do I have a second?

Jose Dorado: Second.

Speaker 19: It has been properly moved and seconded. We will take a vote. Commissioner Dorado?

Jose Dorado: Aye.

Speaker 19: Commissioner Gage?

Jose Dorado: Aye.

Speaker 19: Aye For myself. Commissioner Anderson?

Jose Dorado: Aye.

Speaker 19: Commissioner Jordan?

David Jordan: Abstain.

Speaker 19: Again, motion passes four to one. I will move to approve the July 11th minutes. Is there a second?

Jose Dorado: Second.

Speaker 19: It has been properly moved and seconded. We will take a vote. Commissioner Dorado?

Jose Dorado: Aye.

Speaker 19: Commissioner Gage?

Henry Gage III: Aye.

Speaker 19: Aye for myself. Commissioner Anderson?

Tara Anderson: Aye.

Speaker 19: Commissioner Jordan?

David Jordan: Abstain.

Speaker 19: Okay And that will have the motion passes four to one and now we move forward to item 13 the police officer's bill of rights training. Mr Alden, you all good? I know there was some glitches there.

Mr Alden: I think I need just about one minute.

Speaker 19: Okay. You've got your one minute. Thank you.

Speaker 19: [inaudible]

Speaker 19: So I'm sorry we're going to kind of, we never uncalled the meeting but we're trying to get in a space so that we can, I know I need a gabble. [crosstalk 01:45:59] That actually works pretty well. So Mr Alden, the floor is yours. The police officer's bill of rights training.

Mr Alden: Is this easier if the projector is pointing to that wall?

Speaker 19: This is fine.

Speaker 19: [inaudible 01:46:11] the public we can turn.

Speaker 19: No, no, no. I think it's better for the audience. We can turn, we can turn around or we can just... [Crosstalk 01:46:18].

Mr Alden: Yeah, you've got hard copy.

Speaker 19: ...Read our paper.

Mr Alden: Okay. All right. I'll stay here then. I'll explain.

Speaker11: I don't know that I can today has proven to me that I am in need of things, money things.

Speaker 19: Okay. You got our attention.

Mr Alden: Okay. So one of the mandated trainings for the police commission is about the police officer bill of rights, which is sometimes called POBRA or sometimes called POBAR or sometimes just POBR, depending on who you talk to. I'm not sure why, but I prefer POBRA. So that's what we've got here. And again, it stands for a police officer, bill of rights act. Technically, I don't know why they gave it two names, but they did. So I'll be presenting a little bit tonight about how this set of statute works. There are some closely related statutes that I'll cover as well and as a general rule, these are some of the state laws that we can't change here in Oakland that govern how we do discipline and police officers and what materials going to be available to the public, about that process. A couple of caveats before I start this presentation.

Mr Alden: So I'm a lawyer and I spent about 10 years practicing in this field. So I know this material really well and I work for you the commission, but technically I am not your lawyer. So this is not an attorney client conversation, right? There are other attorneys that are going to be giving you advice about this and of course the public's here. So this wouldn't be a confidential conversation anyways for that reason. There are a couple of things that could come up about ways in

which... Sorry I'm not ... there are some things here that might touch on some pending litigation we have here in the city of Oakland and I'm not going to be able, in this forum, to give you detailed answers about that. So if you're wondering how some of these rules or laws relate to some cases we have pending now that's absolutely something that commission can ask about, but that will have to be in closed session with the commission's counsel on some other occasion. So there might be a couple of opportunities here where some people might ask questions and I might say, I'm sorry I can't answer that in this forum, but we'll talk about another time. Okay, so I mention that now. So you're not surprised or upset if I do that later or disappointed. Right. Okay. Oops.

Mr Alden: Okay, so there are two main sets of laws I'm going to talk about tonight. One set comes from the penal code. Those are penal code sections eight 30.1, three eight 32.8 they, described some basic rules about any city that employs police officers or for that matter any County that employs deputy sheriffs or anyone else that employs someone called a peace officer in California, which includes like probation officers and it includes some rules about taking complaints from the public about those officers. The police officer bill of rights is very closely related to those statutes, but it's found a different spot in the government code. So it's really two different sets of statutes. But we're going to talk about both of them cause they interact strongly. Okay. So first I'm going to go through this more or less chronologically and the way that a case happens here in Oakland or in any other city, and talk about the rules that apply.

Mr Alden: So first off, the city of Oakland, like every other city that employs police officers, has an obligation to investigate any public complaint about a police officer. One reason we have this statute is that back in the 1970s many in the public felt that cities and counties are not actually investigating. The public would come and complain and no one would take a complaint. They refuse to take a complaint or say we don't take complaints here or write out the complaint in front of the complainant. And there are some famous instances of officers and crumpling up the complaint, throwing it in the trash can in front of the complainant. So at state level in the 1970s, the the legislature and then governor Brown, the first time around, came up with this set of statutes to require States to, to investigate.

Mr Alden: As a result of that statute, every time you get a complaint from the public, we absolutely, positively have to investigate it. It's not optional. The complaints in any report about it have to be kept for at least five years. Now a compromise that was part of this legislation was that all of those records would be considered personnel records at least as to any police officer that's named in them. Right. So now the police officers have a right, that's personal to them in those records about the complaint about them. This is unusual. Most other public employees do not have that level of protection and privacy.

Mr Alden: At CPRA, we are charged with investigating those public complaints. We have the opportunity to see, review and prioritize all the public complaints

concerning alleged police misconduct. Not necessarily the ones that come from inside the police department, but the ones that come from the public. As you know, the Oakland city charter requires us to investigate a certain set, which we call the mandated cases. That's one reason why our case load is so much bigger now than it was prior to LL, use of force and custody deaths, profiling first amendment assemblies and any other possible misconduct that the commission directs. We've been trying to also pay attention to cases in which officers are alleged to have committed crimes either on or off duty as best we can. That's one reason you see here at the bottom that you know we are getting notifications about when officers, say are arrested on a DUI off duty and we're still aware of those. I would like for us to be doing more on cases like that, as our resourcing improves. Then I'd like to us to also be doing more work about cases other than just the mandated categories. But for right now that's the lion's share of what we're doing.

Mr Alden: So there's another penal code section eight 32.7 which is the main place where privacy, police officer privacy about these complaints and the investigations we do at CPRA rests. This was again part of this overall statutory scheme implemented in the 70s, police officer unions fought very hard for this protection because they really wanted these complaints not to be seen by the public as a general rule, I don't know of any other public employees that have as bold rule as this, but it says that anything that's related to the investigation that comes from the complaint, which basically means virtually everything we generate at CPRA, is not public. It is confidential and it has to be kept as part of a personnel record, private the same way that say a police officer's decision about what medical plan to enroll in or who their dependents are, would it be kept private. There is a modest exception which we try to use as much as we can in Oakland, which allows us to publish statistical data regarding the complaints and also whether those allegations are sustained or not sustained without identifying any individuals who are involved. So that's how we're able to do the reports that you see at least once a month about status of current pending cases at CPRA. In fact, we disclose more than most agencies do in that regard because we're trying to create the maximum possible transparency question. Is that through the chair?

Speaker 19: Absolutely.

Speaker11: If the allegation would indicate what officer is being discussed, let's just say wild example, an officer is accused of raping somebody, are you still allowed to discuss the sustained, not sustained even though the allegation would essentially identify the officer?

Mr Alden: That's a great unanswered question. Nobody knows. No court has addressed that issue yet. But that is absolutely where this statute is going to eventually end up in court because at some point there will be a case like the one you just described. The officer will say it's a violation of his privacy right, to have any information about that case in the public, others will point to this.

Speaker 21: So many officers..

Mr Alden: I don't even know what to say about that. We'll move forward. So there is another exception here, which is that the person who made the complaint is allowed to know and entitled to know what the disposition was. Was it sustained? Was it not sustained, meaning we couldn't make a decision. Was the officer exonerated? Was it unfounded? There are no laws that dictate what the complainant can do with that information. So at least as far as anyone knows today a complainant could publicly disseminate that. We think at least there doesn't seem to be an explicit bar against that.

Mr Bay: Normally what we've always received as just a one page, maybe a couple of paragraphs, innocuousness nothing. So basically you could disseminate that, but it never says anything on just one page and it took a lawsuit for us to find out there was thousands of pages back there behind that.

Mr Alden: Yeah. That's a common critique of this rule, is that the only thing that the rule says that the complainant can find out about is what the result was, not what information was gathered or who was interviewed or why they came to that conclusion or the rationale or what policies applied or whether those policies can be improved and all that it's just sustained, not sustained, exonerated. That's it.

Speaker 23: It doesn't say that you mandate it to how you have to notify. It doesn't say you're mandated to notify in a certain way. So, my question is, I know there had been an effort by the previous director to create a notification letter and has been blocked by the police union. So you can pursue a notification better than what we're doing now, is my question.

Mr Alden: Well, I think that this, I think this statute only allows us to do two things, get a written notification back to the complainant within 30 days of the disposition. And the other thing is, it's not quoted here, but the other thing that that statute says is that the other thing we can say is what the finding was, exonerated, not sustained. It doesn't allow us to disseminate any other information. And then there's a general rule that says we can't tell people anything else about the file. I don't like that rule. I'm not here to defend it, but that's what the statute says. So

Speaker 23: Unless, you have more information other than what's written up there...

Mr Alden: I can send you a copy of the statute if you'd like.

Speaker 23: That would be good.

Mr Alden: Sure.

Speaker 20: So the public is getting a finding. Oh, we're not getting any sense of the violation?

Mr Alden: That's, that's exactly right. So this is a creature of state law. It could be changed by the state legislature and the governor at any time, but this is the role we've had for 40 years, and it is the most restrictive rule in the United States so far as I know. New York has a similar rule that also is apparently quite closed. I don't know all the details of that rule, but it's the only one I've heard of that's anywhere near ours.

Speaker 22: I think it should be understood, however, that these statutes did not apply to civilian oversight until the Copley decision of 2006 could you please explain that?

Mr Alden: Sure, so there were a lot of charter cities and charter counties, city of Berkeley, city of Oakland, County of San Diego, city of San Francisco and others that took the position for the first 30 years or so of these statutes that maybe these statutes didn't apply to them. In part because they had civilian oversight systems that were separate from the one, run by the police department. They also had an argument that because they were charter cities and counties, perhaps they shouldn't be subject to this very general state law because there are a variety of ways in which charter cities and counties can do things a little differently than the rest of the state. Those arguments progressively were lost in a series of cases, but the capper was the Copley decision from the state Supreme court in 2005, 2006 that definitively said, absolutely, these rules apply to civilian oversight as well as police oversight of police. And it Forrest a lot of cities and counties, like our own, to close all of those public processes down so that they could still go on, but they'd have to happen confidentially.

Speaker11: So the complainant gets written notification just of the disposition but not what transpired to reach that disposition even though they're the complainant. That just seems so unfair.

Speaker 21: So here's what, let's say I file a complaint saying that... Well I'll continue with my outrageous example ... I say that I was raped by an officer on duty and you investigate it and are unable to substantiate the rape allegation, but you do determine the officer turned off his camera, which he's not allowed to do. So I get a letter and that letter says, like often I would assume complaints have several pieces to them. Do you say the rape was found unsubstantiated but the turning off the camera was found to be substantiated?

Mr Alden: That's a great question. So there are two parts to the answer. Three parts actually. One is that there isn't any state law or cases interpreting state law that really definitively answers the question you just asked. I think the best thinking among other cities and counties that have processes similar to ours is that you probably can break down the complaint into what the different kinds of misconduct are. So in your case, there are two kinds. There's the rape and then there's the not...Right ... And then there's the having the camera off. But just to keep it simple, like that's really two, two different complaints. And that probably a city or County could get back to the complainant and say, you made two

complaints and here's the finding on each one. Now the other, the third prong of that is that the consensus among other cities and counties that do this kind of work is that, that probably means that anything that was independently discovered by the investigating agency, we probably can't tell the complainant about.

Mr Alden: So we might've found three other things that the complainant didn't know about, but probably cannot tell the complainant that, because it wasn't what they complained about. It's not their complaint. Right. So we might look into that case and find out that, Oh, well it also turns out that, somehow we find out in the course of that, that the officer also had stolen some drugs out of property, back at the police station. Because we found them on his person or in the car in the course of the investigation. We couldn't tell the complainant about that.

Speaker11: So I've come into you with entire story and I say to you, the officer was stealing city time because during the two hours that he had me essentially kidnapped, he was not in fact doing his job and he didn't clock out. But I know to say to you, he was stealing time. But I described this whole scenario. There's like four people here.

Mr Kennedy: We're making a recording.

Speaker11: So, that means that I didn't make that as part of my complaint. If I describe something to you without specifically saying he stole time. That's the same as you randomly and separately in the course of the investigation, discovering that he was taking something out of the evidence room, because I described it but I didn't specifically say on complaining that he stole time.

Mr Alden: That's right and your example of not having the camera on, is one that commonly is not made by the complainant cause they wouldn't have a way of knowing unless they know that the device really, really well and can tell if it's on by looking at it. That's one we discover frequently. But then we can't go back to the complainant and tell them that that was or wasn't discovered. Or the complainant might complain about one thing that we don't sustain that say exonerated. But then we find some other serious misconduct that we do sustain and we can't tell the complainant about that either. It's a frustrating rule in that regard.

Speaker 21: So should the complainant file a civil action, would the details of the investigation be released during discovery or once again, personnel records so privileged?

Mr Alden: Yeah. Generally a judge will review that material and often we'll release the lion's share of it to the person who filed the suit with a protective order instructing them not to tell anyone else about it. Now I that the protective order

comes from this statute. If we didn't have the statute there probably wouldn't be that protective order and that's just a general rule. Commissioner Brown.

Chris Brown: Thank you. So for clarification on item two of your explanation, if a person makes two complaints about things that would be known to them and it'd be reasonable to complain about and they will get a letter back that says one of them passed, one didn't and that would be the extent of the differentiation?

Mr Alden: That's right. Nor would it include what discipline was imposed.

Chris Brown: So they would never know if it was that they raped somebody or that they had taken their phone in the process.

Mr Alden: Yeah. An example you give is unusual in that regard, but sure, that could happen.

Chris Brown: Okay. Thank you.

Mr Alden: You're welcome. Oh yes. Mr Bay.

Mr Bay: I just wanted to share with everybody on a zero seven dash zero five three eight that are filed. The city came back and told us in court that because in my handwritten nine lines of handwritten intake on a CPR B form, I did not specify a specific MOR violation. Although after getting the discovery, we found out that they found all kinds of MOR violations. So also on 1310 62 we made a bunch of separate complaints against the police and in that letter they only address two of them and left all of the rest of the mountain. Just a one page thing. We also then found out that there was thousands of pages in that investigation that showed racial profiling, closing cases... I mean it just egregious stuff ... but just because we didn't put those specific things in there. That's how OPD plays the game. And then that's how the city attorney's office screws over people in the community.

Mr Alden: So one thing you might infer from these statutes is that police departments, at least from these statutes, are only required to investigate the misconduct that's alleged by the complainant. Okay. It doesn't create an obligation to investigate anything else. Now, there are a lot of other really good reasons why a police department should investigate anything else that finds along the way. But just so we're clear, these statutes only require a police department or a city or County to investigate the things the complainant complained about. So an advantage of civilian oversight is that you can have folks who care about the complaint, look more broadly at what else there might be in the course of that case. And that's one reason in our closed case reports that we're putting into our packets moving forward. You'll see in there in bold and italics, which allegations were the ones that we came up with at CPRA or found ourselves. And I think that's probably one of the best metrics of added value that we can present in a way that probably is compliant with eight 32.7

Sheriff: Commissioner Dorado.

Jose Dorado: Thank you Sheriff. It just speaks to the value of the kind of education that we need to do as a community, as to what actually are the types of charges that.

PART 4 OF 5 ENDS [02:08:04]

Jose Dorado: To what actually are the types of charges that can be leveled in that broad sense, so that these kinds of things don't get missed.

Mr Alden: Yeah, exactly.

Speaker 24: I'm also hearing coaching... Go ahead.

Tara Anderson: Sorry. I was just saying along those lines... How significant training is at intake to support someone in being able to articulate what, in the packet, whatever, it needs to be there for you to take those steps.

Mr Alden: That's right, and one thing we do at CPRA now that I think is a best practice, is we do have people working on intake who are intake technicians. Right, who are new at gathering materials, but every single one of those files is, at a minimum, reviewed by a complaint investigator three, someone who's very experienced, to at least look to make sure we're capturing all of the allegations that we should be looking at, not just the one raised by the complainant, but others that might be present as well. Having someone really skilled is important in that regard.

Mr Alden: So all of these roles changed a little bit in January of 2019, and the state decided to loosen up disclosure as to several different categories of complaints. This is a really big change, first time in 40 plus years. The new kinds of cases that we can tell the public about in more detail are cases involving the discharge of a firearm, whether or not there's any sustained misconduct, and any use of force against the person that results in death or great bodily injury, and that was intended to or might have, but did actually result in death or GBI.

Speaker 25: Could you define great bodily injury?

Mr Alden: Sure. It's a term that comes from the penal code and it's used to distinguish which kinds of batteries or assaults are more serious than others and it generally means causing a part of the body to not work, like breaking an arm for example, or breaking a nose, causing unconsciousness, injury to any of the internal organs, or any other injury that is so severe that's on the same level as those. So it's pretty significant. More than a scratch. It's a lot.

Mr Alden: Yeah, exactly, okay. So, there's another set that also can become public, but only if the allegations are sustained. If they're not sustained, these won't be public. Okay? And these include any kind of sexual assault by a police officer and

any finding of dishonesty directly relating to the reporting investigation or prosecution of a crime or the reporting or investigation of misconduct by another officer.

Mr Alden: So it can't be a lie about saying, "Well no, I was here at 8:00." No, really you're here at 9:00, you lied about that. Right? That lie isn't covered here, but the kinds involving investigations of crimes or misconduct are. Again, these kinds of files only become public if the allegation's sustained. Now the term sustained isn't defined here, but I think it's a safe bet that if we reached a place where CPRA and the Chief were in concurrence that it should be sustained or the police commission discipline committee ended up sustaining charges, that's probably sufficient. There's a little ambiguity about whether the officer's succeeding on appeal through say a Skelly hearing on arbitration might change that. We don't really know the answer to that question yet.

Speaker 26: Anytime an officer falsifies a police report, that automatically qualifies.

Mr Alden: If it's sustained.

Speaker 26: If it's sustained, because any police report is either going to be about a crime or potentially it's about the reporting or investigation of misconduct of another officer.

Mr Alden: Right.

Speaker 26: How about reporting or investigation of misconduct by the officer who falsified it?

Mr Alden: Yeah, that would be covered too. [crosstalk 00:02:12:07].

David Jordan: Falsify that is doesn't [inaudible 02:12:11] the complete investigation [inaudible 02:12:12] report.

Regina Jackson: So this is very, very interesting. I would like to ask though if maybe, because it's 10 after nine, if we could hold some of our questions, if that's all right with you?

Mr Alden: I'm happy to stay late. Questions after, how about that?

Regina Jackson: You can stay late, security can't stay late.

Mr Alden: Oh, okay. All right. I won't keep security.

Regina Jackson: Okay, thank you.

Mr Alden: Okay, so now we move into a different part of the presentation. This next section is about POBRA, the part of these rules that are in the government code and you'll see how they work together with the other statutes in a minute. But,

this defines some procedural rights that police officers have, as public employees, when they're being investigated in the way that those other statutes just described. So, if someone makes a complaint about an officer and an administrative investigation is going on, these are the rules that apply. It's a totally different set of rules that would apply if the officers were accused of committing a crime and were being investigated criminally by their own department, another agency or a district attorney. So, this is just procedural rules for the administrative work of figuring out what's going to happen at their job. It's like if any of us got in trouble at work, these are the rules that would apply in our relationship with our employer.

Mr Alden: Okay?

Mr Alden: So, a lot of the rules in POBRA have to do with interrogation rights. There were a lot of concerns back in the 70's that, at least in a few agencies, the way that police officers were interrogated might be unfair. There are some stories from LAPD about officers being brought into a room with four or five investigators and all the command staff and being grilled for four or five hours.

Speaker 27: Like [inaudible 02:13:52]

Mr Alden: Right, hah, hah. There's a couple. There are a couple of cases in the California prison system where prison guards were not allowed to leave the prison for several days while they were being interrogated. And so their argument was, "Hey look, that's not fair. I might as well be a prisoner." Right? So. For better for worse, these rules came into existence. One is that the officer has to be told about the nature of the investigation before actually being asked questions.

Mr Alden: And at that point at least, they're not entitled to a copy of the complaint against them or the evidence against them. But they had to be told what kind of case it is, what are the basic allegations against them? So one of the things we have to do, both at internal affairs and CPRA, when we have an officer come in and they're the target of the investigation, is give them a formal advisement of what we think the case is about. And we have a form for that process that explains which rules we think might be at play. If we don't do that, we cannot discipline the officer.

Mr Alden: If the officer's interviewed more than once, there's a new ruling in 2017 that says that they're entitled to much more material including notes and copies about the prior interview and maybe some background information the agency might have gathered about it. You may be aware that there is some publicly available litigation going on between the City of Oakland and the Oakland Police Officer's Association about this rule right now and whether this rule would apply if, say internal affairs did an interview and then CPRA did an interview, about the same topic separately. I can't say much more about that because it's pending, but the fact that that issue is pending in court is well known. So we'll see how that resolves.

Mr Alden: Some of the other rules are that the interrogation has to happen during on duty hours. So, if an officer normally works the night shift, the interview happens at night and so our staff at CPRA often have to work overtime to cover those. It can't be too long, no one's exactly sure how long. Officers get to bring a representative. It can't be someone who's subject to the same investigation, but it could be a union rep or an attorney or just someone that they trust, and they often do. We can't question the representative, but at the same time the representative can't unreasonably delay the interrogation. There are some details that the officer gets to know in advance like who's doing the interview. There can't be any more than two questioners at a time. So, sometimes you will have two people working together to do the interview, but never more than that, that's a restriction. It could potentially be one person from CPRA and one person from IAD or it could be two people from IAD or two people from CPRA.

Mr Alden: When officers come in for these interviews, they still have a fifth amendment right to not incriminate themselves. Because you know anytime you say something about what you've done, if it shows that you committed a crime, that can be used against you in court later. So, officers still have that same fifth amendment right that any member of the public does when they're asked to come in for these interviews, when they're ordered to come in for these interviews. For that reason, if there is some reason that either we at CPRA or over at internal affairs, they think there might be a crime that the officer committed or if the officer thinks that they're in jeopardy of maybe being prosecuted for a crime, either one of us can trigger a fifth amendment warning. Very similar to what you see when someone's arrested. You have the right to remain silent.

Mr Alden: What you say can be used against you in court if you choose to speak. And then the one difference though is that in this context, if an officer's ordered to come in for an interview and they assert their fifth amendment right, that's fine. We, the City of Oakland, can still order the officer to keep talking and answer our questions. The consequences, that statement cannot be used against them criminally. We can't just give it to the district attorney's office and use them to prosecute the officer, but we can force the officer to talk and tell us what happened. Otherwise, they can be fired for refusing to cooperate. This comes from a case called Lybarger, which is out of Los Angeles and that's basically what happened there. So, that's actually a really powerful tool that we have. But it is also really important that we make sure that those kinds of statements are kept very confidential.

Mr Alden: Because if there really is a crime afoot and that statement makes its way into the district attorney's file, that can jeopardize their entire prosecution. There was a case in LA a few years ago where LAPD did an interview of an officer in very high profile shooting. They use the Lybarger rule to force the officer to talk. They then made some public statements about what was going on in the case because they're trying to brief the public about the officer involved shooting. They included in their material that they had gotten from a Lybarger compelled

statement, like the one I just described, that was on the radio. Senior staff at the district attorney's office in LA all heard that coming to work, all of them had to be recused off the case. All of a sudden, they couldn't find anyone at LA DA's office who could work that case. It caused a real, real problem for them. I think they eventually solved it. They must've found someone who's out of town that day. At any rate, but it is a significant issue, so it's another reason why our files are often kept pretty confidential. Almost done.

Mr Alden: The process that we use after we're done with the case is important to understand too. You've probably heard about a Skelly hearings and about arbitration and give you just a quick sketch of what that looks like. Here in the City of Oakland, once we get to a point where we've decided as a city that we're going to impose discipline, either that's because CPR and the chief have reached concurrence or because the commission's discipline committee has reached a decision. Either those two things triggers this rule that we have to tell the officer that we're going to discipline them. Their first stop in that process is what's called a Skelly hearing. Someone else who's an employee of the city sits down, who's neutral, and here's a little bit about the case. It's very informal. Usually in a conference room setting takes maybe an hour or an hour and a half, and the officer has some opportunity to explain sort of what they think about it.

Mr Alden: That result, what that hearing officer thinks about the case, comes back to me and the chief for us to concur in or it comes to the police commission, if they did a discipline committee, to see if that changes anyone's minds about what the discipline should be. After that, the officer, while there's no appeal by the city after that decision, the officer can though. He can take it to arbitration and then an arbitrator from outside the city comes and hears all the material, with witnesses, live, kind of like a court hearing. That sometimes takes several days or a week and then when they resolve that then that's a final, final decision and there's really no appeal from that. That's a really common process throughout the state. Not everybody uses that, but it is what peace officer associations usually ask for and negotiate for in their contracts.

David Jordan: [inaudible 02:21:01]

Mr Alden: So, there are a variety of other modest rights in POBRA about, say for example, not using polygraphs in police cases. That was a bias or a preference in the 1970s, and so that's part of the rule. There is also in POBRA, a right, for the officer to go to court at any point during the proceeding, not just when it's over. That's very unusual, most public employees don't have that. And there's an attorney fee provision to whoever wins that litigation. So, if the police officer thinks their POBRA rights are violated, they go to court, they win, the city pays for their attorney fees. That can be hundreds of thousands of dollars. So we have to be careful about making sure we don't inadvertently violate those rules. The last one I want to talk about, and this one is really important, is the time limit for this process. POBRA includes a statute of limitations, a time limit for these investigations, and it basically runs from the time, it's a year from the time

that the misconduct was discovered, up until the time that the officer's informed that they're going to be disciplined.

Mr Alden: So here in Oakland, that means the CPRA investigation his done, the IA investigation is done, chief and CPRA director have reached concurrence, or the discipline committee has reached a decision. And then that decision is conveyed to the officer in writing. Once the officer receives it, that's the end of that one year window. So, that's the goal we have to hit within a year. So, whenever we have a CPRA case that's a month out from that deadline, I'm worried because we still have to get to concurrence and sending out a letter to the officer. So that's another reason why we have the 180 day deadline instead of say, an 11 month deadline, for getting these done. That time can be extended or told you don't have to, but if the city is willing to take the risk of trying to prove that one of these tolling conditions applies, makes it a little harder for us to win the case, but if we are able to show that one of these applies, then we have more than a year.

David Jordan: What does tolling mean again?

Mr Alden: It means it stops the clock. So imagine, you have a clock that's ticking down the year, once one of the tolling exceptions applies, the clock stops and then it starts again once the tolling runs out or is done. Some examples are if the officer makes a written waiver of the one year, that doesn't happen very often. More common one is that the officer is also being investigated for a crime at the same time out of the same conduct. Right? Not just about something else, but the example that Anne was giving about the rape case. Right? That would be an example where officer's being criminally investigated and administratively investigated. You can get more time based on the fact that the criminal investigation is going.

Speaker 24: [inaudible 02:23:42]

Mr Alden: That's right. And then there are some others in case of civil litigation, if the officer is named as a defendant in the case in the same matter, that can also extend the time. These are all very useful when we can use them, but again, we have to prove that they actually existed, and they applied, and sometimes there's a lot of litigation over whether these even apply in different cases. Some of them haven't really been tested in court, some of them been tested very well. The criminal investigation extension and section A there has been tested a lot. We know exactly how that one works.

Mr Alden: There is another one about reopening an investigation after the 3304 deadline has passed. This one's really hard to invoke. I've never seen it successfully invoked, but the idea is that after that one year statute of limitations has passed, you might be able to get more time if two different things apply at the same time. One is that there's some significant new evidence that could affect the outcome of the investigation. And in addition to that, the city would have to

be able to show that evidence could not have been discovered during the original 3304 deadline. Not that it wasn't, but that it couldn't have been.

Mr Alden: Say it was hidden, or it comes from say a newly available scientific test that wasn't available back then. You know, like if we did some DNA testing on a 20 year old case today, maybe that might be an exception. Another exception is if there's something new that came to light during the Skelly process, during that appeals process we talked about earlier. That's the most common way this gets triggered. The officer says something wholly new or different in that Skelly process, that gives us some more time. So it's very, very difficult to reopen the case after the one year has passed.

Speaker 24: [inaudible 02:25:23] San Francisco?

Mr Alden: No, they were using the criminal tolling exception and they had a lot of litigation about what constituted criminal tolling and which officers it might apply to. Like for example, if an officer was... Not indicted by a grand jury, but the grand jury thought about indicting them, would that count? And their answer there was probably yes.

Mr Alden: Questions? You asked me to make sure to hold them till the end. So...

Regina Jackson: We have...

Mr Alden: No? Oh pardon.

Regina Jackson: We have two questions and one speaker card.

Speaker 24: Well, no, I just wondered if, in fact, the misconduct resulted in somebody being in a coma or something, and of course the year is going to go by, and that person is still... Okay.

Mr Alden: I haven't seen that happen before. Hopefully we don't have that happen here in the City of Oakland. Right? But that being said, that's probably a good example because you can't interview that person. There's no way to know what their side of the story is. Right. That's a good example. Other questions?

Regina Jackson: Mr. Bay, is this your speaker card, or just...

Speaker 25: Yeah, just to cover the actual speaker and everything like that.

Regina Jackson: Okay, just checking.

David Jordan: So on... Let's, as an example, let's say that an officer covered up a murder or that OPD was involved in a series of murders and that a complaint was then made a decade or so after that that said, no, these officers are actually connected to this murder. Would that toll, at that point..., Especially since the

murders have not, are still open cases and is still open investigations, they're directly connected to pending open cases. So, the cases are open right now, they haven't been closed and they're still going. And the officers that committed this, committed obstruction of justice in these open cases, let's say 10 or so years ago. How would that affect reopening and charging the officers?

Mr Alden: That's really hard to say because it would depend on a lot of details that I don't have. So... If the new material was material that the city couldn't have discovered during the original timeframe, [crosstalk 02:27:57] that might help, but

David Jordan: city had it and was criminally involved in covering it up?

Mr Alden: Then sadly, no. That's one of the things that's crazy about this rule, in my opinion, is that if the evidence was discovered by the city, but the city didn't act on it, it doesn't trigger this exception.

David Jordan: Or whatever that legislation has to be. Please work on that. [crosstalk 02:28:21] Because that's obvious that you're saying the crim's get away with the crime if they can cover up the crime themselves. That's basically what you're saying?

Mr Alden: Well... It depends on who didn't take action. Right? So if you have one officer, right, who committed a crime off duty, covered it up. The department didn't find out about it until four or five years later when [crosstalk 02:28:45] they found a dead body somewhere then-

David Jordan: The chief in town knew about it.

Mr Alden: Well, if people who are able to impose discipline knew about it and chose not to impose discipline, this exception does not apply. So, the one year rule in 3304 starts whenever someone who could impose discipline found out about the misconduct, whether they did or didn't, doesn't matter. Just the fact that they knew about it is what triggers it. So, a problem that a lot of, that some agencies do have is that regimes change. A new set of managers comes in and looks at what the old managers did and say, "That's crazy, they should have been disciplining some of these folks in the past", too late. Now there is, I should point out though, a little tiny [crosstalk 02:29:29] silver lining. There's no double jeopardy rule in California on police officer discipline. So, there is one reported case out of Southern California in which a chief had an officer who had been in a really bad incident, gave him some discipline but didn't fire him.

Mr Alden: Nine, 10 months after the incident occurred, a new chief came onboard, the new chief looked at that case and said, "that's crazy. That officer should've been fired." They're still within the original one year limit. So, he changed the discipline even though it had already been imposed and served, fired the officer. So the officer appealed and said, "What about double jeopardy?" Well, double jeopardy's a rule in criminal cases, it's not a rule in the employment context.

Mr Alden: So you know, that's one reason why at least, here and in Oakland, the discipline committee process still works. You could have the CPRA director and the chief not agree and as long as the discipline committee still acts within a year, you can still move forward. Theoretically, you could have a case that CPRA didn't know about, the chief impose some discipline and if CPRA then finds out about it, and we're still within the one year, we could still reopen and impose discipline. Now, that's going to be very rare. I hope that doesn't happen cause I'd want to know about the case the first time, but theoretically, that could come to pass.

Regina Jackson: Mr. Alden, that was a very thorough training.

Regina Jackson: Thank you very much. We're going to, we've got about three minutes to wrap up this meeting. So, we're going to move to item 14, committee liaison and other commissioner reports. I want to make a brief announcement that we successfully submitted an application to the Goldman School of Public Policy's graduate class, their Intro to Policy Analysis. We were accepted. The focus of our request was compensation for property damage during police interactions. Yes, so I'm, I'm pretty excited. We did send an email to you all. Thank you. This is our first foray and hopefully there'll be more. Thank you and we hope that this will impact policy for the City of Oakland because we recognize that there's a lot of damage out there. Are there any other updates in this area? Commissioner Gage?

Henry Gage III: Thank you Chair. In addition to the listening session that was mentioned at the top of our meeting, I'll state for the record that you and I attended a session with a number of Oakland police officers who were attending a Leadership Institute put on by the Goldman School, had a very frank conversation with some individuals who had been identified by the department as potential future leaders. They've raised some concerns and it was a nice opportunity to try to build some bridges with folks who are likely to be the new face of Oakland. I hope these conversations will continue. It's going to be important to hear these kinds of concerns as an ongoing basis. We can't just be about discipline. You also have to be about building competence from the inside.

Regina Jackson: And to add to that, they were actually quite... Intrigued isn't the right word, they were enthusiastic. They... The gloves came off, they saw us as people and recognized that we're both in it for the same things, which is a better, safer, healthier Oakland. And that we've got to work together and keep these lines of communication open in order to build trust, on both sides. So they asked us, "Will you come to a ride along? Can I take you to the shooting range?" You know, just all these kinds of things and we're going to do those things and hope that there'll be more conversations in that vein. And what they said is that they're going to share what they heard with their fellow officers and of course, that's how it continues, that's how it gets going. So, are there any more updates? Commissioner Dorado?

Jose Dorado: Yes, thank you, Chair. Two things. One is that the Safety and Services oversight committee, [inaudible 02:33:35] finally designated two people to be on the task force along with the Police Commission and, yeah, and the Community Policing Advisory Board. Dana Rose and a gentleman by the name of Willis Wright are going to be from [inaudible 02:33:52] OC to go along with Jorge Lerma and Paul Hawthorne from the CPAB and myself, and I think David is the other representative from us on the outreach. So, there's six altogether and I'll be back with more reports on the commonalities between our responsibilities in the three entities and I'm looking forward to it.

Jose Dorado: The second one is that I'd like permission from the commission to go back to United for success on 35th Avenue in the Fruitvale district to see what kind of dates are available in the spring to do a public police commission meeting, a community meeting. They're centrally located, they've got a big auditorium and they're more than willing do it and it's just the question of scheduling it. So, I'd like the commission's permission to let me see what kind of days they have available in spring.

Regina Jackson: You have it.

Jose Dorado: Great. Thank you.

Regina Jackson: Thank you. So for agenda setting, Oh I'm sorry, Commissioner Brown.

Chris Brown: In regard to encounters with mental health, since it's a mental health conditions, ex-commissioner Benson has offered, and we would accept it, that she would arrange to work with shareholders to find a time when the shareholders can meet with the commissioners in January.

Regina Jackson: Do you have a date?

Chris Brown: No, she doesn't have a date yet cause she's trying to coordinate the schedules of 13 some odd people.

Regina Jackson: Okay, well hopefully you can bring that date forward at the January 9th meeting, and then hopefully people can come.

Chris Brown: Absolutely.

Regina Jackson: Okay. Very good. Thank you.

Speaker 27: Wanted clarification, Commissioner who?

Chris Brown: Commissioner Benson.

Speaker 27: Oh!

Regina Jackson: Thank you very much. So if you, are there any... Excuse me. Moving on to item 15, are there any particular agenda setting or prioritization? I know that we will be bringing the use of force back. Yes, Commissioner Gage.

Henry Gage III: Thank you Chair. A couple of requests for the January agenda. First a request that the equipment policy be agendized as an informational report in January. Didn't anticipate action, but I'd like to report out on progress. Similarly, I'd like to agendize a report out on Rules of Procedure amendments to the January agenda as an informational item with no final action to be taken at that meeting. And finally, I noted in the agenda report that there's an item with respect to a report from the city auditor's office that was listed as a December, 2019 item. If that report is available, I would very much like to see that put on our agenda as soon as possible. Hopefully in January as an option, if not the later meeting in January would be wonderful.

Regina Jackson: So just for your information, I did contact them about two weeks ago and they said that they were behind. They emailed me, I want to say yesterday, so I plan to talk to them tomorrow. I don't think they're going to be ready January 9th but hopefully they'll be ready January 23rd, but I'll make sure to give you an update on that.

Regina Jackson: And I think that we were going to look at whether or not we are going to start preparing quarterly reports, which will help us add up to our annual reports. I think the quarterly reports were requested from Public Safety, so it might make sense for us to consider that and if so, we're behind. So... We'll consider that on the next agenda. Mr. Bruce?

Mr. Bruce: Thank you chair-

Regina Jackson: We're intimate here

Mr. Bruce: recording for posterity. There's an item related to closed captioning at commission meetings that we're planning to hopefully have the commission initiate the RFP RFQ process at the January 9th meeting. So, if that could be added to the agenda.

Regina Jackson: Very good.

Mr. Bruce: The RFQ is prepared, but we need to formally go through the process.

Regina Jackson: Okay, very good. And we're hoping to get this to be a multi year contract because process takes so long.

Mr. Bruce: Correct.

Regina Jackson: Thank you very much. Commissioner Anderson.

Tara Anderson: Thank you, Chair. The agenda appears to be quite full already, so this may be a more appropriate for the latter meeting in January, but having the report out from our strategic planning session, that was supposed to guide our time and priorities for the year. I think it'd be a really good time to reflect on that.

Regina Jackson: Excellent. Good. Good point. Anything else? I'm happy to accept a motion to adjourn the meeting.

Henry Gage III: So moved.

Regina Jackson: Is there a second?

Jose Dorado: Second.

Regina Jackson: Okay. Properly moved and second, no speaker card. Can I get an affirmative vote? Commissioner Dorado?

Jose Dorado: Aye.

Regina Jackson: Commissioner Gage?

Henry Gage III: Aye.

Regina Jackson: Aye for myself. Commissioner Anderson?

Tara Anderson: Yes.

Regina Jackson: Jordan.

David Jordan: Yes.

Regina Jackson: Thank you very much. We appreciate your attendance at the community meeting. Get home safe and happy holidays. Great, thank you and my apologies for rushing you. I told security 9:30, then I forgot that the equipment guy has to break down. You need help? How long will that take you?

Equipment guy: By myself, 20 minutes, maybe less.

Regina Jackson: I can help you.

PART 5 OF 5 ENDS [02:39:33]