



**CITY OF OAKLAND
OAKLAND POLICE COMMISSION**

Meeting Transcript

Thursday, May 9, 2019

6:30 PM

City Hall, Council Chambers

1 Frank H. Ogawa Plaza, Oakland, California 94612

Regina Jackson: If I could have all the commissioners take their seats please. We're getting ready to get started.

Regina Jackson: Hello everyone. It's six thirty-three. We would like to get started.

Regina Jackson: So, for the paper work, I believe that Mr Russ is here somewhere, but our Vice Chair will try to get through some of the requests.

Regina Jackson: If the commissioners can take their seats.

Regina Jackson: Okay, if we can take about 30 more seconds and then see if we can't return to our seats. I will announce for the commission and the audience that ... The former interim executive director, Karen Tom, who resigned effective May 3rd, did decline my invitation to attend this meeting. I believe that Mr Russ is, yes, here and so he will be able to take speaker cards, moving forward.

Regina Jackson: Okay, welcome to the open police commission meeting, as of May 9th. It is six thirty-six and I'm calling this meeting to order. We are going to be absent, Commissioner [inaudible] and Thomas Lloyd Smith, who are either on travel or training for their day jobs.

Regina Jackson: I'm going to take roll call now. Commissioner ... Give me a breather, no, I'm sorry.

Regina Jackson: Commissioner Dorado?

Dorado: Here.

Regina Jackson: Commissioner Anderson?

Anderson: Here.

Regina Jackson: Commissioner Harris?

Harris: Here.

Regina Jackson: Here for myself.

Regina Jackson: Commissioner Prather?

Prather: Hi.

Regina Jackson: Great. And, Alternate Commissioner Brown is here as well.

Brown: Present.

Regina Jackson: We are not yet calling on Commissioner Brown to be a voting member, because we do have a [inaudible]

Regina Jackson: Item 3 is the welcome, purpose and open forum. The speakers that have signed up for the welcome are Mary Vale, Oscar Fuentes ... I have someone that's signed on as police commission.

Speaker 1: Oh, it's probably me.

Regina Jackson: [inaudible] John Bay, Henry Gage the Third and Laura [inaudible] So, in our outside of that order, if you would please approach the podium. Thank you.

Mary Vail: Last night selection committee met to work on our selection process, and the official word will come out later, but it's really important that we know what an important junction you're at. And, we did receive applicants. We're only going to be nominating for a couple of slots, but because of the situation ahead of you we wanted a larger pool of numbers, just so that we end up with nominees and, maybe, a reserve pool that we all come together on.

Mary Vail: So, to advance that and, again it's no reflection on the folks that have already applied. It's about the numbers and it's about the work. We're going to be reopening the application process for about 30 days, starting about May 15th and ending on June 17th, a Monday. And, I know individually, we'll talk to the city about really getting the word out, but if you have folks, organizations that have a stake in the work that you're doing here, do outreach. We really, really, really want to have a strong pool to select from so that you're up in full numbers and everyone is good, is all. Thank you.

Regina Jackson: Thank you.

Speaker 2: [inaudible] Coalition for police accountability and Faith in Action, East Bay, which is OCO's rebranding.

Speaker 2: I just want to thank the commissioners who came to the city council meeting. I think a number of us showed up. I think it was a really good showing, appreciate the outcome. I know it's a big test of your time as volunteers to go that extra

mile in having to deal with all the stuff that you've had to deal with. It was great to see you there and be able to speak along with you guys, side by side.

Speaker 2: Thank you.

Regina Jackson: Thank you.

Laura: I have fantastic news, but Mary already told you, but I'm really excited they've extended the application period to apply to be a police commissioner until June 17th, and I wanted to give a tip for anyone watching; it's kind of hard to navigate the City of Oakland web page, but if you do a search for Oakland Police Commission application, I think you'll get there.

Laura: And, I encourage people to, not only apply, but also to think about anyone that you might know who would be good at this, and think about talking to them and encouraging them to apply.

Laura: Thank you.

Regina Jackson: Mr Bay.

John Bay: Good evening, John Bay, for the record.

John Bay: The commissioners who did show up, thank you for taking time out of your schedule to show up. It appears as though some of the leadership in this city has different views from the community on what the role of Police Oversight is. And, so I encourage you all to just stand strong with [inaudible] they organized, and just push back against, why is it so important that the Police Oversight Commission be crippled. So, we want to make sure that you have the full power that was written, you had the full authority of the city, the community behind you, and where cases need to be investigated, let them be investigated. Because some of the people who were number one suspects, in my case, like Sergeant [inaudible] said, he didn't feel that it's appropriate for OPD leadership, [inaudible] Howard Jordan to give special treatment, is what he said, on August 28th, 2005 at the FBI office.

John Bay: So, we just want to make sure that what's right is right. If the police are right, praise them. If they're wrong, hold them accountable. Thank you.

Regina Jackson: Thank you.

Regina Jackson: Mr Gage.

Henry Gage III: Thank you Chair. My name is Henry Gage the Third, with the coalition for police accountability. I'll speak more on this later but, there's one sentence in particular in the [inaudible] report of investigation that really stands out to me. It's on page 22 and it's a sentence that says that the constitution ... Says that

there's no law. Says that the constitution requires law enforcement officers to use all feasible alternatives to avoid a situation where deadly force can justifiably be used.

Henry Gage III: I hope that I never see a sentence like that in a report like this ever again. And I know this commission is going to be taking up use of force. You have my full support, because this kind of floor is unacceptable. [inaudible] had a much higher floor. We should be aiming for the ceiling. We can't simply allow constitutional minimums to drive policy, here in Oakland.

Henry Gage III: Thank you.

Regina Jackson: [inaudible]

Speaker 3: Good evening [inaudible] Bay. So, what I really wanted to address in this instance is that this commission is under attack. It's so much under attack that the city attorney threatened the city council if they gave you the power to be independent, right? Multiple commission members have gone before the city council and before committee meetings to establish that the charter states that you are an independent body. You should be able to hire your own people.

Speaker 3: The only way that you're going to be able to hold OPD accountable is if you are independent, right? OPD gets up here every week and tells you how good they're doing and yet they're not closer. In fact, they're falling backwards in the NSA. So, obviously you can't listen to OPD.

Speaker 3: All kind of evidence has come out from this very mic right here, while OPD has been standing there in the wings, and yet nobody has come forward to address any of these things. And, as the commission moves forward to investigate things independently, commission members become targets of attack.

Speaker 3: The more truth comes out, the more you are attacked. That's not the actions of people who have nothing to hide. That's not the actions of people who are not upholding a criminal and corrupt system, that's been failing for 16 years. Where's the help? Okay?

Speaker 3: And, for the people who were assigned by the mayor; where's the mayor on this? The mayor put you up in this position and you're failing, with the mayor not backing you. So, how can you be fighting for justice, yet the mayor who put you there to fight for justice is not in your corner. Right? So, how can the mayor walk that line where she's supporting the city administrator, and the city attorney attacking you, and yet she has say on this board.

Speaker 3: This has nothing to do with justice. This has nothing to do with the community. But, let's get right down to the fact that you all need to make sure that you, as a body, come together and don't allow individuals to be separated, divided, conquered and attacked.

Regina Jackson: Thank you, Mr Bay.

Regina Jackson: [crosstalk]

Speaker 4: Hello there, Hi.

Speaker 4: So, I just wanted to point out that the OPD, so far, just because during city council, that's where they decide to settle lawsuits against OPD and how to settle them, and that's how we're finding out about all the car accidents that OPD has had by running red lights into intersections, and hurting people.

Speaker 4: So far I have four names that popped up in settlements for this year. Erin Minyard was a bicyclist that was by OPD in the intersection. Myles Rappaport was a child who was hit by an OPD motorcyclist in an intersection. Elliot Van Fleet, the famous case, the biggest settlement in city history, on a bicycle who lost a leg. And, the most recent one from the other night was Shauna Trahan, who was hit in an intersection by OPD running a red light.

Speaker 4: Now, I just want to read a little bit from the lawsuit that the city attorney, Barbra Parker. The reason that they sought to dismiss the suit in the first phase of it, and to show how hard it is for people to sue and thus, for us to find out, because the only way we're finding out is through the settlements and it's hard to even get to that stage.

Speaker 4: So, for example, this is what they say. "The defendant allege ..." The defendant's the police. "alleged that plaintiff alleged [inaudible] or damages, if there were any, were aggravated by the failure of plaintiff to use reasonable diligence to mitigate those injuries."

Speaker 4: Then the next one is, "Defendants allege that plaintiff knowingly and voluntarily assumed the risk of the conduct, and alleged in the complaint, and any damage or injury, if there were any, sustained by the plaintiff were proximate results of those risks, so assumed."

Speaker 4: So, what I think would be a great thing for the police commission to do would be to give the police the task of regularly bringing accidents that OPD is involved in to this body, describing them. They don't necessarily, at that point, have to give any names or anything, to violate whatever rules that they have. Just so the public knows how often this is happening, because these are coming to light in 'drips and drabs', and we're all in danger. All of us drive, or all of us are in intersections, and all of us walk across intersections. And this is in every case, every single mode of transportation that a human being can use has been hit ... Was hit in 2017 by OPD. So, I think it would be a great thing to do.

Speaker 4: I'm willing to help in whatever it takes to help get that on a [inaudible] every month, two months, regularly. Thank you.

Regina Jackson: Thank you.

Regina Jackson: Those are all the speakers we have for the welcome.

Regina Jackson: Now, moving to item four; Pawlik investigation update. Before we get started I have a brief statement to read, and this commentary is on process, not findings.

Regina Jackson: Fellow commissioners, I am extremely concerned about the recent course of events involving the investigation and report on the shooting of Joshua Pawlik. I have prepared this statement for the public and this commission to consider and adopt. As you all know, the commission has been very concerned about the completion of the investigation by CPRA, and we time, and time again ask the interim executive director to report on the investigations process.

Regina Jackson: The report is flawed in many respects. First, it is our understanding that, perhaps only one interview was conducted of the officers involved, or the other subject witnesses. This means that CPRA did not conduct it's own separate, video taped interviews. This is wholly unacceptable and, in fact, it violates section 2.45.140A and 2.46.030E of the Enabling Ordinance, which specifically mentions that CPRA's separate investigation should include probative video tape and, or audio tape.

Regina Jackson: CPRA video taped and audio taped interviews are called for a reason. This allows the public to have confidence in CPRA's work product, to allow for a truly independent review and analysis, separate from that of the police department's own investigation. By failing to conduct it's own video taped and audio taped interviews CPRA doesn't do it's job, it loses the support of the community at large and frankly, it falls down on the job.

Regina Jackson: The investigation is inadequate and should be returned.

Regina Jackson: Second, Miss Tom failed to follow section 604F4 of measure LL, which provides that CPRA will consult with the commission prior to forwarding reports to other enforcement agencies. Not only did Miss Tom fail to follow measure LL before she provided the report to OPD, city attorney, and whoever else she sent it to. That report was not provided to the commission until I called her and demanded that she send it to us.

Regina Jackson: It is clear from Miss Tom's actions by disseminating the report outside of the process and procedures, that she sought to politicize this process. There is no place for politics in police oversight. The goal is transparency.

Regina Jackson: What Miss Tom did was not only politically motivated, but also a clear attempt to continue to thwart this investigation.

Regina Jackson: As I mentioned earlier, Miss Tom refused an invitation by the commission today to explain her actions or explain, specifically, the process, not the findings. For

all of these reasons, this current report is tainted. It's been politicized by CPRA. Basic, required investigative procedures were not followed. The public and the commissions confidence were ... At least, I believe, that the public and the commissions confidence in this report is shaken.

Regina Jackson: We must return the report. I would ask all commissioners to join me in this position.

Regina Jackson: Commissioner Prather?

Prather: Thank you, Chair.

Prather: [inaudible]

Prather: How about now? Thank you Madame Chair. I'd just like to say, I think your comments are spot on. Thank you for them. Thank you for preparing them. I think on a matter as important as this, it is important to have carefully worded, carefully thought out positions because this is such a delicate matter. I would like to move that we reject the report, and we return it to CPRA, so that the investigation be re-done properly according to the rules and regulations and procedures that are in place. I don't think we can accept this report, I would invite other commissioners to join and to vote affirmatively. I would also ask other commissioners to be careful in our comments, because we don't ... This is about process and procedure. This is not about findings. This is not about content. This is about what was done with this investigation, and what was done with this report, and I would move that we reject the report, and that we return it to CPRA with direction to the 'to-be-hired' interim executive director, that the investigation be done properly.

Speaker 2: Second.

Regina Jackson: Okay, it's been moved and seconded and Commissioner Harris has a question?

Harris: I too agree with your findings in the process, Chair. I agree with that, however I agree with rejecting this wholly, however I have a concern about sending it back to the very people that did this investigation.

Harris: What this report and process tells me is that training or some kind of investigation education, or ... I'm really not clear, since I've been in this seat, what kind of investigation has been going on in CPRA. I've been trying to figure that out from the day I sat in this seat. However, it is very clear to me now, what this process is and this is not investigations. So, I would be very leery to send this report back to the very hands that did the first report.

Harris: So, that's my take on it.

Regina Jackson: Thank you. Are there any other comments before we go to public comment?

Regina Jackson: Okay, thank you very much.

Regina Jackson: So, my stack is thick. We will endeavor to move through all the important comments that the community has. So, in no particular order we have Jim Shannon, Celine Bay, Laura [inaudible 00:27:28], [inaudible 00:27:28], Michael Tiegs, Rashida Grinage, Mary Vale... Do we have Celine Bay twice?

Regina Jackson: Okay, that was for three. Why don't we go with that group of eight or ten, and then we'll go with the next group.

Jim Shannon: I agree that you should reject the CPRA finding. I do not agree that you should send it back to them. They have shown themselves to be so corrupt that they are incapable of making an objective finding.

Jim Shannon: The police department knew about the CPRA findings months ago. You were not informed until the day that the CPRA findings were made public. The CPRA findings themselves is not an investigation report, as much as it's a brief in support of the police department. A legal brief on why the police department is right. That is not the place for such a brief. It is totally wrong.

Jim Shannon: The most interesting part about the CPRA report is the beginning. They talk about receiving the complaint on October 5th, 2018, and being assigned the investigation in July of 2018. So, what difference does it make when the complaint was filed. Internal affairs, as I've said when I was here before, was on the scene on March 11th, 2018. They were walking through the scene, obviously not disturbing it, but making sure they had the concepts right, and the measurements right, and the facts right.

Jim Shannon: That's exactly what your people should have done. I'm sorry. They're not your people. They've proven over and over again they're not your people, and you need to get people who are your people.

Jim Shannon: These people are bad, they're incompetent. Only one interview was conducted; that's totally inappropriate. The fact is, this investigation, it's too late for you to do a good investigation. It's not your fault. It's not your responsibility, but we need to get the process moving.

Jim Shannon: I think you should learn from this. I think these people should be fired. I think you need to reconstitute the CPRA in a way that works next time. I think you should reject these findings, and I think you should let the compliance officer's findings stand so we can move this process along.

Jim Shannon: If you get an independent investigation now you're postponing this whole process by months and months, and getting people who, all they can do is, read interviews that other people have done. It's not your fault. Reject their findings, and adopt the compliance director's findings, who simply reject the CPRA findings, and learn from this how not to do an investigation.

Jim Shannon: Thank you.

Regina Jackson: Thank you.

Bruce: Bruce speaking. OCPA. Amen.

Bruce: But I'm going to read a few reflections having read the whole damn report, just to get them into the record.

Bruce: The CPRA report on the shooting of Joshua Pawlick by OPD on March 2018 is an inadequate and embarrassment. It's not a first hand, in depth investigation of this shooting, but a second hand review of the OPD's flawed, internal investigation.

Bruce: The report reflects disfunction on the part of the agency that has long been a...

PART 1 OF 10 ENDS [00:32:04]

Speaker 5: The report reflects dysfunction on the part of the agency that has long been of a concern to close observers. But even within the text of the CPRA report, major questions are raised regarding the sustained verdicts of internal OPD action.

Speaker 5: At the moment Pawlik began to awaken and move, quote, "Just a bit," according to the officers on the scene, OPD reacted impulsively, not according to a plan appropriate to the eventuality of the subject shaking off sleep.

Speaker 5: Further in violation of any standard of objective review of an officer-involved shooting, the shooters were brought together on the scene with a clear opportunity to coordinate their stories. This should be a very serious violation of procedures. Even according to the CPRA, the officers interviewed who were not shooters had a quite different version of what Pawlik's movement looked like than the shooters.

Speaker 5: It's also evident, according to the CPRA report, that several officers on the scene were distraught that the shooting had occurred. As it did they appeared shocked at their own fellow officer's fusillade. If all you read is a CPRA report, it is clear the internal investigation process was more effective in forcing a narrative than uncovering facts. It's exactly what the community has come to expect from OPD and what so many of us refuse to tolerate anymore of.

Speaker 5: But along with the terrible questions raised by the shooting of Mr Pawlik, questions raised by these flawed reviews, combined with former Police Chief and Federal Monitor Warshaw shows dissent from the OPB investigations, clearly showed as imperative the deescalation strategies. They can protect officers, subjects, and the public be developed and mandated, that effective retraining to new standards be initiated, and we take a hard look at review and discipline procedures in agencies inside the department.

Speaker 5: And if you'll bear with me just one more short paragraph.

Speaker 5: Beyond rewriting orders, it is essential that a command structure to the very top of the department be put in place, which is committed to this work of fundamental reform to guarantee minimum harm to subjects of police actions, the protection of officers themselves from harm or trauma of their own impulsive actions, and protection of the public who our officers are entrusted to serve. This is one more wake-up call on the need for greater police accountability to the community and for independent oversight. Thank you.

Chair: Thank you.

Rashida G: [Rashida Grinage 00:34:23] The CPRA investigation should have started exactly the same time as the Internal Affairs. It's clear in the language of LL and the ordinance, that CPRA must have the same access to all files as Internal Affairs. All police files.

Rashida G: There is absolutely no justification for the delay in their having obtained what they needed. They have subpoena power. You have subpoena power. None of the powers and authorities that you have been provided in the legislation were utilized. So it is a wake-up call for CPRA but it's a wake-up call for the commission as well. And I agree with the foregoing comments that, going forward, there is every reason for us to hope and believe that the lessons will have been learned. It's clear that there is no confidence in CPRA whatsoever and as soon as you hire an Executive Director for CPRA, I think it will be very important to change the culture and that probably means changing the personnel.

Rashida G: So we support rejecting the findings, rejecting the report in its entirety. Whether you wish to send it for further review by another entity or accept Mr Chanin's suggestion that you simply close it and accept and affirm the findings and the recommendations of the Compliance Director, that is of course your choice. Thank you.

Chair: Thank you. Mr Bey.

Saleem Bey: Saleem Bey. Just to piggyback on all of those things, you know it's going to be going on one year that I've been standing here. The very first time I stood before this commission, I told you that the CPRA was a corrupt organization that played directly on your credibility. I know people can remember hearing that. I said, "Your credibility is tied to the CPRA," which was the CPRB, which 83% of the community voted to get rid of. Right? Because if they were doing such a good job for all the time that Karen Tom, Miss [Sarpay] and Mr Finnell were there, you wouldn't be in existence because they would have been the citizens. Right? Representing the citizens. That's what the C is in that.

Saleem Bey: But in reality they're representing the City Administrator. Okay. And so one of the issues that's been going on as I told you, you just sent a letter on our behalf and I'm thankful and it stated: 07-0538. That was closed by Miss Tom.

Saleem Bey: Same person that you are you complaining about that I said in 2007 had been jerking you guys off and jerking the city off for all of these years, now everybody's on the same page with her. 07-0538. 07-0538 was reopened as 13-1062. Miss Sarpay from the CPRB/CPRA closed 13-1062 unsustainable while IAD found it sustained. So that right there is showing they're not representing the people, all right? So that's 13-1062, 0538. We're also talking about 16-0147. All of these numbers I've said, that was closed by Mr Finnell after he sat on it for a whole year, ignored all the evidence and did that. All these people have been seeing what's going on. This person right here, he's collecting a check on the tax payer just sitting there listening to us talk about how terrible a job he's doing and his people are doing.

Saleem Bey: Get rid of these people. Reorganize. The LL states that you can reorganize. Reorganize means hand all of them over to the City Administrator's Office that they are loyal to and get your own people so you can get an investigation. Don't send anything back to the CPRB. Everything... Just as I've been arguing for the last year. Don't send our case back to Mr Finnell. Don't give it back to Miss Tom. Don't give it back to Miss Sarpay. Please don't give Mr Pawlik... There's no reason for Mr Pawlik to be dead right now.

Saleem Bey: I've been in the community. I've walked up to people asleep with a gun in their hand and kicked the gun or just taken it. What kind of cowardly person come up in a armored vehicle with scopes on a person who's shallow-breathing? That doesn't make any sense in our community. You could have called me. I'd have walked up in there. "Are you awake? Nothing's happening?" Alright, go get him. Mr Pawlik's alive.

Chair: Thank you.

Mary Vale: Mary Vale. I can say as a former, almost 20-year investigator or an attorney for a federal agency that even calling this document an investigation, it's not. And as Mr Chanin pointed out, if something like that came out of my agency, the supervisors would reassign it and completely dismiss it and probably put the person on a Performance Improvement Plan.

Mary Vale: As Mr Chanin mentioned, it's a brief for the OPD decisions in the Pawlik matter, and because the Federal Court personnel have already done their own review and come out with a diametrically different recommendation, that brief and the push-back in the department and the collaboration between Internal Affairs and CPRA is also a brief against the federal courts and personnel, which is a really dangerous game given our 16, 17 years in compliance.

Mary Vale: And I know how much the Mayor wants to be found in compliance. This type of performance, both by the department and by CPRA, is not encouraging of that. And the politicization of this investigations and the completing recommendations, all you have to do is open up the newspaper and read the response from the OPOA, which is, "Oh, our abused members who are on suspension because of..." He doesn't use the evil word because of... The evil Warsaw but, "The department, it was good. What CPRA has done is great. Our abused members will maybe be freed from purgatory." That's how police representatives speak in public and contested disciplinary cases.

Mary Vale: And so sadly, in addition to not doing a professional, thorough, or timely investigation, your own staff are contributing to the politicization of this case and they're doing it relative to the Federal Court's involvement in a very dangerous circumstance. And thank you for your opening remarks, Commissioners.

Chair: Thank you. Michael [Tighas.]

Michael Tighas: Yes. My name is Michael Tighas. I'm a member of the CPA and also block-by-block organizing that in the park, among other things. And I was going to say the same thing that Mr Chanin did. I've read both the CPRA report and the Executive Word report and the overseer's comments.

Michael Tighas: And again, it was a brief. It was a travesty as others have said, and I agree that you should reject this report. But more importantly, your biggest job right now is to reconstitute your agency to make it an independent investigative body. It's not right now. It's clear that it is a captured agency, much like all too many oversight bodies in this country. And when you have a politically powerful organization whose self-interest requires capture, it'll happen unless it's very rigorously overseen.

Michael Tighas: The other thing... and I've talked to various Commissioners over the last year and a half... you are in a political position. This is a political fight. It's the fight of the people of Oakland, your representatives on the Commission, against an entrenched culture, both within OPD and within the administration, that resists oversight at all costs. And will continue to do so and will continue to essentially try to thwart you at all levels.

Michael Tighas: Look, you have exactly one staff member who reports to the CA Attorney. You don't have independent counsel, you don't have an Executive Director, even though supposedly it's going through the process. The HR in this city, and I've been involved in a lot of different aspects of it, is totally incompetent. It takes them years to fill vacancies. There are more vacancies in most positions than most other cities. Thank you.

Chair: Thank you.

Lorelei B: Hi, my name is Lorelei Bosserman. I'd like to acknowledge what a lot of us are probably thinking, which is that Mr Saleem Bey has been right all along. He told us that we could not trust the CPRA, and he's right. Back when before the creation of the Police Commission, when they were the CPRB, I believe they used to take things to the City Administrator to decide and a lot of what they took to her, got over-ridden. And they don't seem to have gotten the memo that that's not who decides anymore.

Lorelei B: And so you might want to think about when you hire a new Executive Director, saying, "Please train your people in major LL." I don't know if they were ever trained. I don't know if they ever read it. They don't act like it.

Lorelei B: I also want to mention something about subpoena power. It doesn't just apply to people, it applies to documents. I don't know how you subpoena a document. I don't even fully know what that means, but I believe you have that power. Thank you and good luck.

Chair: Thank you. Mr Gage.

Henry Gage III: Thank you Chair. My name is Henry Gage III with the Coalition for Police Accountability. This can't keep happening. I agree with the comments made previously by Mr Chanin. This can't keep happening. Nothing about this shooting can be considered objectively reasonable. Just look at the circumstance from where we are, as objective as we can be. There's nothing reasonable about this situation.

Henry Gage III: We're living in a city where, right now, according to the alleged to Peace Officers from the Oakland Police Department, it is within Law and Policy To gun down an unconscious, prostrate man who was struggling to regain consciousness. Armed or not, that is within Law and Policy. What does that say about us? I had a thought when this case first came into the public eye that... I'm not sure if I shared, so I'll share it now. You'll notice that if a police officer's killed anywhere in the country, officers nationwide will shroud their badges as a sign of respect. It's a sign of mourning, a token of the pain.

Henry Gage III: Why isn't the same happening when police officers kill people? Shouldn't police officers be mourning? Shouldn't there be some token of respect for the lives they've taken? It's been said in this chamber by many people, and it's true, the California Police Departments are among some of the most violent in the nation. There's no war on cops. If anything, it's the other way around. Like to see some action from the police department to make sure this doesn't happen again. Because you can't do this. You can't keep killing people. And I don't know how many bodies it's going to take. How many? How many unconscious people have to die before someone does something about it?

Chair: Thank you. So those are all the cards I have on this item?

Female: [inaudible 00:47:34].

Chair: Okay. Commissioner Harris and then Prather.

Ginale Harris: So I just want to address the public and thank you in one hand and apologize for the other. Although we are new in this commission and in this role, we have failed you and that's the bottom line. And now I'm going to speak for myself, not for this commission.

Ginale Harris: I want to apologize to the Pawlik family because we will have to move forward. And we see what has unfolded before our eyes. I just felt the need to say that to their family and to the public and we will do better and we will learn from this. So thank you.

Chair: Thank you Commissioner Harris. Commissioner Prather.

Edwin Prather: Thank you Madam Chair. So I guess I'd like to start with the fact that not only was Mr Bey correct, but Vice Chair Harris has been correct for many, many months that there was a real virus within the CPRA that frankly a lot of us were unaware of. I'd like to hope we didn't turn a blind eye to, but certainly I don't think we were aware of the issues that existed within our investigative body.

Edwin Prather: I can't point to specific instances, but I think the Chair was correct when she says that both the public and the Commission's confidence in the CPRA in our investigative body is... to say it's shaken, I think does put it mildly at this point. I do agree with many members of the public that returning an investigation to a body that has shown itself incapable of carrying out an appropriate investigation, that does resonate. But I don't know that we can just say, fellow Commissioners, "Let's reject the report and adopt another report," without determining at this point that an investigation right now is futile.

Edwin Prather: I think the one thing that hit home with me when Mr Chanin mentioned, "It's too late to do an investigation." I don't necessarily know that that's true. Sometimes, you know, you need to do it contemporaneously. Sometimes an investigation six months after the fact is too late. Sometimes it's not. Sometimes 10 years after the fact people get exonerated with DNA and other evidence. There are lots of situations where investigations can still be fruitful after the fact. So I don't want to just... and I actually think it's improper for us to just throw out our ability or a need to investigate. The point here is we're not throwing out findings. We're throwing out the fact that an investigation was not properly done. If a proper investigation is done and the same findings come back, then that is what it is.

Edwin Prather: But we have not done a proper investigation at this point. Officers were not interviewed and videotaped by an independent investigative body. If we had a Disciplinary Committee on this, there would be no videotape from our side to see. Right? That's what's supposed to happen. When it comes to... If it ever

comes to a Disciplinary Committee... we are supposed to sit and render discipline and we're supposed to have two sets of videotaped interviews. And that can't happen here. And I don't think it's just on this case.

Edwin Prather: I think unfortunately prior leadership in the CPRA has let this go for so long, that it created a culture there to say that a report like this, an investigation like this, is okay. And it's not okay. It's just not okay. And so I think I would move to amend my motion, not necessarily to send it back to CPRA for an investigation because again, my thought process on that was that we could eventually get to an independent body or an independent investigator.

Edwin Prather: I mean, we did approve an investigator on this case already. We also don't have the ability to direct staff at CPRA. We only have the ability to supervise the interim or, if we hired, an Executive Director of CPRA. So we can't actually dictate that they do anything at this point. But we do need to determine... and this is what I would amend my motion and I'll make it clear in a minute... we do need to determine whether an investigation can be done and whether it's futile. That is first and foremost, we need to know can we do an investigation. If it's worthless and it's of no value, then let's deal with that when the time comes. But I think it would be premature to adopt anyone's findings at this point.

Edwin Prather: We're not a body who sits in judgment over findings. We are just a body whose investigated body has not done their job. And so I would amend my motion to reject this report and to...

Chair: Consider your options?

Edwin Prather: Well, it's more than consider our options. I'm sorry for pausing in the middle of my motion, and I would ask, you know, if anyone else has input on this, frankly, who would make the determination that an investigation is futile? I would offer that the investigator that we hired could come in, review the file and make some type of determination whether that investigative group should continue with an investigation. You know, giving us an opinion on, "Hey, a year after the fact, evidence is stale, but it's still valuable. But it's not valuable. We can do interviews..." And so I'm trying to get there. I just don't know that... I mean, there's no one sitting on top of CPRA, so we don't have an ability to do that. And so that's where I'm stuck.

Edwin Prather: And so procedurally I just don't know. And Vice Chair, if you have tips for me on my motion on this, I'd be happy to hear them.

Ginale Harris: So my question... Oh, I'm sorry.

Chair: Go ahead, Commissioner Harris.

Ginale Harris: Thank you. So my question would be, Commissioner Prather, if an investigation was possible, what would be the outcome? I think that would determine

whether we move forward with an investigation. Is there any really end to the investigation if we did an investigation?

Chair: And I have a comment but not enough experience to know, where we grapple with 33-04 in all of this?

Ginale Harris: Right, it's over.

Chair: That is serious. Go ahead Commissioner Prather.

Edwin Prather: Thank you. Okay, so it would be great to have legal counsel to be able to advise us on this matter of first impression, because frankly the enabling ordinance, the measure LL, all of it is silent to a situation involving what happens when an independent moderator comes in and makes findings that are inconsistent or different from OPD, which is different from... It is a mess. It is unclear. I think I could argue all kinds of different positions on this, but the bottom line is, irrespective of deadlines, it's never too late to do the right thing. And the right thing here is we need to figure out right now, can we do an investigation? Is it worthwhile? And to answer your question, Vice Chair, I don't know where it ends up. Maybe an investigation can only give us half of the answers we're looking for, but half is better than... God, anything is better than an investigation that's improperly done.

Edwin Prather: This is just, this is a screaming... This evinces frankly just a lack of effort on behalf of the CPRA and like our Chair said, it's unacceptable. I apologize because I don't remember who said it from the public and it may have been Mr Bey, again, we're under attack. Like when we talked about not having proper resources and we focused on, "We didn't have an admin assistant," or "Oh, the City Attorney's not doing this for..." We focused on a lot of different areas, but we don't even have an investigative body that frankly is doing their job and it's been hidden from us because we've not had a Disciplinary Committee in the entire time we've been here.

Edwin Prather: There's a reason why they didn't want to turn over the file to an independent investigator. Why? Because maybe they would have learned about this and someone would have blew the whistle on it, right? Well, the whistle's blown now and so that's why we need to do the right thing. And so I would-

Chair: Well, we presumed that we had expertise.

Edwin Prather: We did presume we had expertise. So I would amend my motion... I'm sorry, I'm speaking way too long on this... I'd amend my motion to reject this report and that we ask the investigator that we previously hired as a vendor for this purpose to give us an opinion on whether an investigation at this point can be done and whether it's worthwhile.

Mr Rudin: And Commissioner Prather, I will just say that this item is on the agenda for discussion of CPRA's recent findings on the Pawlik investigation, not for hiring an outside investigator, although my recommendation would be-

Chair: He's already been hired.

Mr Rudin: ... if you guys wanted to do that, that you table the motion and take that up at another meeting.

Chair: Just a moment Mr [Rudin]

Mr Rudin: In the interim perhaps, it might be helpful for you guys to receive some advice either from our office or from the City Attorney about CPRA's ability to receive back a rejection of that report.

Chair: Thank you Mr Rudin. Commissioner Dorado.

Jose Dorado: I reject the advice and I support the amendment to the motion. I support the amendment to the motion.

Chair: So you're seconding the motion? Okay, very good. I'd like to know if there are any other questions on the motion that has been properly moved and seconded?

Chair: I'm going to out you here a little bit, Alternate Commissioner Brown-

Chris Brown: Yes Miss.

Chair: ... and that is only because I believe around this table you've got more experience with processes even though CPRB might've been a bit different from an investigative approach. Do you have any thoughts on the recommendation that has been moved and seconded? And if you don't that's fine. But I did want to ask.

Chris Brown: My concern is, we're prohibited from seeing the contents of the body of information that led to this, to these answers. And so my concern is that these answers reflect a legalistic view of fitting regulations and don't provide justice. And so that was one of the weaknesses in the CPRB, one of the complaints that we always had as members, that we couldn't provide justice. We were stuck with the legal fit. And so without being able to see that information, I can't say if this is another case of a legal fit and I can't speak to the dates.

Chair: Thank you very much. That's all I was asking. So we have a motion that has been properly moved and seconded. Are we ready to take a vote? Okay. So Commissioner Dorado?

Jose Dorado: Aye.

Chair: Commissioner Anderson.

Com. Anderson: Aye.

Chair: Commissioner Harris.

Ginale Harris: Aye.

Chair: Aye from myself. Commissioner Prather.

Edwin Prather: Yes.

Chair: And the vote is unanimous so the motion passes. Thank you very much.

Chair: Okay, we are on to Item Five. Personnel Committee update and IG position update. Commissioner Harris, would you do the help? Thank you.

Ginale Harris: So on Tuesday we went to a meeting with City Council. A special meeting where City Council once again instructed City Administrator, Ms Landreth, to move forth the job description that was passed by this Police Commission. Now reading what is in the packet, I'm not quite sure if they put something in here.

Ginale Harris: The last paragraph, under Distinguishing Characteristics... Rashida, if you could please just take a look at it. And if my memory serves me right, this was not our language. I am very leery about this because it almost seems as if it was theirs and ours put together. And so I understand their pattern so I always ask for a copy before it gets moved to the Civil Service Board, which I have not received by the way. I have not received it, even though we asked for it at our Personnel Committee meeting on Monday. Today is Thursday and I still don't have it, which causes me to believe that this is not accurate. So I would ask that we just table this for a little bit until we can clarify if this is actually our copy.

Chair: Okay. That was a motion?

Ginale Harris: Yes ma'am. That was a motion.

Chair: Okay. I'm seconding that motion that the IG position that we have in our hands may not be the one that was forwarded. So we will table that and come back to it at the next meeting. Did you want to...? Well, I guess... Pardon me? Commissioner Anderson?

Ginale Harris: ... Has an update.

Ginale Harris: [inaudible 00:30:29].

Chair: Yes. So the motion has been moved and seconded. We need to take public comment. Commissioner Dorado? Oh, okay. We need to take public comment.

What we can do then is take the vote on that and then continue with the Personnel Update. Okay?

Ginale Harris: Okay.

Chair: Alright. Very good. So those who wanted to speak on Item Five or Lorelei Bosserman but you know what, maybe we should finish the Personnel Update so that they can speak to the entire thing.

Ginale Harris: Okay, that's fine.

Chair: So, sorry guys. I've got to backup here. So we're going to complete the Personnel Update, then we'll do the public comment. Then we will vote on the tabling and decide if there are any other actions that we need to move on, okay? Alright. So I guess I can start one of the other parts of our two-and-a-half hour long Personnel Committee meeting.

Chair: We also looked at the item of the investigator position. You all may remember that we are down two investigators now that Karen Tom has gone back to the Senior Investigator position. We were told that there was a list. It was determined that the list was no longer effective and that on March 15th they would-

PART 2 OF 10 ENDS [01:04:04]

Regina Jackson: On March 15th, they would begin the process of reviewing and approving and what have you. Well, the bottom line is that the approved job posting is still not complete. We understand that it will be forwarded to the civil service on May 16th. We have been given certain assurances by Mr. Luna in the city administrator's office, that if it goes to civil service on the 16th, it should be ready for posting on the 17th. And at that point, he will make efforts to coordinate all of the signatures so that they can be fast tracked, so that we can at least have a list and an exam and a bonafide list from which to choose, hopefully on or about late June. Which according to our timeline with regard to the executive director position, means that perhaps the executive director will report to work and then one of his or her first actions will be to hire investigators.

Regina Jackson: That was in a laborious process that we heard, and we will be on top of each scenario to make sure that it continues to move forward. So that's the investigator update. Now I'll hand back to Commissioner Harris on the executive director, update and I don't want to overlook you, Commissioner Anderson. If you have any thoughts, please jump in. Okay, Commissioner Anderson?

Com. Anderson: I just wanted to appreciate the time of my fellow commissioners. It was quite a lengthy meeting on Monday and those members of the public that stuck with us. But I think it was really important that we got down to the details of the

process, and are now moving forward in a way that we have full confidence. And so just thank you for the constructive dialogue, and sometimes we didn't agree but I think in the end we were better for it. So just thank you.

Regina Jackson: Commissioner Harris.

Com. Harris: Yes. So we do have a process in regards to interviewing for the executive director position that we came up with at the personnel committee meeting on Monday. We do have a list of candidates. We have 18 to 20 candidates that we will be doing phone interviews over a period for three days; that would be May 13th, May 14th, and May 20th. So we will be doing interviews. On the 21st we plan on giving our narrowed down list to Chrissy, the analyst, a list of names for, for the second round of interviews, which will include community members and police commissioners, our personnel committee.

Com. Harris: The second round of interviews will be scheduled for June 4th. So we are progressively moving forward with these interviews because we want to try it and we have a great pool of candidates. So I want to assure the public that we have a great pool of candidates. Yeah. So June 4th.

Regina Jackson: Right. And then the next process will [inaudible]

Com. Harris: Yeah. No, this process with... Yeah.

Regina Jackson: Okay. So we'll be following up?

Com. Harris: Yup. So we'll be following up after the June 4th interviews, to give a report back, where we're at.

Regina Jackson: Very good. Does that conclude our personnel committee update? Okay, excellent. Sure. So why don't we go to public comment, finish up this and then we're going to have to go back to item four for another action. So public comments, the speaker cards I have are Bruce Schmiechen, Lorelei Bosserman, Michael Tigges, Rashidah Grinage and Saleem Bey, in whatever order you all like.

Speaker 6: Are you going?

Bruce S.: Bruce Schmiechen, coalition for police accountability. I'm looking at the attachment five, the class title for an inspector general, and I see what there's a bit of a red flag about the role of the city administrator. I do think the language allows the commission to have the dominant role. Maybe you want to add that they can independently remove or discipline. If you can quickly do any clarification with a few words, but I also think that this language sort of implies, but more or less stated that you guys do have the final authority. And I think if you can clean up the language easily and quickly, you might want to do it, make it more clear. But I wouldn't stop the process of hiring based on this problem.

Regina Jackson: No, we won't. We just need to ensure that the version that we put forward is the version that is shown up here and that's important. Ms. Grinage.

Rashidah G.: Thank you. I don't have the language that you created in front of me, and so if there is a difference, it's not apparent. I do agree with what Bruce just said, which is that we know that the actual appointing authority is with the city administrator that's unavoidable at this point until we clean up measure LL. However, it does say that the inspector general is supervised by the commission and reports to the commission and that the city administrator cannot unilaterally terminate that person without five members of the commission voting for it. So in fact, I'm not sure it's problematic, at least not at this stage of things. And so, again, that can be part of the cleanup language for the ballot measure.

Rashidah G.: But in the interim, it does appear to give you what you want in terms of supervision and reporting and the fact that the city administrator cannot of her own accord terminate that person unless five commissioners support it. Thank you.

Regina Jackson: Thank you. Commissioner Harris.

Com. Harris: My concern is that we were just at a meeting on Tuesday and that they were directed not once, but twice. And this didn't feel right to me because this is not what we turned in, and I know it's not. And they gave her a directive and she is now turning, messing with our stuff and we ain't having that. Yes, we need to move this forward, but I just don't feel... We've come too far and something needs to happen now, and I'm almost ready to say we need to take her to court because two times they gave her directive and she's blatantly said, "I'm not going to do it", by giving us this. This is not what we gave her.

Regina Jackson: Okay. So we'll move back onto to public comment. Okay? Michael Tigges.

Michael T.: Michael Tigges. I'm going to speak to the hiring of the executive director and the investigators. Maybe I was unclear, but will the investigators be hired before the ED, or will the ED be able to essentially interview all of the candidates and fill those positions with people that that person is confident?

Regina Jackson: Yes, we decided that that was a far more strategic process, to have the ED in place first, but have an investigator list established that that person could choose from.

Michael T.: Great. Otherwise you'll perpetuate the culture that seems to have infected that agency. Thank you.

Regina Jackson: Thank you. Mr. Bey.

Saleem Bey: Saleem Bey. In the enabling ordinance on E1, it states that budget and staffing the city shall allocate a sufficient budget for the commission, including the agency to perform its functions and duties as set forth in this section, including budgeting at least one full time equivalent, non-city attorney legal advisor that is specifically charged with providing legal services to the agency related to investigations and recommended discipline. So what that says is that this commission has the power to assign a legal person to give you advice, not only on the legal aspects of it, but also investigation.

Saleem Bey: So you can actually assign an investigator through this legal mechanism. This is what the enabling ordinance does. If we had somebody who was actually a person that was associated with the truth and not upholding the status quo as this person right here is, sitting in the city attorney's thing, that person would be actually, you could assign that person or a person that was doing pro bono for you to actually do investigations according to LL, the language that's in there.

Saleem Bey: And it also was backed up by the city attorney's view of interpretation of LL. So unless the city attorney is going to overturn what they already said, and if you don't take advantage of the fact that you can have a legal advisor that also does investigations for you, and if they're doing it pro bono, then you actually go around the city administrator's ban right now that they're holding you up on hiring people, right? You have the power as the commission to enter into an agreement, not hire the person, they do pro bono and then assign them to do investigations and everything like that.

Saleem Bey: I had some other things but... And just one other quick thing ,and then also under F2, it says subject to applicable law, the agency shall have the same access to all department files and records with the exception of personnel files in addition to all files and records of other city departments and agencies as the department's internal affairs division. What that means is that with your subpoena power, you can actually subpoena the communications that are going back and forth between the city administrator, the city attorney, and all of these different things on cases that are pending before you. So if it's on the agenda, you can actually issue a subpoena on any item that's associated with your agenda. Thank you.

Regina Jackson: And thank you Mr. Bey. Yes, Commissioner Brown.

Com. Brown: Madam Chair. Is it appropriate for me at this point to make a motion to modify this job description?

Regina Jackson: Yes, and so the question at hand that has the motion that was moved and seconded was to table the job description because it was unclear whether or not this was the job description that was submitted. Pardon me.

Com. Harris: That we turned in.

Regina Jackson: That we turned in. So what I would suggest is that perhaps since I think it went long before you joined us, that maybe you speak offline with Commissioner Harris if you have some recommended language that you think might be important.

Com. Brown: Perfect. Thank you very much.

Regina Jackson: Okay. Thank you. So we have a motion that has been properly second. We have heard public comment. This is related to tabling the job description on Inspector General, and we have one more part of our personnel committee was to recommend the...

Com. Harris: That's okay. The pro bono agreement was kind of [inaudible]

Regina Jackson: Oh, it's on there separately? Okay. Sorry.

Com. Brown: Excuse me madam chair.

Regina Jackson: Yes.

Com. Brown: I didn't catch who moved or seconded that motion. Do you...

Regina Jackson: Okay. It was moved by Commissioner Harris and it was seconded by me. How about that? Okay, so now we're going to take a vote on the motion that had been properly moved and seconded. Commissioner Dorado.

Com. Dorado: Aye.

Regina Jackson: Commissioner Anderson.

Com. Anderson: Aye.

Regina Jackson: Commissioner Harris.

Com. Harris: Aye.

Regina Jackson: Aye for myself. Commissioner Prather.

Com. Prather: Yes.

Regina Jackson: Okay. It's been unanimously passed and accepted. So as I mentioned when we were kind of in the middle, we are going to dovetail back to item four for a moment. Commissioner Prather has an update.

Com. Prather: I apologize commissioners, we've moved on from item four before I was able to finish. I did have a second motion to bring and I would like us to consider issuing our first subpoena on the CPRA for documents. And so my motion would be that

we issue a subpoena for all communications, emails, texts and documents between Joan Saupe, Karen Tom, Emily Prescott, and any member of the OPD between March 11th, 2018 to date.

Regina Jackson: May I add another name?

Com. Prather: I'm sorry.

Regina Jackson: I would like for you to add the name Veronica Harris.

Com. Prather: She shall be so named. So between Joan Saupe, Karen Tom, Emily Prescott, Veronica Harris and any member of OPD between March...

Com. Harris: Yeah. It's different now it makes sense.

Regina Jackson: Okay. No?

Com. Prather: Well, it's not an all encompassing investigation of the CPRA. My concern is that the Pawlik report, which is the matter we're under, that the Pawlik report was made into a political football and that there are issues about its release. I think Mr. [inaudible] raised that OPD knew of the investigation process and findings months in advance. And so to that end, I would like to know specifically between Ms. Saupe and Ms. Tom and OPD, what was going on and what communications.

Com. Prather: And frankly, I don't believe there's an attorney-client privilege that we are not a part of with Ms. Prescott. So what kind of advice was being given around that issue? And I think we need those communications. I get the community and the commissions sort of anx towards Mr. [Funnel 01:20:32], but to me, this is not necessarily about Mr. Funnel, this is really about the last few months. But frankly if someone finally amended it, that'd be fine. But my motion is surgical and specific, and I think we start to get into other issues if we start to make it into something much broader.

Regina Jackson: Do me a favor then, Commissioner Prather, one more time and we will not interrupt you.

Com. Prather: Okay. Thank you. I would like us to issue our first subpoena for all documents, meaning communications, emails and texts between Joan Saupe, Karen Tom, Emily Prescott, Veronica Harris, and any member of the Oakland Police Department between March 11th, 2018 to today's date. And let's make those returnable. I think let's give a month returnable at our first June meeting.

Regina Jackson: So moved.

Com. Prather: I'm moving.

Regina Jackson: Oh, excuse me. I'm seconding. Just getting a little ahead of myself. Thank you. Okay, since we have already heard public comment on item four... Okay. We got thumbs up. All right. So we're going to go ahead and take a vote then. Commissioner Dorado.

Com. Dorado: Hell yeah.

Regina Jackson: Commissioner Anderson.

Com. Anderson: Aye.

Regina Jackson: Commissioner Harris.

Com. Harris: Absolutely.

Regina Jackson: Aye for myself. Commissioner Prather.

Com. Prather: Yes.

Regina Jackson: Okay. And that motion passes unanimously. And thank you Mr. Bey. And now we're going to move to items six and it's called Bey update and discussion. I know there's been a series of discussions on this item as it's got many dates listed, and one of the items in terms of the status is hiring an outside investigator, which Mr. Bey has very clearly and capably made the argument for and we have now kind of been updated. I'm certainly seeing through a new lens. So go ahead Mr. Bey.

Saleem Bey: Just so that we know what we're talking about, last meeting, I read into the public record, IED 131062 that found my brother's case Wajid, who was murdered, as well as my brother John who spoke here earlier through an attempted murder, that that was found sustained by IED for failure to investigate. In fact, the actual numbers, MLR 314.39 performance of duty. That's what they actually acknowledged. But after getting discovery, we found out that it was actually MOR 370.72, which is obstruction of justice, which is a felony. And these are a murder case that has no statute of limitation as well as an attempted murder case that according to the California penal code has no statute of limitations.

Saleem Bey: So there is a tolling 3304 date on these cases. So if anything that does come up, that's new evidence can be applied to a 3304. What I really want to say is that this is what we receive from the City of Oakland, office of the city administrator, Citizens' Police Review Board. This is what it says on the top that comes from the city administrators. But, one failure to investigate OPD. Well, failure to investigate, this was my first complaint. OPD failed to investigate case number 04- whatever for my brother Wajid, as well as 05, which was the attempted murder of my brother John. And the case of 07-0538, which you've heard me say at nauseum and actually as had been agreed that it has an issue here.

Saleem Bey: But what we got back from Ms. Saupe was no findings, and this is what she said, "Whether or not OPD fails to investigate a case is not a violation of constitutional law or Oakland Police Department manual of rules, unless an officer violates a duty or responsibility required or directed by law, departmental rule policy or competent authority. Investigations were conducted by OPD on the subject cases. The investigation of the cases at issue did not turn up any violations of law or policy. But I brought up here and showed you evidence that the case was closed in 63 days, in 2005. So my brother was shot June 17th, 2005. In August 19th, 2005, a mere 63 days later, OPD closed that case, lied to us for the next six years, told us they were investigating the case. We found out that they weren't investigating the case. Took us 11 years to find the very first documents that they said that they lost. It turns out the documents have been in hiding in the DA's office in Alameda County, all during the trials that were going on, they were hiding misconduct. And so actually will end up being criminal actions.

Saleem Bey: And then after what we found out in the discoveries that Ms. Saupe and the CPRB actually did an investigation of the people complaining and wrote many, many pages about our community and things that were unrelated to the people who were complaining. So just to show you, when we come to the CPRB and ask them for some kind of justice, they investigate the people who are asking to investigate the police. Now this goes right in parallel with the fact of the rape scandal when the mother of the young underage girl complained to IAD, she was investigated by IAD. They started to try and fire her. This went Figueroa, Downing, Outlaw, Cunningham, and all of these people here, [Homegreen] and then all covered up by the current chief.

Saleem Bey: So let's not also forget that the chiefs firing should be agendized at some point. But just to let you know, also it says that B: Powers and duties. It says consistent with state law and in accordance with section 1207 of the city charter, I'll send subpoenas. It says that you can subpoena anything that's before you, just as you did for the last one. So I'm asking that you subpoena these documents now as it applies to our case and the reluctance tainted for the discipline committee. And we do understand that. The only issue is that according to the enabling ordinance under F4, it says to the extent allowed by law and after consultation with the commission, the agency shall forward information to other enforcement agencies, including, but not limited to Alameda County district attorney.

Saleem Bey: When such information establishes a reasonable basis for believing that a crime may have been committed by sworn department employee. So what I've been coming to you to say is that this is before adjudication. So if a crime has been found before you get to the point where you need to go to discipline, it supersedes that. So we're not worried about you going to discipline, what we want to is have this indictments and criminal charges against these people. That trumps everything that you could do because if they are fired for breaking the law, they'll be fired from their position and you don't have to do anything. All

you have to do is find that there is a reasonable basis. Now, I've provided more than enough evidence to show that there's a coverup, to show that not only is the CPRB involved, but IED is involved. The police chief has been advised of new evidence about racial profiling and you haven't heard anything back from her, have you? But California Penal Code says that racial profiling actually is a violation of the law and that people should go to jail from there. And that's 13519.4E, and that is racial profiling under color of law.

Saleem Bey: So again, what we're asking for is number one, you have the ability to assign an investigator. If somebody is willing to investigate it for you, you can assign that person to do the investigation. The other side is if a reasonable amount of evidence is then shown shortly to you that shows that crimes had been committed by the Oakland Police Department, then you're supposed to then kick in and again, the proper people are the NSA court, the compliance director, the Alameda County District Attorney, the US Attorney, and the Department of Justice, Civil Rights Division in D.C. And so all I would ask is that you use your subpoena power to produce some of these documents. If you need any more evidence, I've shown you a bunch of evidence that shows that there's lies, that there's been tainted evidence, that people are not doing the investigations, that they're closing it, they admitted to failing to investigate, but that's just the tip of the iceberg because the failure to investigate is actually obstruction of justice.

Saleem Bey: And we're not going to let them get away with just going saying, "Oh yeah, we didn't investigate your case, so we'll admit to not doing that." What we want is that, "No, you knew there were crimes associated with the Oakland Police Department sworn personnel that should have been included in these investigations and they should have been criminally indicted and tried for these things." And again, that's above your pay grade of what you guys are responsible for. So I'm not asking you to adjudicate this, I'm just asking you to find that there's a preponderance of evidence that this needs to be criminally charged by these people and investigated. Thank you.

Regina Jackson: Thank you. Commissioner Harris.

Com. Harris: Mr. Bey.

Saleem Bey: Yes.

Com. Harris: I just want to thank you for your patience with our process. I know that you have been coming every single meeting and saying the same thing over. And again, I want to acknowledge you and I want to apologize to you, just on behalf of me for the processes, you know?

Saleem Bey: Thank you very much. And I just wanted to acknowledge that just by coming here, we've shown who's hamstringing you, and who is sabotaging you, and who's planting people inside here to do the credibility as representing the community. We could just as easily just write you off and say, "Yeah, you're just

like the CPRB." But no, you have the power and 83% of the people voted to give you the power of independent oversight. And so we're going to make sure that you do that or quit. So if you're not going to quit, neither are we.

Com. Harris: Thank you.

Regina Jackson: Thank you. That's reassuring. I'm sorry-

Com. Harris: I verified-

Regina Jackson: It's the right one?

Com. Harris: Yes, ma'am.

Regina Jackson: Okay. Sorry, we're kind of in the middle of the Bey update. So after we finish that, then we're going to go back to five because we have confirmed some information. One of the things that's before us is consideration of an investigator. I believe that previously we had done some conflating between attorney or investigator language and appellate process and all of that as it relates to the Bey update. I would like to have Commissioner Harris help guide us. Were you able to find where we made that motion?

Com. Harris: No.

Regina Jackson: No. Okay.

Com. Harris: I didn't have time.

Regina Jackson: Oh, okay. All right.

Com. Harris: But we did.

Regina Jackson: Right. So in light of the circumstances that have befallen us with regard to Pawlik and any other investigations, I would like to have some conversation that will hopefully end with a motion to hire an investigator to serve the Bey brothers. I believe that if there is a determination... Okay, so what boggles my mind is I have not seen a case since I've been on this commission that has been completed before a year. Yet Mr. Bey is referencing a case that was closed in 63 days. That boggles my mind. So I would like for us to consider hiring an investigator that can look at his case, or their case, excuse me, and make some determination given the fact that we definitely have some concerns about our own ability, our own agency's ability to do quality work. Commissioner Prather.

Com. Prather: Thank you Madam Chair. So the mistake I think we're making is that the Bey case matter keeps coming on the agenda and not the appellate process issue. There's an important need for us to discuss a process because frankly if our confidence is shaken in CPRA and in the investigations that follow, anything we

do in relation to the Bey case creates precedent to apply to other cases. So if we hire an investigator for the Bey case, anyone can come and ask for us to hire an investigator for their case. And so we open this can of worms that we need to be very careful about what we do. And that's why always having our ad hoc committee vice chair Harris and, Commissioner Brown tell us, hopefully with the advice of counsel on, "Hey, this is something you want to do. This is something you don't want to do. This is something that needs to be done. This is how you would do it, if you could do it. What is the standard for reopening a case?" That's very clear.

Com. Prather: That's not to take anything away from Mr. Bey's passion, for the righteousness of his case. I appreciate the fact that he's been here week after week telling us about and keeping our eye on the ball on that, but without process, we're just...

PART 3 OF 10 ENDS [01:36:04]

Prather: ... Keeping our eye on the ball on that. But without process, we're just moving forward in a way that can be applied to other cases that we can't... We don't want to do that. It's putting the cart before the horse, and so I don't... I'm not saying an investigator isn't appropriate. But we can't without a process for determining that investigation is appropriate. And so, I'm fully involved with just... Let's have a process.

Jackson: Okay thank you. Commissioner Harris.

Harris: I would say yes to that if you said that in the Joshua Pawlik case.

Prather: There it is.

Harris: You don't have a process for that either. My thing is that I have said from day one that there have been red flags within the CPRA. I've said it, I've said it, I've shown it, I've said it. I don't know what's in there. And, there could be hundreds and thousands of cases in the CPRA that come before us and say, "I want you to open my case too." Me personally, I have received emails from people that said, "No one ever called me. I never got a call from an investigator." That was a red flag and I have reported it since I sat in this seat. So, I would say yes to appellate process, which is on our agenda. However, being the circumstances, we don't have an attorney and we don't know when we're going to get an attorney. We can't wait, this can't wait. Two people have lost their lives behind bad reporting and it just went and un-looked at. And so, I would say, if we're going to investigate Joshua Pawlik case, then we need to investigate the Bey case. I just have a gut feeling that we need to investigate this case.

Bey: That's what I was going to say it. The bottom line is that you've already set a precedent. So, if you set a precedent with Mr. Pawlik, keep that precedent with us. I mean, unless you're going to now say that we're different than Mr Pawlik and that Mr. Powlik's cases gone through where you chose the investigator,

where you were the [inaudible] between, I mean, we're you were the actual pushing force behind making sure that Mr Pawlik gets investigated but then when we come up, now all of a sudden we should go underneath an appellate process. I don't agree with that and I believe that that's actually not equality in any way, shape or form. That if you're going to be equal and that you had the same zeal to make sure that Mr. Pawlik gets his investigation. And again, even though Mr. Pawlik... I speak about Mr. Pawlik all the time and referenced Mr. Pawlik up here because I believe that just as Mr. Hog was shot, Mr. Pawlik didn't have to be shot, just as we keep coming up here and telling you, you should have never hired the CPRB as the CPRA.

Bey: We're here to this. So I mean, we lost a year, you lost a year, everything but we're all at the same page at this point right here. If you're going to investigate Mr. Pawlik that you did take that thing, then investigate our case also with that same equality. Now if you want to outside of this, I don't see any other cases that have come up to this point that are on the same level as our case as well as Mr Pawlik. But if somebody came here tomorrow, I'd be supportive for them getting theirs too. Because I know how long that this has been going on, but we're just ask, just saying, do not separate us from the same equal justice that you're giving Mr. Pawlik and that you just voted on a couple of weeks ago. Please.

Jackson: Thank you Mr Bey. So, to that point, I agree with you. We did set precedents. So... Yes, you can respond Commissioner Prather.

Prather: I don't agree. They're two completely different situations. One case is findings that are being presented to us, one case is a closed case. They are different and that's why... And we treat them differently in that vein...

Bey: There was actually new evidence...

Prather: Please, I respect you every time you come on.

Jackson: Mr. Bey... Hold on, hold on, can I...

Bey: He's actually saying something incorrect.

Jackson: Mr. Bey please. Let him finish his point and then you can have your point. Okay, thank you.

Prather: The Pawlik case is... The findings are being presented to us. We are rejecting that on procedure. That is the difference, okay? here we have a closed case. If we were not being asked to reopen it generally, and the one thing I did here, Mr. Bey said that made me take a slightly different view of it is that, if he's asking for something different, like if he's not asking for it to be reopened and he's asking for referral to the District Attorney's office. And I tried to look up that section real quick to see.

Prather: But if it's something out of the normal course, that changes my analysis. But until then it's not precedent setting. And I think it's a mistake to say a case is a case as a case, cases are different and the situations are different and legally we put ourselves in a bind by not going through the process. It's our fault. This came up in October, we talked about an appellate process. We failed, we failed to figure it out and didn't and there are reasons why, but we just, we didn't do it...

Bey: Kicking the can down the road...

Prather: ... And we didn't do it and we didn't do it and now it's May and we still haven't done it[crosstalk 01:41:37]. And we have two Commissioners who are looking at it. Now if we came back and we presented a process tonight and we voted on a process and we adopted it and then we said let's apply that process to the Bey case. I'm hundred percent for that, as long as we adopt a process. But I've just heard... There's nothing yet on process for us.

Jackson: Okay, so go ahead Mr Bey.

Bey: So, everything that he said is actually in line with what he's been saying for the last year. He's been wrong for the last year. Every time that he opens his mouth about our case, he's been wrong about our case. He's even admitted that he's wrong. He's admitted that he's kicked the can down the road. You started the appellate process last year. You came back and kicked the can down the road. You are missing in action. I'm just telling you this. This is what I know about you personally, Mr Prather, that's actually representing the city. You was appointed by the mayor and part of what we're talking about is a cover up by the mayor, so you really don't have a leg to stand on, especially when you're now going to say that these two cases are different.

Bey: When this commission voted, that new evidence was found in our case, new evidence is not reopening a case. New evidence is that there is evidence that was covered up by the police department in the first place. The other part of it is that there is a process too. You want to know about process? Process is that if the IAD says that it's sustained and the CPRB says it's not sustained, there's a process for that too. That should go to the discipline committee. But the issue being is that there's criminal charges that are attached to this that need to be investigated. So, as you keep on coming up with an excuse, and if you look at the tape, I'm just going to say, look at the tape for the last year. Every time I come up here and say this, every time I say something about it, the only person who has something to say that always throw mud in the waters is Mr Prather.

Bey: So, obviously you have something personal that you obviously have to get off your chest or what you're saying don't make sense. Because if you voted for an independent investigation from Mr. Pawlik, why don't we get the same thing? Or does a white person get an investigation and a black person don't. Mr. Pawlik is one person that was murdered. I talking about five murders in our

community. Are you saying five murders in our community ain't the same weight as a white person? Is that what you're saying?[crosstalk 01:44:16] Okay, If you're not going to say that, then make sure that you investigate our case. And really and truly, I'm just telling you like this... That's a political move. Every time he opens his mouth, he's always talking about how we got to kick this can down the road or our cases somewhere different or anything like that. Really should just recuse himself because he's already shown that he has a hostile...

Jackson: So, I've heard you. Thank you very much. And Mr Reus, you are not putting the clock on. But the point that I want to make here is that, two things. I hear you, what I'm clear about with Mr. Prather is, he is a structure, structure, structure person. We have not done our due diligence in setting an appellate process because why? Because we don't have any general counsel to help us create that. But that doesn't necessarily... That should apply everything forward. The question that you are raising... Commissioner Anderson, hold on one second.

Anderson: Thank you MR. Bey. I had a question. On our April 11th meeting, you had indicated that you were going to get a new case number. Were you able to be successful on doing that?

Bey: Well, I'm glad that you asked that because I want to make sure, because the issue is that, no, we haven't. The reason why that we didn't was because it was, first of all, it was said that Ms. Tom was unavailable to give us a case number because she was on vacation. We also then pointed out that, you're asking her to put a case number on 07-053, an investigation of our own malfeasance. So, that doesn't really make a lot of sense. So the case... We don't have a case number is the bottom line and that going to the agency is tainted. So, I just wanted to get a number assigned. I don't think that Ms. Tom should have anything to do with it. She should be recused in this and if we can't get a case number except through Ms. Tom, we don't want one because it's tainted.

Anderson: Thank you for responding to my question.

Bey: You're welcome.

Anderson: I do feel as though this is absolutely an exceptional case. And I'm wondering if there's an option here for us, in the same way that we did in the Pawlik case too... That options for investigation and then that would come before us at our next meeting and that we would run a parallel process where we commit to at the May 23rd meeting having agendized prior to any vote on Mr. Bey's... An investigation into the Bey family case that we would do. So, that would put us... And a commitment of the ad hoc committee. And I don't know if this is realistic, so, help me dialogue around this if this makes sense. Because I do hear Commissioner Prather's, concerns and I agree with them in terms of ensuring that we have a clear process in place.

Anderson: So, I'm wondering if we can do both, recognize the exceptional nature of this case, while simultaneously moving forward with an appellate process. So, both those matters would come before us on the May 23rd meeting, there'd be agendized in a way that we would vote on the appellate process prior to finalizing the investigation for Mr. Bey's case. And with that, and the same way having representatives who would be here speaking to their ability to do the investigation that we're looking to. So, again running things in parallel, but ultimately decisions that would be made at the next meeting sequenced to honor the very valuable perspective that we need a process in place. And we really need to commit to a deadline and doing that, we can't just keep sitting here saying we need a process. We've got to deliver on that process. So, I'm hopeful that our fellow Commissioners will join me and committing to both and moving forward.

Bey: Thank you.

Jackson: Sorry. Having a little side conversation to understand Commissioner Anderson's recommendation. So, the last recommend... Although we previously voted to hire an investigator for the Pawlik investigation, it's not a question. Most recently Commissioner Prather rather than suggesting that we go have an investigation, changed the wording to have those investigators take a look at the information and write an opinion as to whether or not pursuing an investigation make sense. I think what I'm hearing Commissioner Anderson say is that we should have an investigator do the same thing with whatever information you are able to share. So, that it is in alignment, because while we did move a process, we haven't actually gone down that road. And so... Do you have a question about that?

Harris: Yes. There was an investigation that was closed in 60 days. That is what I want to have the investigator look into, is those files. Not something that Mr. Bey can provide to us because he has lots of stuff I'm sure, but I think, I want to know why that case was closed in 60 days.

Jackson: I totally hear you and understand that. And so... Okay, Commissioner Prather.

Prather: Now I'm hearing some move towards some clarity. So, we can inquire or investigate the CPRA closing up a case in 60 days without reopening the Bey case. Additionally, like look, here's the thing, we're all talking about the same thing. Even Mr. Bey I think is talking about the same thing, which is, we just need a standard for how we're going to reopen a case. Mr. Bey has mentioned he has presented ample new evidence. We just need to decide, is it new evidence that's a standard for opening the case? And then, when there is new evidence presented, what are the steps taken? It's not that I agree with Commissioner Anderson. We just need to get to that. And we need to figure out who needs to receive that new evidence because we can't have closed cases coming in here presenting in an open forum like this, new evidence.

Prather: We need to have a person or a subcommittee or something or some group but it can't be the CPRA, receive that. So, we need that. That's the procedure we need to put in place. So, I agree with Commissioner Anderson. If we could put that in place and then we could vote to have Mr. Bey then present his new evidence to whatever person, body or whatever that is. That's all we need. If the determination is made, that new evidence is the standard. And that's what I thought that Vice Chair Harris had asked for when she asked for legal counsel on this issue because she didn't know like look, for appellate processes, what is new evidence? Like how do I define, how do I understand? I need legal counsel to help me and Commissioner Brown on that. And so I thought we were coming closer to the solution, but every time I feel like we'd get away from that procedures talk, I think we get further away from the solution.

Prather: However, if this body wanted to investigate why did or how was a a matter of this size completed in 60 days. That is a sort of an audit of CPRA, which I think is within our purview, which we could order, we could move to now I believe. But the findings or what would come of it may be very different than what perhaps is contemplated by a reopening of the case. I don't know why they completed in around 60 days, but the answers we would get around that are very different from sort of a reopening of the case. I think we're moving closer to solutions here. But I don't actually know what the will of this body is at this point.

Jackson: Commissioner Harris.

Harris: So, I think we are stuck on language again, and I think this right here is enough evidence in itself. This is not about one person's case for me. Not Mr. Bey, this is not about Mr. Bey. This is about a process and what has been happening to thousands of people before Mr. Pawlik. That's what it's about for me. And my gut is telling me that I am onto something. And so far, I have not been wrong. And with that said, this case right here, this Joshua Pawlik case has told me there is something wrong in that office. So it's not even about the findings for Mr. Bey case or what's in the file or Yeah, 63 days. But I have monitored those reports for one year plus and every time they get before me, they can never explain why they look the way they do. Every single case on there has a 3304 date of one year.

Harris: That is unheard of. So, this for me is the case that broke the camel's back. And this is why I feel that this case needs to be looked in. I agree with you Commissioner Prather, we do need an appellate process, but we are flying on one wing right now. We do not have an attorney and we need an attorney and I am not a lawyer so I don't feel comfortable coming up with an appellate process that could potentially hurt somebody. I don't. And so, I just feel like it needs to be on a level playing field, Joshua Pawlik's cases is the case, is the very reason why I want to do the same thing for the Mr. Bey case. He has waited 11 years for this. So yeah, that's, it just is very plain to me.

Jackson: Okay. Commissioner Prather.

Prather: Vice Chair Harris, I hear you. I think that in the absence of no process or flawed process or a less than imperfect processes is process. We just can't do without any process. I think to Commissioner Anderson's point, I think that we can come up with a process by the next meeting and then have the Bey case go through that process. If in the meantime, there's a move towards investigating sipper on this 60 day issue. I actually not sure how we would go about that, but at least we could make the motion, get it approved, and then we could figure out the logistics of how that would happen. But we sure are, what I mean, We're hiring a lot of investigators at this point and that didn't work out so smoothly for us last time. So, I'm just concerned that it's easy to say let's hire an investigator. And then that just didn't... It just wasn't the process that we envisioned when we did that before. So we can do both. I would say we could do both. But I'm wondering what the will of the group is here.

Jackson: So process is important, but I also understand Vice Chair Harris' approach and I can appreciate Chair Anderson's alignment. So, some process... Who's going to work on that? Because we have to give this man what we have been saying we would give him in lots of different terms. So, if we are going to present a process and apply it to his case, as of two weeks from now...

Harris: It should be applied to the Pawlik case too.

Jackson: Well then it should be applied to the Pawlik case. We need a process. And yes, you've been waiting 11 years and two weeks could break you. I understand. But if you could give us two more weeks, we will handle this in two weeks because precedent... We shouldn't just be willy-nilly and of course we're being willy-nilly because we don't have direction. We certainly understand history, we understand emotion, we understand no confidence in [inaudible 01:57:34]. We get it. We see it now. So, can I get a...

Harris: With all due respect Chair, So I'm not going to be at the next meeting and I am the ad hoc committee for this. So I need to be here. I need to be here.

Jackson: So do you want to propo... Okay, Commissioner Prather.

Prather: Thank you Madam Chair. I'm sorry. So, what reverberates in my head about this issue is that, so if new evidence, like let's say the standard for example is new evidence. So, the new evidence can be presented to the commission as a whole. It would have to be presented to a sub-committee or an independent person because at some point three of us would have to be available to serve on some type of disciplinary committee. And so, we start to dwindle down, our numbers at that point. The perfect person to do this is the inspector general position and that is the independent person we need. And so my suggestions on this issue are not being heard or not being appreciated by the public, so I'm not making them, but hiring that person immediately or as soon as possible is the solution here, because that person can determine, that person can open an investigation, that person can hire... Like there's a solution here that we're just

not getting to because that person's not in place. And if that person was in place, this would be just such a much easier question.

Jackson: Well, you're correct about that. The problem is, it's like the charter wording, we can't wait for a special election, we can't stop our work for the next year and a half while we get it right. So, we're going to have to step out here. I wouldn't call it on faith, but take a risk.

Harris: On faith.

Jackson: Okay, on faith. And identify a bit of a process that we can call and develop later. But they can apply to both Pawlik and Bey so that we are identifying an equitable approach. Because I get the sensitivity to that. We're also looking at black and white. We're looking at... It's a lot and we have to start moving forward with the rest of this agenda. So, we have to determine something right here and right now. And I'd like to get a motion on that alignment that, whether it's asking the same investigators to identify an opinion just like we moved to do with Pawlik, but I want to do that and then if Commissioner Harris is prepared to work with me, with Ms. Anderson, Dorado, Prather, whomever, to identify a process that we can affirm next meeting, even though you won't be here, then that's fine. But I'd like to get a motion to move that forward. Yes, Commissioner Anderson.

Anderson: As I stated, I think this is an exceptional case and that we can move forward with some sort of interim plan that brings us to a decision during our next meeting. I won't do that unless we can commit to a deadline for an appellate process, we've got to give ourselves a deadline and just deliver. And like a Commissioner Prather said, that it may be imperfect, but it will be the best we have given the information that we have in the moment. I would like that to be May the 23rd, if we can't commit to me the 23rd, it better be June the 13th.

Jackson: So, to your point, whatever process would be designed would have to be attached in advance of the 23rd, so that means it's got to be complete by the 20th?

Anderson: Mm-hmm (affirmative).

Jackson: And I am prepared to work with whom ever will work with me and Commissioner Harris to get it done, committed, posted, and then applied. So would you please move...

Harris: Wait, don't make no motions yet, please.

Jackson: Okay, go a head.

Harris: So, I just don't feel comfortable making motions on something like this if we didn't have this discussion about the Pawlik case, I just don't. And I feel it's

discriminatory, and I'm just going to call it out. Yes, it is a special circumstance, but this is... Again, this very investigation is the reason why I want to open it and I know we need a process, but we been needing a process. So, all of a sudden we want to get the process while somebody is waiting who has been coming, meeting after meeting, meeting after meeting, meeting after meeting. It's not right. It's not. And we can get this done today. Like I could commit to an appellate process. That's not a problem. I don't have a problem. I will work until we get it done. However, I want to make a commitment to this person.

Anderson: I do too.

Harris: Today. Like yes, we are going to investigate, we're going to hire an investigator. I don't know those same words we use for Joshua Pawlik. Same thing. I'm good with that. But there needs to be a commitment because all this back and forth, every time we come here, it's every time and it's enough. It's enough. And I go back and look at the tapes. I go back and look at the tapes. That's why every... I write a lot and I go back and look at the tapes. So maybe some of you need to go back and look at them tapes because we committed to doing an investigation for Mr. Bey, we did. And those who say we didn't, go back and look at the tapes we did. So here we are again, once going back and forth and it's not right. We know that there's something going on in the CPRA. We know that. We don't know what it is, but it's wrong. Whatever it is. So if it was going on now, it's been going on then.

Jackson: So, the motion that I think is the correct motion, the wording that was used for Pawlik about half an hour ago was to get the investigator that we hired, didn't hire, whatever to give us an opinion on an investigation, the merits of an investigation. That same wording for Bey and then we can move that forward. So, I think if I'm saying this correctly, that we commit to approaching an investigator to give us an opinion on the veracity of an investigation for the Bey brothers. That's so moved. Properly moved and seconded. A secondary motion is that... We, I think it's Alternate Commissioner Brown... What happened?

Anderson: My understanding is that these matters need to be heard separate. So, we would need comment on this open motion and then we would make a second...

Jackson: Okay, yes. So...

Anderson: Unless we want to amend the motion to tie it together.

Jackson: Okay. So, I'm going to amend my motion. The friendly amendment will be to add that the ad hoc committee, which currently exists of Alternate Commissioner Brown and Commissioner Harris and myself now, will commit to designing an appellate process. Imperfect or whatever, but an appellate process that will be on the agenda for review and approval at the next meeting. Somebody want to second that?

Anderson: Second.

Jackson: Okay. Thank you. So, public comment on this is [inaudible] and Celine [inaudible]

Speaker 7: [inaudible] coalition. I don't know if this complicates or simplifies it, but I think there may be a piece of this in terms of your concern about moving on process with Mr. Bey because in fact, I'm not trying to diminish either one, but I think the Pawlik case and the Bey case are different in that one was under CPRB that you had nothing to do with. The Pawlik case was done under a CPRA in which you theoretically had authority over. So, I think you can give Mr. Bey satisfaction as a citizen who's coming before you to reopen and old CPRB case that you weren't here when it happened and any precedent you set regarding that is about old CPRB cases and as you work on the Pawlik thing, on the Pawlik issue, you're developing precedent for your current formation. Because I really think that what Mr. Bey has experienced, given what we know now about CPRA/B, that there's probably a history there that has nothing to do with any of you guys. Of what was going on with past stuff and people may, other people may come forward, but I do think that any precedent you're setting with Mr. Bey if you decided to move tonight, is not necessarily the same detailed.

PART 4 OF 10 ENDS [02:08:04]

Schmiechen: Is not necessarily the same detailed, doesn't require the same detailed. Appellate process that you're establishing for yourself moving forward with the Pawlik case because the Pawlik case actually did happen under your watch. I don't know if that makes sense, but I think you could separate it, the two in terms of what you're saying because he's been coming here for a year and anybody who does that and can then bring forward convincing evidence, I think they deserve to have their case heard. But I do think the Pawlik thing is something that you're immersed in, in a different kind of way because it's the CPRA, I don't know if that helps.

Com. Jackson: Okay, thank you. So, are we-

Com. Harris: May I make a comment?

Com. Jackson: Sure.

Com. Harris: Thank you. Mr Schmiechen. I agree with you, however, it comes back to me, we did not have anything to do with the CPRB, but it was the same staff. Right, It's just different name, different name, same people. So they were doing all of the investigations with the CPRB and now with the CPRA.

Com. Jackson: Okay, got you. So, are we prepared to vote? Commissioner Dorado?

Com. Dorado: Aye.

Com. Jackson: Commissioner Anderson?

Com. Anderson: Aye.

Com. Jackson: Commissioner Harris?

Com. Harris: Aye.

Com. Jackson: Aye for myself. Commissioner Prather?

Com. Prather: Aye.

Com. Jackson: Okay. So motion passes.

Com. Harris: Thank you.

Com. Jackson: Okay so, we are on performance.

Bey: Just for clarity, what was that motion they passed? [inaudible]

Com. Jackson: Okay. I'm sorry, I really tried to be clear that we were going... There were two parts to it. The first part was that-

Com. Harris: [inaudible] investigator.

Com. Jackson: We were going to get the investigator to give us an opinion on whether or not it could be investigated for the big case, on the veracity of the information that they were looking at. Okay-

Bey: We were going to put forth, we have suggestions for investigators. Okay.

Com. Jackson: Got you.

Bey: Okay. Great.

Com. Jackson: And we will deal with that at the next meeting when we do the appellate process in some form or fashion that will then apply to you. Okay?

Bey: Okay.

Com. Jackson: Thank you. I appreciate your patience man, I know it's, it's long. So the next case, excuse me, the next item is item seven, performance and financial audit of the police commission and CPRA. So, I'd like to invite, oh, and she's already there. Thank you. City auditor, we'll discuss the police commission and separate audit required by the city charter.

Courtney Ruby: Good evening Chair Jackson, members of the commission, I'm Courtney Ruby, I'm the city auditor of Oakland. I want to thank you for the opportunity to allow us to discuss the audit of the police commission, and the Community Police Review Agency. First of all, I would like to introduce our audit team. And so we have Mark Carnes who is our senior performance auditor assigned to this audit. Alessia Dempsey is a performance audit manager and Mike Edmonds is the assistant city auditor. The office of the city auditor is initiating this audit in accordance with the requirements of measure LL, which states that no later than two years after the city council has confirmed the first set of commissioners and alternatives, the city auditor shall conduct a performance audit and a financial audit of the commission and the agency.

Courtney Ruby: So this means that we should have the audit conducted and performed by October 2019. I will be discussing the preliminary audit scope and objectives and Mike Edmonds will be discussing the audit process, and the audit report process. If there are any questions, we'd be happy to answer them at the end. The tentative audit scope and objectives cover the period October 2017 through the end of fieldwork, which we anticipate to be July 2019. The office has determined the preliminary objectives of the audit to be the following, assessing whether the commission and the agency have adequately complied with the requirements of Oakland Municipal Code section 2.45 and section 2.46.

Courtney Ruby: Specifically to determine whether reporting requirements are met, whether the commission and CPRA structure meets the minimum requirements and policies and procedures have been established and are being followed. And to determine whether the commission's oversight role and the CPRA investigative processes are effective. Also, assessing whether the agency has established controls to properly manage investigations. Specifically to include whether public complaints are processed accurately and completely timely and complaints are appropriately prioritized. Based upon the results of our preliminary audit work, we may become aware of other areas that require further review and testing. Michael go over the audit process now.

Com. Jackson: Thank you.

Mike Edmonds: Chair Jackson, members of the commission. I'm Mike Edmonds, assistant city auditor, and I'm going to discuss the audit process. First before going into the audit process, I just want to say that we conduct all our audits in accordance with government auditing standards and that means that we're independent, we have competent staff, we perform our audits with due diligence, have quality control systems and make sure that our work is adequately planned, conducted and our results are reported in accordance with the standards and are based on sufficient and appropriate evidence. And it's kind of helpful as far as the audit process to understand is kind of in three phases. We have a planning stage, data gathering or fieldwork stage and then a report writing. And the planning is where we establish the objectives of the audit. And as city auditor just mentioned that, we have some preliminary objectives, but as we go

through the planning process, we'll further refine those objectives and come up with are our final objectives that we will use in conducting the audit.

Mike Edmonds: We also as part of that process and after we determine our objectives, we come up with the information that we need to actually perform the audit and then we move into what we call data gathering or fieldwork stage. And that's really where the guts of the audit where do all the gathering of the information and start to form some conclusions and recommendations that we would issue in the final audit report. And then we move into the reporting stage and I want to talk a little bit about the reporting. It's in kind of multiple facets to it. First of all, we would be reviewing our preliminary findings and recommendations. We'll prepare a draft audit report and, we hold what we call an exit conference and this is where we discuss the draft report and get feedback and consider that feedback and revise the report if necessary.

Mike Edmonds: And then we would submit a final draft report and that's a report that the commission would prepare a written response to and that would be included within the final written audit report that does go public. And as city auditor mentioned, the goal is to complete the report by October 2019. Few points I wanted to highlight. One is confidentiality and, the other is communication. And throughout this process we'll be updating you on what's happening on the audits, some of the issues that are starting to develop.

Mike Edmonds: I think it will be a little bit more challenging than our normal lot of process to maintain that confidentiality and communication. And so I think it will probably behoove the commission to maybe develop some options for keeping you informed during the audit. We've talked a little bit about maybe a steering committee or something like that where we can meet with some of the commission and go through the results with the goal of keeping you informed but also maintaining confidentiality until that final report is actually issued. Then it becomes a public report and is available to anyone. Are there any questions?

Com. Jackson: So first I just want to say that I appreciate the overview and, I know that I have my meeting tomorrow. And that I requested questions in advance that you did provide for me, which I presume you provide to my fellow commissioners. And so I am not sure if we want to talk as the personnel committee to be that "steering committee" or not. It seems to me that kind of fit, but we can discuss that later. So Commissioner Harris, you had a question?

Com. Harris: Thank you for coming. So I have a question in regards to, I know that we are mandated for many things, however, we don't have a lot of control over like training and things that are supposed to be provided to us like staff, and we've had a lot of roadblocks from the city and that kind of thing. When you are doing an audit, do those things come in mind or into play within the audit?

Mike Edmonds: Yeah, definitely. So we would be looking at, there are requirements for training and so we would look it at from the perspective, this is what the ordinance says,

this with the Charter says and are you actually complying with those things? And then we would try to... if you're not, why not and we call those causes. Those are the things that we would try to address with our recommendations to make sure that that happens. So that I think with everything we look at that will be kind of the approach to focus on what the standard is or what the law says and are you doing it. And if not, what are some of the things that are hindering you.

Com. Harris: Thank you.

Com. Jackson: Commissioner Anderson.

Com. Anderson: Thank you for that presentation. I also have my interview tomorrow, I'm looking forward to it, thank you for the questions ahead of time. I'm curious two things come to mind as you're doing this initial kind of process and working towards the field work stage. What access will you have to documents as something that's striking to me as I think about you going forward in your work is that you'll very likely have access to things that we've been refused access to, potentially or you'll potentially receive the same obstructionist opinions about what you are able to have access to. So I'm curious how you might navigate some of the same issues that have come before us in your fieldwork process or some that you may have already anticipated and how you've planned for those. And then also whether or not, given that much of this is confidential, what agencies will be interviewed, if you're able to say that or you may not be able to say which individuals have been interviewed. If you could speak to those two matters.

Mike Edmonds: Okay. In regards to the access to information, the city auditor's office does have access to all information that we would need on the audit. Now that's not to say that there are some other laws that might interfere with that. We haven't run into a problem yet, but we really haven't tried to access like confidential files at this point in time. So if we do have a problem, we will certainly let you know, but we haven't run into that problem yet. Can you?

Com. Anderson: Then the agencies that you've planned to?

Mike Edmonds: Yeah, I mean we plan to talk to all of the agencies in the city that are involved with this commission. That would be the police department, CPRA-

Courtney Ruby: Community Police Board.

Mike Edmonds: The community police board. Is that right?

Courtney Ruby: Yes.

Mike Edmonds: Okay. And so anybody that really is involved in-

Com. Anderson: [inaudible] cleared the city attorney, the city administrator's office?

Mike Edmonds: Yes.

Com. Anderson: Okay.

Mike Edmonds: And in addition, we also during our planning process, talked to a lot of other agencies outside the city that are doing similar work. I mean, we've talked to a lot of outside agencies, already about their police oversight groups and trying to get an understanding of how they do their work.

Com. Anderson: Thank you. I have another question, Chair.

Com. Jackson: Go ahead. Okay.

Com. Anderson: Under Chair Jackson's recommendation that we potentially would do use our personnel committee for the purposes of serving for the steering committee. But what the sense I got from your request to us is having that group be able to meet with you, a smaller group so it could be confidential. So that would not be a public meeting, that first kind of conversation around the initial findings.

Mike Edmonds: Yes.

Com. Anderson: Okay. Thank you.

Com. Jackson: Alternate Commissioner Brown and then Commissioner Dorado.

Com. Brown: Thank you Chair. I believe I heard Miss Ruby refer to determining the effectiveness of the commission and the CPRA. Is there a metric, or a method that you use to determine the effectiveness or something like this?

Mike Edmonds: That's why we have been talking other agencies to see what they do in terms of measuring the effectiveness of their agency. So I think that's one of the things that we will continue to try to do during the planning stages of this audit as we start to refine our objective. To give you an understanding like for example, I think the commission has responsibility for reviewing and approving like policy changes to the police department. And so we would want to know that seems to be something that would be very important. It has as if, have had an effect on changing the policies and procedures of the police department? That seems like that would be something that we would want to look at and what has been done.

Com. Brown: Okay. Thank you.

Mike Edmonds: Okay.

Com. Jackson: Thank you. Commissioner Dorado.

Com. Dorado: Well to that point, it seems as though you've gotten a sense of the kind of obstacles that we run into. So, I think I can speak for the rest of the commissioners, we'd be very interested in having a detailed observation perspective on the kinds of obstacles that you run into because that would aid us in our work. Not only knowing what kind of obstacles you encounter, but also how you dealt with those obstacles. So we'd like to underline that going forward in terms of the audit.

Courtney Ruby: Thank you, Commissioner. We will take those comments and incorporate that. Okay, are there any other questions? Okay, thank you. We look forward to working with you all and if anytime you have a question, please reach out to us. Okay, thank you.

Com. Jackson: Thank you much. We actually need to go back to five real quick.

Rashidah: [inaudible]

Com. Jackson: Oh, sorry. Public comment, thank you Rashidah. Okay, so I have Oscar Fuentes, Rashidah Grinage and Henry Gage III.

Rashidah: Thank you. I'm wondering why the date of October was chosen. You were appointed in October, but you didn't begin work until December. And I think that in fairness to you, it would be more appropriate for the report to be prepared by December 2019 rather than October. On the issue of metrics having spoken at Nicole last Friday and having spoken to the academic who presented on the panel that I was in, he indicates in his work that there are no metrics, there are no established metrics for effectiveness. And that's partly because it depends on what you mean by being effective. It means you have to look out what the intended results or impact are, of your work. So there are no national standards for that yet, although people are starting to look at that.

Rashidah: But it seems to me that along with the performance review that the auditor's office will be conducting, that it would be perhaps at a retreat, a good idea for you to do some brainstorming so that you could do a kind of self evaluation that you could determine what your intended impacts are and start to look at ways in which you could measure those. And being reflective about the work that you're doing, which is something about I think is probably outside of the scope of what the city auditor is planning. So just food for thought, thank you.

Com. Jackson: Thank you.

Henry Gage III: Thank you. Henry Gage III with the Coalition for police accountability. I like to thank Ms. Ruby and her staff for being here this evening. As a somewhat involved observer of this commission, I am very excited to see Ms. Ruby's eventual report as I expect it should make for some interesting reading. I'd also encourage you to not only reach out to the associated agencies and interact with this commission, but also to those members of the public that regularly

appear. And in some cases we're involved with the drafting of the legislation that created this commission. Their input and their intentions are likely to be a good starting point when it comes to those evaluation metrics we're discussing. Thank you.

Com. Jackson: That's a great idea, Mr. Fuentes.

Oscar Fuentes: Yeah, so I mean one thing I want to say is I hope that the auditor will take into account how bizarre the entire rollout for this commission has been because of some of the impediments that the city has put in including basically the city administrator having being ordered twice to allow the commission to have the powers that it was granted. And frankly I wouldn't want to be in your shoes to try to evaluate it because I think an honest evaluation would put you in a collision course to actually be evaluating the city administrator, the police chief who has put a lot of impediments and the city attorney. And I feel like you wouldn't be creating a fair audit unless that's what it looked like.

Com. Jackson: Thank you. So we're going to go back to item five real quick because there has been a determination regarding the IG position description. Go ahead, Commissioner Harris.

Com. Harris: So this is our description, I verified it. This is our description, so I feel like we could move forward with voting on this and moving forward.

Com. Jackson: Very good.

Com. Harris: That's a motion.

Com. Jackson: And I second that the job description is ours. And it should move forward in the civil service process. There's a question from Commissioner Brown.

Com. Brown: So I returned to my edits then my question about how to incorporate possible edits into this thing.

Com. Jackson: Yes. I think we should... So at this point to include it, it's if this is determined the one that we put forward that will delay it going to the civil service May 16th, do you think that they are absolutely crucial, critical?

Com. Brown: I do.

Com. Jackson: You do?

Com. Brown: I do.

Com. Jackson: Okay, so please share.

Com. Brown: Specifically I'm looking at the area of minimum qualifications, because this position is going to be asked to supervise the staff. I think that we did put nothing in here about supervisory or management experience. I think that we need to put that in there, and they need to be experienced in managing public employees to bring in people who don't have that kind of experience invites us to make missteps about how the department is managed, how the work is managed. And more technical thing that I think can come back, and guess in terms of the ability to design, manage and troubleshoot databases is a misstatement about the nature of perfecting the existing and future databases. Troubleshooting databases is a technical skill and this person could not in any way be expected to have that kind of skill. Managing databases also refers to how specific area of database management, which is not the same as managing the use of the database or overseeing someone of who knows how to manage the database. Those are my changes.

Com. Jackson: Those are excellent recommendations. Commissioner Harris.

Com. Harris: I agree with what Commissioner Brown has said in regards to the supervisory experience. However, the design, manage and troubleshoot. I think we can reword that, I don't think design should be in there because we don't hire them to design like you said. However, managing and troubleshooting the database that you are in charge of I think is right, is important, but we [inaudible] yeah.

Com. Jackson: Well normally, if somebody is managing it, they don't necessarily have to know how to troubleshoot it. They need to know who can troubleshoot it for them. Right, so are you cool with taking out troubleshoot and just keep it managed?

Com. Harris: Yeah.

Com. Jackson: Okay, so if you feel like you have the suggestions, can you incorporate them in your version and get them to Richard Luna?

Com. Harris: Yeah.

Com. Jackson: So it can be updated?

Com. Harris: Yeah.

Com. Jackson: Okay, terrific.

Com. Brown: Thank you very much.

Com. Jackson: Thank you. Excellent suggestions. So given that I will accept a motion to accept the inspector general job description with the edits to forward back to the city administrator's Office for civil service referral.

Com. Harris: Move forward, sending it to the civil service.

Com. Jackson: Moving forward, sending it to the civil service.

Com. Harris: So I will edit it and I will forward it to you.

Com. Jackson: That's fine, yeah.

Com. Harris: So you can forward it to Richard or you want me to [crosstalk]

Com. Jackson: No problem, either way. You can copy me and send a copy-

Com. Harris: I'll copy you.

Com. Jackson: But I think you either make the motion or second what I've kind of scrambled.

Com. Harris: So let's state the motion again. So the motion is to edit this document with two changes. One would be adding on a supervisory experience, and the other would be to remove design and troubleshoot. The words design and troubleshoot, but keep in managed databases. And that would be the only changes. And we adapt this version after the edits, and I will move it forward to Mr. Luna, so he can forward it to civil service.

Com. Jackson: So second it.

Com. Brown: I want to offer a friendly amendment, when would I do that?

Com. Jackson: Go ahead.

Com. Brown: My friendly amendment is the supervision of public employees

Com. Harris: Supervision and-

Com. Jackson: And public employees. So with that-

Bey: You have a second?

Com. Jackson: Yes. Thank you. I think we already heard public comment on this. Oh yeah, we did that on five. Yes, Mr Bey.

Bey: Since you [inaudible] I just wanted to add in one thing, on that friendly amendment. I don't think that that should be a deal buster on the fact that the person has management experience exclusively over a public employees. I think that there's other managers out there in the private sector who bring a fresh perspective in, and they shouldn't be excluded. I'm not saying that, that's something, I'm just saying don't make that a chisel requirement that they have had management experience over public because management experience is leadership experience, and a lot of people who have never worked in city

government I would personally prefer rather than somebody who's been a deep state person all the time.

Com. Jackson: Yeah. Point is well taken. These are guidelines, so you're absolutely correct. They won't be deal busters. Thank you. Okay, at this point we are supposed to retire to closed session at 9:00. We will be back soon to finish the agenda. Oh, moving forward, so what are we voting on?

Com. Harris: So I'm going to amend.

Com. Jackson: Oh, right. Thank you. Commission.

Com. Harris: Yeah, based on the reflection we just got. I agree too. I'm going to make a motion to amend the emotion to just change it to supervisory instead of supervisory of public employees. Is that okay?

Com. Brown: I think it can work, but I suspect this is going to be a learning curve for someone that comes in and doesn't know how to deal with them. So we have a risk, but it's not a terrible risk.

Com. Jackson: Okay, very good. Is there a second to that from the emotion?

Com. Dorado: I accept this friendly amendment.

Com. Jackson: Okay. Thank you very much. So having already heard public comment, why don't we go ahead and take a vote to move this forward? Commissioner Dorado?

Com. Dorado: Aye.

Com. Jackson: Commissioner Anderson?

Com. Anderson: Aye.

Com. Jackson: Commissioner Harris?

Com. Harris: Aye.

Com. Jackson: Commissioner Jackson that's me. Thank you. Yes. Commissioner Prather?

Com. Prather: Yes.

Com. Jackson: And the motion passes unanimously. We are going to adjourn at nine... We are going to take a five minute break and then come back and then maybe go to close session after we come back and maybe hear a couple more items. Okay? All right. It is 9:07, we will be back at 9:12. Thank you very much.

PART 5 OF 10 ENDS [02:40:04]

Comm. Harris: (silence)

Comm. Harris: No, they're all [inaudible]

Speaker 8: Okay. We are a little behind time. I'd like to bring back the commissioners. If we can get our meeting started again, it's 9:19. Please.

Speaker 9: Right here. But [crosstalk]

Speaker 8: Okay. We are now back from break and we are on item eight, which is the meeting minutes approval. Before we start with this, I do have a question, Mr. Reus. Do we have any transcripts of any of these meetings yet?

Mr. Reus: They are [inaudible]

Speaker 8: Okay.

Speaker 10: At least most of them are on the website. I don't put them there, but Chrissy has put, I believed them at vast majority of it should already be up.

Speaker 8: I didn't understand a word you said.

Speaker 10: Sorry. Your staff, Chrissy, has posted them on the website.

Speaker 8: Okay. I think I asked her to send us links because the website's kind of difficult to navigate, but okay. Thank you.

Comm. Harris: I have a question about the minutes.

Speaker 8: Commissioner Harris.

Comm. Harris: So I have a question maybe through the chair if Mr. Roofs, if you can answer. My understanding is that we have transcription service-

Speaker 8: That's recent.

Comm. Harris: But we still have Ms. Verdine typing up the minutes.

Speaker 8: Oh. Efficiency.

Mr. Reus: The minutes form the official record of the meeting. The transcript is a separate thing that the commission has requested, but that's not the ... Better to address by the attorney, I believe. But the transcript is not the official record of the meeting, the transcript is a supplemental document that the commission has requested.

Comm. Harris: Yeah, I thought that we got transcription service so she wouldn't have to be typing up this stuff?

Speaker 8: Mr. Prather.

Comm. Prather: Wrong mic. I've got two mics. Vice Chair Harris, we're legally obligated to actually have minutes so we can substitute a transcript for these minutes. So, but these minutes are brief, and certainly more brief than the tomb we used to get previously. While I have the mic, if it's okay, Madam Chair, I had raised some question about the minutes last time about grammatical errors and typos. Whoever prepared these minutes, whether it was a Ms. Love or somebody else, I'd just like to thank them because I-

Comm. Harris: Ms. Verdine.

Comm. Prather: Ms. Verdine. Because I was critical of the minutes last time and now they are very nice. So I just wanted to thank whoever put these together.

Speaker 8: Ms. Verdine, wherever you are. Thank you. Thank you. Wonderful minutes. Are there any comments on the minutes? Edits, changes? We have a couple of different groups of minutes. So this is for Thursday, March 28th.

Speaker 11: I move approval of the minutes of March 28th.

Comm. Prather: Second.

Speaker 8: Do you have a question, Commissioner Harris? No? Okay. So, we don't have any questions, speaker cards from the community. So let's go ahead and take a vote. Commissioner Durado.

Comm. Durado: Aye.

Speaker 8: Commissioner Anderson.

Comm. Anderson: Aye.

Speaker 8: Mr. Harris?

Comm. Harris: Abstain.

Speaker 8: Commissioner Jackson? Yes. Commissioner Prather?

Comm. Prather: Yes.

Speaker 8: Okay, so that's four affirmative, one abstention. And now if we could look to the minutes of Thursday, April 11th.

Speaker 8: Prather.

Comm. Prather: Thank you, Madam Chair. I'd just like to again, commend Ms. Verdine for the consistent format and the corrections to these minutes. And I would move to approve the Thursday, April 11th, 2019 minutes.

Comm. Harris: I have a comment.

Comm. Prather: Okay. It has been moved. Commissioner Harris has a comment.

Comm. Harris: On page two in attachment 8B, I would like you to take notice in the second paragraph where it says in the end, "It is of the highest important of these meetings be conducted with class." So I would like to ask that we be mindful of our choice of words because it's discriminatory.

Speaker 8: Okay. Where is it?

Comm. Harris: Right here. Conducted with class.

Speaker 8: Oh, okay. Thank you very much. Is there a second to Commissioner Prather's motion?

Comm. Harris: Second.

Speaker 8: Again, their being new speaker cards for this particular item. Can we take a vote on accepting the minutes with the section of conducting with attention being drawn to it? Commissioning Durado?

Comm. Durado: Abstain.

Speaker 8: Okay. Commissioner Anderson.

Comm. Anderson: Aye.

Speaker 8: Commissioner Harris

Comm. Harris: Abstain.

Speaker 8: Okay. For myself, aye. Commissioner Prather?

Comm. Prather: Yes.

Speaker 8: Okay.

Comm. Prather: No. Well ...

Comm. Harris: Yes? No?

Speaker 8: Right. So we need four votes for this particular motion. So, it doesn't pass. So, I guess we don't accept the minutes of April 11th and they will have to come back at another time.

Speaker 8: Okay. Now we're moving to item nine, which is R-02: Searches of Individuals on Probation and Parole. Commissioner Prather.

Comm. Prather: Thank you, Madam Chair. This policy is coming back before us. We voted at the April 11th, 2019 minutes to approve what is in our packet as attachment 9C. We also, absent other action by the commission, already voted to forward these to the city council on May 10th, which is tomorrow. And so this matter is coming before us as a sort of a last check before this policy was due to go to the city council. So in the interim period, our sub committee has met with OPD and has discussed our edits as well as some suggested edits that they have. I'll have to apologize because these three versions that are in your packet this evening, at least on paper, appeared to be very similar, but they are very different.

Comm. Prather: Version 9A is the current version put forward by the Police Commission, by the ad hoc committee of the Police Commission. Attachment 9B is the current OPD version, although I'm told that it is the penultimate version and it is not yet final for them, but they're working on that. And 9C, as I mentioned, is the last version that we voted upon. This version was submitted to be in your packet as a red line and it is unfortunately not redlined. I don't know if on the online version it is redlined, but certainly does make it confusing to see three policies. But the operative policy that we're working off of is the 9A attachment. And I'd like to go through some of the changes that were from our last version to help explain to the commission kind of where we're at.

Comm. Prather: So, one of the first changes that was made, was defining the term probation, parole, mandatory supervision and post release community supervision or PRCS. We changed that to define, and you'll see the second paragraph right there on the first page, we defined all of those terms as collectively as supervised release. So it is used in that manner throughout the rest of the document. It just makes it less wordy. Frankly. It makes it more streamlined. The ad hoc committee accepted that change from OPD and I think it was a good one to make the document read better.

Comm. Prather: You'll also remember that in section A2 for violent offenses, we had taken a commissioner Anderson's well-made suggestion that we define a violent offense. The only violent offense that we could identify was that which was encompassed in penal code section 667.5C. The OPD had offered a more expansive definition of violent offense that made sense, and also, really kind of took away from 667.5 and made it more defined and more real. We worked with this definition, and this definition does encompass what I think we think of a violent offense and it's a very teachable for them in terms of their policy. And so, that change also seemed to make sense.

Comm. Prather: Another issue that had come up in our old policy that we had sort of left behind, was defining of the word threat. I mean, was it officer threat was a threat to public safety? What threat was, and I was edified by OPD that they had actually defined the word "immediate threat" under a different departmental general order. And I'm looking at a footnote six on page two right now. By defining immediate threat, it takes something that was previously vague in our version and turns it into a defined word or defined item, which is a used throughout the rest of the policy. And so this change also made a lot of sense. I drafted the use of a immediate threat and also the inclusion of a reference to DGOK3 three, and I've placed that into section B3. So this is not necessarily a OPD change, but this is a R change at this point.

Comm. Prather: I'm going to skip the substantial change in section C1 for the moment and I'm going to go to our last change that was sort of easy to make, which is in section D2, which is on page four. We had something more substantial in regards to the use of the PDRD, the recording device and my understanding in our discussions with OPD is that there already there are already our policies in regards to an activation of the device. So to put in a competing direction as to the activation of device didn't make sense that made sense to our committee. So we just made reference to that the policy has to be followed.

Comm. Prather: I think generally that the rest of the changes are uncontroversial. OPD seems to agree in principle, if not the exact wording of the changes. The one section that is of issue that I have been working on is this section C1, which is the knowledge of searchable supervised release status. You'll find it in your document on page three. The issue with C1 is that we had required a contemporaneous search, and I'll give you an example because I'm starting to use legal jargon, but what we wanted to avoid was a situation where an officer came into contact with a probationer who they knew was on probation from some period of time before and said, "Hey, I know you're on probation, I'm going to effectuate my probation search."

Comm. Prather: And that wasn't good enough for us because we wanted them to double-check that that person was on probation. You all remember that issue. And so, the language we use was contemporaneous and that was an issue because as we learned in our meeting that through different law enforcement policies and tools that they use, sometimes they check the day before and they go out they assist on probationary visits. Sometimes they check on the Monday and then they carry him out through the week. There needed to be more leeway than just contemporaneous because it didn't allow for certain law enforcement tools to be used.

Comm. Prather: What we suggested to them was a 72 hour guideline, where if an officer or his partner or the probation officer communicated to the officer who's doing search that, "Hey, within the last 72 hours I have confirmed it, so you're good to go" then that would be okay. This edit was provided to OPD on, I want to say towards the beginning of the week. They've been doing some legal research on

this issue. I believe that the district attorney's office had some push back and the OPD seems to be pushing back on this. And, I did speak to the chief about this issue and it seems that they are willing to compromise, but are trying to find a way to solve all of our issues.

Comm. Prather: It can't necessarily be a timeframe, but everybody understands the problem, but it's difficult to find a solution to it immediately that makes sense. And so, what I understand and I know that Mr. Turner's here as well and he has been working diligently on this. But, I understand the OPD's request from us at this point is that we allow them a week to come back with some suggested language and that we move this to the next meeting for a vote on this particular version of the policy. That's where we're at. Mr. Turner, do you have anything to add? Did I correctly describe the state of play or the status of this draft?

Joe Turner: Yes. Joe Turner here of the Policy and Publication Unit. Yes, thank you, Commissioner Prather. I just wanted to add that I think we're all very appreciative of the collaborative work that we've had so far and we feel like we're very close to a unified policy at this point. As you just said, we all kind of understand where we're at, and we're just trying to make this the best possible and having that extra little time would be great.

Speaker 8: Excuse me, officer. Before you leave, what is the problem with the timeframe, the 72 hours that was put in there?

Joe Turner: What we did was we requested information from the district attorney, because they would have more information on case law and exactly what the courts would want in terms of prior knowledge and so we just got that information back from the district attorney and so we need to talk about it with the policy generation team. I can't just make a unilateral decision and then suggest some language.

Speaker 8: So you're saying you haven't had that conversation yet?

Joe Turner: That's right. I haven't had the conversation with the executive team, the chief of police, to get their feeling on it. As Commissioner Prather said, just a little bit more time would help to get everyone sort of on the same page.

Speaker 8: You know we've been working on this for a long time.

Joe Turner: Yes ma'am.

Speaker 8: Okay. Commissioner Harris, question?

Comm. Harris: Thank you, Commissioner Prather for working on this. However, I do still feel that this policy is very restrictive enough. Under A2 where it says violent offenses, they have the use or possession of a weapon, but police officers carry

weapons. So are they violent because they carry weapons? You know what I'm saying?

Comm. Prather: It's still within law enforcement and policy.

Comm. Harris: It's restrictive and it's not specific. In these policies that I have been reading, nothing is specific. They use very vague language that can be interpreted any way you choose. And I don't agree that it should be allowed to be general. It needs to be specific, especially when you're dealing with these kinds of policies because the population that this affects is mostly African American. And so at a police officer come walk up and say, "I know you're on parole" and start searching and other things happen. I've seen it. So I appreciate this and all the hard work that's gone into it. But I just feel like, if I had to vote on something, I would vote on this. I would not allow any more time for any more research or any more anything from OPD because if it was that important, they would have brought it to the table and they didn't. So with that said, thank you.

Speaker 8: Commercial Prather.

Comm. Prather: Yeah. Without weighing in on delay or not delay or anything else. I think it does bear mentioning that for the first time, because in our previous draft, the previous iteration of this document, it says contemporaneous. And we thought it to mean immediate because the way at least I understood a probation or parole search was that you stopped someone and then you know they're on probation so you go back to the patrol car and you run it. And there were several law enforcement scenarios that were presented, which made, at least me, rethink, "Okay, I get why contemporaneous doesn't always make sense, but there has to be some limit on it."

Comm. Prather: And so, we left contemporaneous with OPD, we got a draft back on a Friday. We turned around and gave it back on Monday morning first thing and said 72 hours, because OPD had not addressed our concern about timing because they took out contemporaneous and they left it, "They have the ability just to search." And we came back and said, "That is not acceptable." And based on at least the law enforcement scenarios that were presented to us, 72 hours to our ad hoc committee felt like a reasonable position to take.

Comm. Prather: Can there be law enforcement situations, which contemplate more than 72 hours? I'm sure they're going to be able to think of others. Are there less? Of course. There's never going to be a perfect fit or perfect position. I think all we have and credit to Mr. Turner, because I will say that of all the individuals I think we've been working with, Mr. Turner has worked very diligently and very hard on these language changes. But I don't know where we're headed on this because we are looking for something finite. We are looking for something definite to provide. And what I'm understanding from the district attorney's office, and I didn't get that opinion, Ms. Turner, I mean that, that came to your

office, so those cases weren't shared with me. However, I understood from the DA's office that ...

PART 6 OF 10 ENDS [03:12:04]

Edwin Prather: I understood from the DA's office that their advice to you is not to agree to any definition of time, right? Or any limitation of time. So, I just don't know, are we just going to be at loggerheads on this issue? Because they're saying, "No time." And we're saying, "We want some limitation that relates to time." So, I want to work collaboratively, but I understand my colleagues and what will likely be the public's concern, but where are we going? Because I'm not necessarily optimistic that we, I'm optimistic in your effort, I'm not optimistic in the advice you're getting on this particular issue.

Joseph Turner: Yeah, so, just to correct, I think, maybe a misconception. I don't think that their advice necessarily is that we not agree, it's that they cannot say one specific number, but I think we all are understanding that there is a logical place, where a limit must be put. It's just the question of, how do we express that limit in the document? I don't think it's loggerheads, I just think it's that we're trying to find a synergy that we haven't yet reached, but I think, to your point Commissioner, that there has been a lot of collaboration that has been very fruitful. I think that another, just last push of collaboration between us will get this done. I share this feeling with the rest of the OPD, I'm very sure that we are very close to a unified draft.

Madam Chair: Okay, Commissioner Harris.

Ginale Harris: Again, thank you for all of your efforts, both of you. However, I need to give you some food for thought. OPD has been under the NSA for 17 years and got the nerve to write policies, you know? It's like, you want us to be like, "Okay, let's be collaborative and let's work." You want to restrict others, but see, when police officers behave badly, they have the Police Bill of Rights that protect them from going to jail, because they should go to jail, if they commit crimes.

Ginale Harris: Just like the public, you are held to a higher standard than anyone, so when you're writing policy, I would ask that you just be mindful, or at least speak to the folks that are on probation and parole. Just hear their thoughts on what this policy does and how it effects them and dehumanizes. I've been witness to people being stripped in the street, because they're on parole or probation, in front of kids, in front of women, in front of old people and they think that's appropriate. I don't. I do not.

Ginale Harris: That's why I wanted to be specific. If that was your son, because law enforcement people have plenty of kids that are in jail and on parole and probation, would you want someone manhandling your daughter? Throwing her on her face, because she's on parole? No, you wouldn't, right? You would want them to be treated like a human being and that's all I'm trying to get to, is that

we want standards and we want specifics, because they're not being followed. We know that, because you're under the NSA.

Madam Chair: Commissioner Anderson and then Brown.

Tara Anderson: One thing that I'm disappointed to see omitted in the 9-B version that we're reviewing now, that is in the 9-C version on what is page 79 of our packet, page 204, under B-3, I thought was a really powerful statement to have included. That, it's unjust and an improper assumption that the individual has a criminal history. That was one thing that I walked away from our April 11th meeting extremely proud of and feeling like this was revolutionary, as much as it can be, given the constraints of the system that we're working on reforming. I'm really disappointed to not see that in this latest version.

Tara Anderson: I'm wondering if, as we give more time, in the next week, if that's what we decide to do, if there's a way to put that spirit and intent back in this document, because absent in all that you see is the line on the first page that I'm kind of willing to get over, because of this strong line later, "Can view these warrant-less searches as overly intrusive." Which I think we can be more direct in calling out the conduct that we're trying to prevent from happening. I'm hopeful that we can readopt some of that language.

Tara Anderson: I also am curious about the revision on A-2 for violent crimes. I find that that portion of the penal code and why I recommend it is very explicit. That is the list of violent felonies and I'm struggling with how use of force, the threat of force, the narrative that replaces it is more teachable and more specific and helpful. If you could speak to why that is the case, I'd appreciate that.

Joseph Turner: Yeah, absolutely. Yeah, I don't want to get too into the weeds, but just in general terms, that section that you cited is an enhancement section, it's for district attorneys and judges to use in determining whether to enhance someone's sentence when they're being convicted of a different crime. There are-

Tara Anderson: And it's my understanding that's the only place in the penal code that explicitly lists violent felonies and defines them. That's the reason that I chose to reference it.

Joseph Turner: There are some violent felonies that I think everyone can agree are absolutely heinous, that are not included. That's, I guess, a part of the problem.

Tara Anderson: Is there then, because I feel like I hear you, and I want this to be as specific as possible to Commissioner Harris' point. I feel like, while my recommended amendment does not reflect all of the felonies that we would want encompassed in a description of a violent offense, that this is too objective. I'm concerned about how it would be applied in this version, the A-2 that is in 9-B.

I'm concerned about how that becomes more teachable than a very explicit list of offenses.

Joseph Turner: Sure, yeah. I think that's a great point and I think that having this ability to collaborate again and to get your take on the language and maybe how it could be sort of synergized would help the policy. Sure, yeah, absolutely.

Madam Chair: Commissioner Brown.

Chris Brown: Good evening Sergeant Turner and thank you for coming in.

Joseph Turner: Absolutely.

Chris Brown: I'm looking, actually, for my own education, if an officer walks up to me and asks my name, for the purpose of identifying who I am, can I walk away without providing that information?

Joseph Turner: Just given that scenario? Yes.

Chris Brown: Okay. I'm curious about whether or not, at some point, someone who has not been shown to be on parole or probation, and who you're going to try and check this out, can walk away during that process, or are they, at some point, detained while you're checking their information?

Joseph Turner: Well, it depends. The detention is based on, in the law, it's Terry v. Ohio, so reasonable suspicion of whether that person has committed, is about to commit or has just finished committing a crime. If there's reason to detain that person, then the officer should communicate that, "Stop, you are not free to leave." Then the person is not free to leave.

Joseph Turner: If the officer comes up and asks the person, "Can I have your name?" Person is free, just as if any other citizen came up and asked them a question, to not respond, to leave and to not cooperate with the officer. Consensual contact, it's just as if you're walking into anyone. You can decide to talk to that person or not.

Chris Brown: Okay, great. Thank you very much.

Joseph Turner: You're welcome.

Madam Chair: Okay, so are there any questions for the commissioners? Commissioner Prather.

Edwin Prather: Thank you, Madam Chair. I just wanted to point out that for Commissioner Anderson, that some of the language you reference, in comparing 9-C and 9-A is, in fact, different. In 9-C, the reference you made to, "Can view warrant-less searches as overly intrusive." Is changed in 9-A, which is, "The community does view these as intrusive." That 'can' is taken out, but I do recognize that we did

remove, in B-3, that 'unjust' because 'unreasonable' and that was a change requested by OPD and our committee did not highlight that as an issue to hold up, coming to some level of agreement on this document. I appreciate you raising that now, that that language, having 'unjust' instead of 'unreasonable' is important to you. The two issues you raised, there are slight differences in the draft, so the operative draft, or at least the one we're working on, is 9-A.

Madam Chair: Commissioner Harris.

Ginale Harris: So, does that mean you're going to put it back? The language? I mean, I would ask that, because she has a point. We both work in an area where we see how this affects people every day, right? I think it's really important, on the words that you use.

Madam Chair: Commissioner Prather.

Edwin Prather: Yeah, thank you Madam Chair. If I could just be very candid about the process, where we were at in this, I think that our offer of a 72-hour timeframe was meant to make OPD come back and confront the issue, because they have refused to confront the issue before. In the draft that we got back, after our meeting with the ad hoc committee, they had written out a lot of changes that we had thought that we had agreed on and made. Frankly, this issue of timing had not been addressed. We did communicate that we were disappointed that we did not hear back from OPD and again, it's sort of this late hour that we're getting, "Oh, well we talked to the DA's office and the DA's office told us and now we want to take another week to look at this issue."

Edwin Prather: I think the real question is, or at least the question in my mind, on this document is twofold. Is, are we going to give OPD what it wants, is to push this to the next meeting and vote on it then? If we're going to say no to that and we're not going to give them the continuance that they want to the next meeting, then there are edits that I think I would make to 9-A, if we're going to submit this straight away to the city council.

Edwin Prather: To me, it's a two-pronged decision-making process. Are we going to delay this by two weeks? If we are, then fine, we can table it and I can make the changes and submit them to the ad hoc committee and then to the commission in the interim. Get feedback from OPD and that would be a drop-dead, no-more-continuances, here's-a-date, do-it-or-don't, but-we're-going-to-submit-this-on-the-state, but if we're not going to do that, then I would read edits into the document now and we can just submit it to the city council tomorrow, as we had previously agreed to. That's the state of play in my mind. I think, right?

Joseph Turner: Agreed.

Edwin Prather: [inaudible] That's where we're at.

Joseph Turner: Yes, sir.

Edwin Prather: I think it's been very collaborative and very truthful. We've had bumps and this is an issue we may be able to reach accord on, maybe not, but that's where we're at.

Madam Chair: So, do you all have a motion?

Ginale Harris: Is that a yes, Commissioner Prather?

Edwin Prather: Sorry?

Ginale Harris: Is that a yes? Are you going to rewrite it into the policy, "Commissioner Anderson's language"?

Madam Chair: The first-

Edwin Prather: Yes, sorry. I will put in the word 'unjust', yes. That was a request, I think, that was made by OPD that had not registered, that there was a significant difference and so, having it being raised by a fellow commissioner, I would absolutely replace 'unreasonable' with 'unjust'.

Madam Chair: Very good. With that, do you all want to make a motion to public comment? I'm holding the cards. Okay, so, Lorelei Bosserman, Michael Teagues, Mary Vale, Henry Gabes III, Anne Jenks, Amber Schmeakin.

Lorelei B.: Hi, I'm Lorelei Bosserman. May I ask a question through the chair of Commissioner Prather?

Madam Chair: Yes.

Lorelei B.: Please forgive me that I didn't get a chance to read, don't hide your face. I didn't get a chance to read these drafts before the meeting. I wanted to ask you something that was being discussed before, on whether or not it made it into this draft. There was some discussion, I'm imagining that the 72 hours bit replaces this issue, but there was some question about asking the person on parole or probation if they wanted to waive their right to have them check it contemporaneously, that's all just gone away because of the 72 hours? Sorry, I'm not making myself clear, because you don't look-

Madam Chair: Commissioner Prather?

Edwin Prather: Sure, thank you Madam Chair. Sorry, Ms. Bosserman.

Lorelei B.: Okay.

Edwin Prather: Could you ask your question in a different way?

Lorelei B.: In the current draft, is there anything that has a police officer saying, "Well, I need to go check on something, unless you don't want to wait around for that, in which case, you can just tell me you're on parole and I'll search you." Is that ringing a bell?

Edwin Prather: Thank you. Sorry, it's late and I'm not thinking so quickly. Yes, we did away with that language, because it's mandatory [crosstalk] where you can't waive. It was either going to be contemporaneous or it was going to be-

Lorelei B.: A certain amount of time.

Edwin Prather: As it stands, it's 72 hours and I think I have indicated, I'm not in love with 72 hours, it could be 36, it could be 96. I don't necessarily have a legitimate basis for why that number is what it is, but it does vitiate the need for addressing a waiver, because then it's mandatory in each situation-

Lorelei B.: Right, right, okay, thank you.

Edwin Prather: But there is the issue and that was one of the issues raised by Sergeant Turner and his team, in that there are going to be cases where a, I'll cede my time. No, I'm just kidding. Where you have a probationer who has been contacted and they'll have to go run it and they can't run it right away. It's going to take time and so, their concern was, well, it could take an extra five minutes or ten minutes to get in the queue, to get the background run, to have that come back.

Lorelei B.: Yeah, I get it.

Edwin Prather: Well, that may happen, but that is going to be a consequence of having a robust policy like that. There are going to be situations where it's just not going to be as-

Lorelei B.: I'm glad-

Edwin Prather: There may be some delays.

Lorelei B.: I'm glad that's not in there, because there was something that was on my mind about that, which is that, if you give a police officer a chance to say, "Well, you don't want me to bother doing that, do you?" Then the police officer is going to take that and if someone on parole or probation is asked, "Are you going to put an obstacle in the way of my searching you?" We heard about someone who said, "Hey, if that officer asks me to stand on my head, I will stand on my head." But I'm talking now, about something that isn't in there anymore.

Lorelei B.: I'm dismayed, I'm really, really angry at the idea that we would delay again. I normally like the word 'collaboration', I like people coming together and working together on things. You're the boss, it's good to take their input, they know things you don't know. It's good to try to come to some kind of

understanding that everyone can work with. If they can't agree to it, that doesn't mean you're stuck. It means you go ahead without their agreement. I feel so strongly about that and I'm so angry at the idea that we just have to delay and delay and delay until OPD is happy with it.

Lorelei B.: I know that having good working relationship with them could be beneficial in a lot of ways, part of me says, "That ship has sailed." They know that you are going to hold them accountable and they don't like it and they're not going to cooperate with it. You are going to need to be in conflict sometimes. If being in conflict is the price of doing what you need to do, then be in conflict. To me, 72 hours seems more than generous. I would give 24.

Lorelei B.: I mean, at the beginning of your shift, can you check on it at the beginning of your shift? Do you ever have a shift that lasts for more than 24 hours? If it were my motion to make, which obviously, it is not, I would say, "Let us change that 72 to 48." Because I'm generous too and put back the phrasing that Commissioner Anderson wanted. Make both of those changes and push it through, tonight. It's not my decision to make, but I don't have a way to wrap up. Thank you.

Madam Chair: Thank you.

Speaker 12: First of all, when I opened up the attachments for this item, probably like 6-12 pages in all, the drafts were so similar and there was no marking as to which was the latest OPD, which was the latest commission version and I think there should be one final commission version, rather than two. If I were on the city council, I wouldn't want to get, it's not clear who it's from. We need a unified draft and going back to what the previous speaker just alluded to; yes, in an ideal world, if the department and the commission could come to agreement, that makes everything easier. But, frankly, the council, I think, is prepared to decide, if there's still differences, they want to see what's the department's version, what's the commission's version and vote.

Speaker 12: Now, the last time they had this, they sent it back for, among other things, the possibility of some meet and confer. There's been more than enough time for that. To me, there are two ominous signals. One of them is, they're not used. The very first meeting, Mr. Birch from the department said, "Well, we prefer this version, so that's what's going to happen." They were reminded that you guys have a say and ultimately, the council is the deal breaker. Civilians, not them. Not them doing what they want, when they want to.

Speaker 12: The other is that, now, when there's still some issues they're not ready to come to agreement on, we go running to Nancy O'Malley, who relies on law enforcement, police union contributions. Who's thinking of the interests in police departments across the county, the cities, some of which are very different from Oakland. That's a power play, they've started bringing in somebody else and so, I think you need to go forward tonight and you need to

work on your side of the documents at least, so when it goes to council with differences, they can tell, really quickly, what OPD and where the commissioners' out on the areas of difference. Thank you.

Madam Chair: Thank you.

Anne Jenks: Anne Jenks. October, November, December, January, February, March, April, May. If you permit OPD to rope-a-dope to get things delayed over and over and screw around, and at the 11th hour. You know, in the daytime, I negotiate and there's a couple of games you play with timing. One is the one where you create a false deadline, "You got to buy the car by today, the sale ends." Right? The other is, you just keep dragging it out and dragging it out and dragging it out. They waited until April to talk to the DA? The DA told them, "Don't agree."? I don't understand. It's been way too long and if you don't move forward and move forward with the strongest possible language, you are telling them that the next policy, they can play with and make it take 9 or 10 months as well. This is insane, and the fact that OPD objected to the term 'unjust' offends me deeply. I'd love their explanation for that.

Anne Jenks: The fact that they refuse to address something and so they got rewarded by more time and more consideration? You refuse to address something, then move on. They've been playing with this from the very beginning. You've got more policies to deal with. If they don't agree, they don't agree. If they don't want to have rational discussions and bring all of the issues to the table at the beginning of the discussion, then those issues go away. As far as I'm concerned, you can't let people bring things at the last minute.

Speaker 13: Amen.

Madam Chair: Thank you.

Michael Teagues: Michael Teagues. What she said. Essentially, go with the attachment 9-A submitted the council tomorrow so that they can finally get something in a policy. This has gone on too long. Thank you.

Madam Chair: Thank you.

Speaker 14: [Bruce Beakin 03:36:43], the coalition. I'm not even going to get in the weeds of 24, 72, 48 or anything like that. My understanding is, you guys voted on a policy, you kind of agreed it, it came out of months of negotiations. Apparently feeling like it was good faith. You guys are in the driver's seat, as Anne and Lorelei said, it's a collaboration, that you are the body with the decision-making power, but what I'm hearing is, that they went and talked to the DA to find out what she thought.

Speaker 14: Well, I'll tell you something; the reason there are so goddamn many people walking our streets on probation and parole, is anybody who's read even

minimally about the problems in our criminal justice system, which are very, very extensive and have gone on for decades, is because of DAs. They're a linchpin in the rot of the system. I'm not trying to denigrate personally or particularly, but you do not go talk to the DA about this thing. They do, but keep the goddamn DA out of it. Anything that's going on with the DA, you can feel fully confident that you can ignore, in good faith and in keeping with your charge, because the DA should have nothing to do with this discussion. Thank you.

Madam Chair: Thank you. Comissioners, what's your pleasure?

Ginale Harris: I say we make a motion to pass this policy, with Commissioner Anderson's revisions and language.

Madam Chair: Commissioner Prather?

Edwin Prather: Before we go to motions, I wanted to hear public comment before making any motion or any kind of decision on this document. As many of you know, I've been living with this document for many months now, many revisions. I've got to be very honest about it. It's not a power issue for me. It's not, "OPD's trying to do this." Or, "We're trying to do that." It is, "We're in the driver's seat." I heard that term, or anything else. To me, this is just about, "Are we putting forth the very best policy?"

Edwin Prather: It's not ever going to be perfect, because even the last version, which I thought was pretty darn good, they made suggestions to me and I was like, "Hey, you know what? That actually is a great edit. That makes sense." I think that 9-A is a much better version than 9-C and I don't like 9-B at all, but 9-A is much further along, to me. That being said, and maybe I didn't put such a fine point on this issue before, but the 72-hour window was a negotiating position.

Edwin Prather: I put that into the document, but that was meant to elicit a response, to get them to the table on that issue. Because 'contemporaneous', which is what we wanted, was explained to us, the committee, when we went and met with them, why that would not work. Why that didn't make sense from a logistic and law enforcement standpoint and I accept that and I agree with it, but 72 hours was just a, "Well, 96 feels kind of too long and 48 feels kind of too short, let's go with 72."

Edwin Prather: I'm not comfortable with that position, because I'm explaining my rationale and reasoning behind it, it was a negotiating position. I put it there to say, "Okay, OPD, bring me something back. Show me what you're going to do with this edit, because I need you to address this topic and you have not addressed it." Yet, we're here and the push is to, "Let's do it, let's do it, let's do it." But, I'm worried, because 72 is going to be a very difficult position, if I had to get up in front of the city council and explain why I picked 72, right? Or why it's 72 hours as opposed to X.

Edwin Prather: I can't do it and so, I think there's a better answer out there in C-1 and look, if the will of this body is to move forward with this, that's fine. I'll defend this to the best that I can. I just don't have confidence in this phrasing and I don't have support for it. I don't have legal support for it. It's just the best that we could do at that time. I'm just being very candid in the weakness in this document before we say, "Hey, let's show OPD what we're about." To me, it's about, "What's the best policy?" That's my worry and I'm just being very honest about it.

Madam Chair: I just heard you say something about the weakness of the document. Although it's the best version of what we've been working on for the last six months, right?

Edwin Prather: Yes ma'am.

Madam Chair: There was no variation in the public comment? Everybody wants this to be done, like, yesterday? Because we've gotten to a point where it's so much better than we started, right? Your only real question or concern or vulnerability is that one piece, the timeframe, right? Okay, Commissioner Anderson.

Tara Anderson: I'm curious, by way of the chair, what your thoughts are on A-2, the violent offenses, given my comments from earlier. Even the response from OPD, seeing that there is an opportunity for some synergy, but what is written here also more explicitly including that list that's found in the penal code. We could amend it too, to be inclusive of items 1 through 23 that fall under that subsection C. I'm just really concerned about e.g. and then a couple of pieces of penal code being used as examples of what we're defining as a violent crime or a violent offense.

Madam Chair: Commissioner Prather?

Edwin Prather: Thank you, Commissioner Anderson. Look, I think it's a fantastic point. I don't think that there's one solution that truly works, right? I think when we reference the penal code, it was because that's the best we could do, the best that we've found and it was a great suggestion at the time and it still is now. I think the way it was explained to us, to the-

PART 7 OF 10 ENDS [03:44:04]

Speaker 15: The way it was explained to us, to the ad hoc committee, was that teaching, having a numerated research in the penal code was difficult to teach like in an academy setting. That this is actually easier for them to teach and define, and because ultimately this policy is about instructing officers on conduct, and judgment and decisions that I deferred ... Sorry. I keep saying that. We deferred to their wish for language that was easier to teach. And so that is why there is more. Because for as much as we want to talk about there's some level of ambiguity or vagueness in the languages currently listed in 9A, we have to rely on officer to go to the penal code, and to memorize several pages of the penal

code to know what applies to violent offense as opposed to these categories, and these categories make sense.

Speaker 15: So we can come up with the worn off situation where this doesn't work, or the reference of the penal code doesn't work. But at the time it was really [inaudible] one or the other like, okay. Yes, not less is more but more is more in terms of A2, and that's why we deferred to their desire to have this language in it. Again, it's not a perfect answer, but it is the thought process that went in to allowing the edit, or making the edit to A2.

Chair: Commissioner Harris.

Commr. Harris: I too have a concern, the same concern as commissioner Anderson. I understand that this is a teachable moment, but that's not our problem. My thing is that if you are a badge, you are the law, and you should know this. This is a policy that affects a lot of people. Again, it affects mostly black people. And so, if you don't know it, then you won't be arresting people under this policy. So that's on you. But I just feel like the language needs to be very specific because if we're now using, as the sergeant said, using this policy for judges and DAs to see what they can emphasize on putting people in prison, that's not what this policy is for.

Commr. Harris: This policy is to outline and define the way that our officers are able to interact with our citizens. That's what this policy is for. It is not for the DA. It is not for the judge to be like, "Okay. What's in the policy? What else could we ding them for?" And that's what this says if you're not specific. I know that you worked really hard on this. I would just ask that you just think about it for a bit. Wear the shoes for a little while. If you were the person on parole, would you want the officer to know this?

Chair: We've got our lead speaker card. Rashidah Grinage, please.

Rashidah G.: Thank you. I didn't intend to speak on this, but I feel I have to. Frankly, I thought you had already voted on a policy.

Chair: I thought we did too.

Rashidah G.: You asked us to publicize the fact that you passed this policy. And now you didn't, where are we? Number two, the City Council is waiting for this. They have been waiting for this. They've been told that you pass something, and they are looking forward to dealing with this. There is a political reality here because you're asking them, and you have asked them to support you in your ongoing struggles with the administration, and they are your allies, and they are expecting this.

Rashidah G.: I would say that there's a time exploration like on a can of soup, and I think you may have passed it, or are about to. Finally, I would just remind attorneys that

the perfect is in fact the enemy of the good and bad. All legislation is in fact amended on a regular basis. That the use of false policy has been amended several times. The crowd control policy has been amended several times, et cetera. In other words, you don't have to get it perfect. You have to get it.

Chair: I would urge you to do your best edits tonight, and send it to the counsel. If in time it is proven to be problematic in certain areas of implementation, you can revisit it. OPD can bring you the evidence of what the problems are, and you can consider an amendment if need be. You don't have to get it perfect the first time. Thank you.

Chair: Thank you. Commissioner Anderson.

Commr. Anderson: I have two amendments for the commission's consideration adding under A2 violent offenses. Examples of areas the penal code vehicle code that constitute violent offenses that we explicitly include PC67.5C, one through 23 inclusive. I think this is the synergy between what we passed, and what OPD has referenced as being more teachable, and I hear that. I'd also like to recommend the amendment to B3 to revise to its unjust removing viewed. Those are my recommended amendments, and with those I would make a motion to pass attachment 9A.

Chair: Is there a second?

Commr. Harris: Second.

Chair: Okay. It's moved and properly seconded. Are there any questions? I guess we've already heard community public input. So, are we ready to vote?

Commr. Harris: Mm-hmm (affirmative).

Chair: Okay. Let's see you, Commissioner Dorado.

Commr. Dorado: I.

Chair: Commissioner Anderson.

Commr. Anderson: I.

Chair: Commissioner Harris.

Commr. Harris: I.

Chair: I for myself. Commissioner Prather.

Commr. Prather: No.

Chair: Okay. Pass this four to one. And now we really, really did approve something.

Commr. Harris: Commissioner Anderson made a very good point. He voted no, but he's going to prevent it. Okay.

Chair: That's what a good commissioner does. Thank you, Commissioner Prather. So, the next time on our agenda is 10. Oakland Block Officers Association Letter. We have called this item a couple of times, and I've encouraged the officer's association if they had an advocate to send here. I know that there's an investigation going on. So there's some resistance toward that. I still think that we need to have some action on this item. I know that at least two ... I think it's two meetings ago or last meeting we asked Ms. Tom to open up a similar super investigation. I don't have any information on that.

Chair: However, I wanted to say that we do have subpoena power. We have exercised that earlier in the meeting, and maybe this is just the subpoena, right? We are aware that there are police officers who have filed cases against the city around harassment and discrimination and have won, and still work in the OPD. Now granted this cases may have happened prior to this current police chief, but it does establish that there has been an unhealthy culture previously. And clearly, it's still alive and well. So, I wanted to hear any conversation that the commissioners had, any questions that they had, any recommendations that they had. Commissioner Harris.

Commr. Harris: Well, frankly, I wasn't surprised by this statement. My only thought is if they're doing it to each other, I can only imagine what is happening to our community. I see it, but no one wanted to say anything until it started happening within, and that's hurtful. It's painful that because now it's happening to the blue, it's a problem. So, this is very unfortunate that this is going on. Not only is it going on in our community, but now it's going on with the people that are supposed to protect us. But yes, I'd like to get to the bottom of this as well.

Chair: Any other comments, commissioners? Okay. Well, we have public speaker cards. Michael Triggs, Rashidah Grinage, and Henry Gage third.

Rashidah G.: Thank you. This issue has been brought to Judge Orrick in the context of the negotiated settlement agreement by Mr. Boris. And so, it seems to me that you could gain access to the same information that he has requested that OPD provide, and/or request that Mr. Boris come, and perhaps describe to you why he requested this information within the context of negotiated settlement agreement, what the basis was for that he had, and perhaps do an indirect pursuit for that information in that manner.

Rashidah G.: The intent of the commission is that it be the successor to the federal oversight that we currently have once, if ever, it ends. And so, it seems to me that whatever is within the purview of NSA should rightfully be within your purview.

And since Mr. Boris has brought it into that arena, it seems to me that you could follow that course of action. Thank you.

Chair: Thank you.

Henry Gage: Good evening. Henry Gage there with the Coalition for Police Accountability. I'd like to take a moment to thank the Oakland Black Officers Association for writing this letter for taking the step simply because they could have stayed silent. They could have done nothing, and they could have let things continue, but they didn't. They made a difficult decision to go against their bosses. It's not easy to do especially for this one staff. So I'm grateful, and I'm hopeful this commissioner can be supportive with respect to the allegations. Thank you.

Chair: Thank you. [Lola Boslin 03:57:40].

Lola Boslin: I also just want to express my appreciation to the Oakland Black Officers Association for having the courage to do this because it probably wasn't easy and there could be blow back. That's all. Thanks.

Michael Triggs: Michael Triggs. I pretty much going to repeat what everybody else has said. I do also commend the Black Officers Association for bringing this to the public. I don't know that you have other than what Rashidah suggested in terms of [inaudible 03:58:19], I don't know exactly how you can, without a usable CPRA, do investigation unless like you're doing with the polar cases. Again, an independent investigator. But obviously, this needs to be pursued. Thank you.

Chair: Thank you. So commissioners, what is your pleasure? It certainly makes a lot of sense to invite Attorney Boris here to present to us, perhaps, at the next meeting as a way to follow this up because at no course we all know better what we're looking for, right? Commissioner Harris.

Commr. Harris: One suggestion would be seeking out those who have experience, discrimination within the department that are willing to come up here and speak.

Chair: We've kind of tried that.

Commr. Harris: No, I think I have an idea.

Chair: Okay. Fine.

Commr. Harris: Okay.

Chair: Sounds good. Any other conversation on the subject? Okay. So, we will have some discussions among us, and then figure out how to move forward on this. Now we are to item 11: Budget Process Overview and Review of CPRA and Commission Budgets. Still awake over there? Okay. Very good. Thank you.

Brad Johnson: Good evening [inaudible] members of the commission. I'm Brad Johnson with the finance department. I'm a principal budget analyst. Key top we have a brief PowerPoint. I hope everyone can see that. This PowerPoint was also included in your packet. Let me give you a brief overview of some things related to our budget process, and then get into some specific details regarding the commission in CPRA. If you have any questions about the more broad budget process, I recommend everyone go to Oaklandca.gov/budget where all the details related to the budget process are noted.

Brad Johnson: We have a series of community forums coming up, and the PowerPoints, the more extensive PowerPoints, in the budget related to these forums are on that website. So, to walk the process very briefly, we start the process and we actually started way, way back in October for internal development and actually development data. But the public process really kicks off with presentation in the city council in February of a public pole of priorities from Oakland residents that we conduct via scientific survey.

Brad Johnson: Then in March, we receive back priorities at the council and numerates and gives to us, city staff, and to the mayor. In March, we also presented of five-year forecast, which is a projection of what the next five years will look like. Absent in the policy interventions of the kind that will actually be presented and done in the budget. Then by the first of May, according to our consolidated fiscal policy, the mayor needs to propose a budget.

Brad Johnson: Right now through May 18th, we're going through a series of community forums. We'll do seven of them if not one or two more. At least one in each of the council districts with the council member from that district present. And there was one, for instance, this evening in district seven being held at the Oakland Zoo. We'll hear all that input from the community. We'll go to the city council, and then the council president and other council members this year in the 10th of June will present their budget amendments to the mayor's proposed budget, and the council must adopt a balanced budget by the 30th of June.

Brad Johnson: This is hard to see, but again it's in the pack that was included. This is a snapshot of our community's priorities pole. One of the questions we've asked for the last three cycles we've done this polling is, in your own words, what is the most important issue facing the city budget? And the two highest priority issues that we found this time around were housing, things related to housing and housing affordability and homelessness. I will note having done budgeting for the city for the last nine or so years that this is actually a dramatic increase.

Brad Johnson: One of the things that was true just two cycles ago, just six years ago, was that crime and violence, and education in public schools were easily the top two categories, and that had traditionally been true for the city. This housing and homelessness issues have jumped up very, very rapidly recently. Initially, housing and the cycle homelessness. Again, I mentioned those next steps we're doing these community forums. Again, we would invite all members of the

community to come and attend and listen to the more detailed presentation. Again, on that Oaklandca.gov/budget page is the actual detailed PowerPoint presentation related to the budget. So if you can't make a forum, the PowerPoint and the information is there. It's very similar to what was presented to the council this Tuesday.

Brad Johnson: Getting into the details of what's in the budget itself. We started the budget with a \$49 million short for absent in the interventions. About 25 million of that gap was in the city's general purpose fund, which is the city's largest fund, and the one that has the most flexibility in terms of how we use resources. The budget proposal does not include any significant increases to service levels unless we can basically cause cover for that increase service.

Brad Johnson: I'll give you an example for that. There's an increase, substantial increase, in the fire prevention bureau, but we can pay for that through the master fees schedule through [inaudible] fees. So option that there were no major service increase in this budget. A key component of any of our budget is we're moving cost around between from funds that are unhealthy or have structural problems to other eligible sources in order to maintain those services.

Brad Johnson: Let's move to the specific impacts on the Police Commission and the CPRA. These are the three key things that were done as policy interventions in the budget. There is an additional FTE complaint investigator two that was added to the budget in the CPRA. So, beginning July 1st, if the council adopts the budget as proposed, there will be an additional FTE complaint investigator two in CPRA.

Brad Johnson: The Police Commission in the beginning of the budget process request an additional \$103,000 that was provided in both years of the budget. And in year two of the budget, there was a desire for a community engagement surveying and polling process related to OPD the Police Commission would be undertaking and leading, and \$100,000 was added for that in year two of the budget. Those were the three key adjustments that were made to the budget as it relates to the commission and the CPRA.

Chair: Can you stop there for a moment, please?

Brad Johnson: Absolutely.

Chair: Thank you. I'm a little surprised by what I'm reading because I don't remember it. But I prefer to yield to Commissioner Harris who has been all over the budget for the last few months. So it seems like you have a few questions.

Commr. Harris: Thank you, Chair. I was one of the co-committee members that did the budget. So we did the budget. We did the budget in January, and we did ask your department for accurate budget report that included up-to-date actuals, and we never receive them. It's now May, and we never receive them. On slide two, Community Priorities, this is the mayor's budget. This is the budget that she

presented, and she never asked us for our budget, or our opinion, or where we wanted money, or where money should go, but we did the budget. We couldn't complete it because we asked for the actuals.

Commr. Harris: We never made a request where it says, "Proposed budgets. Adjustments to Police Commission." We never made this request. Where did the mayor get this from? Who proposed this budget to the mayor? That's my question. Who proposed this budget from the mayor because it did not come from this commission?

Brad Johnson: Let me take a step back then. The budget that we're referring to, the documents I'm discussing is the mayor's proposed budget that is for the next two fiscal years. That is the underlying document. I am not personally aware of a request that was made in January except for the fact that ... I would have to go look back at our documentations to see exactly how that was received and from whom. That there was a request, to my knowledge, for that dollar amount of additional ONM for the commission for specific purposes of \$103,000. That that was a request made of the commission.

Commr. Harris: Who made the request?

Brad Johnson: I do not know. I would have to go back to the documentation and look. It is my understanding that that request came at some point through the commission. I'm not aware of specifically where it came from. That's how it was presented to my office when we received it and included it in the budget.

Chair: Okay. So let me propose one thing. Now that you have a name you can forward the January request to Brad's attention so that you can get those actuals, right?

Commr. Harris: Well, let me finish. Let me finish. On the 2018/'19 where it says budget projected, so those were actually our cost saving allocations when we did the budget, when the commission did the budget. The mayor did this budget, or her staff did this budget. She did not ask our opinion. So that money right there was actually cost savings allocations. Because we couldn't get the actual year to date when we asked for it, this budget was hijacked, and it limited our ability to engage in this budget process. We were never asked about our budget. This is not our budget. So that money right there budget projected, versus budget projected, that's actually cost saving allocation that we had plans for that money.

Brad Johnson: Maybe I should walk through the next two slides because I did provide some actuals. I heard that through my director that you wanted [inaudible] corrections in this presentation. I did not hear about a prior request. I'm not aware of that. So hear me as I-

Commr. Harris: But before you go on-

Brad Johnson: Absolutely.

Commr. Harris: ... I just want to give you one more piece of information. So, there is a piece that's missing from this budget, and it's the classification summary by department. And it's not in this packet, but I printed it myself. It says, "There is a police program, and puff audit supervisor that she added on to our job description." She put another position there, and I have it right here in my hand, and it's not in this packet. We did not ask for this.

Brad Johnson: There are actually two positions that are not in your pack, and I can walk you through what those two are. I think I can speak to what those both are.

Commr. Harris: Well, I know what the first one is but I don't ... My thing is I find it very disrespectful that people do budgets for this commission and don't ask us. It's not you per se, but how is it that you're putting positions for the police commission, and you don't ask us if we need this position, if this is our budget?

Chair: And I don't think he can answer that question. But what this does is open up an opportunity now that we're getting some clarification so that we can make some adjustments. I think that it would make sense to also reach out to the mayor to understand how it happened because it's the mayor's budget. I'm happy that you sent an email. Why don't we let you continue? I do want to say that to Commissioner Harris' point of the cost savings, part of that was because we weren't able to spend dollars. And so, when you have cost savings then you get excited, and want to identify your own needs for them because over the course of the last year and a half we've figured out what we want to do, right? Go ahead and move forward.

Brad Johnson: And so, one of things I perhaps should clarify in the front-end, what ... There's four fiscal years that you're going to see present in this document. '17/'18 is the year that has passed. So that ended last June 30th. We're in '18/'19 currently, and that data is in the packet for you. The budget we're talking about is '19, '20, and 2021. Those are the two years we're talking about. The way our budgets work in general. The general means of budgeting for all city departments is we take where you were last year, certain things get cost us later.

Brad Johnson: For instance, if we have an increase to our fringe rates, or to our wages that are negotiated, we up those numbers. ONM remains at the same level, and we move it forward. So when I talk about the interventions, '19 the next budget year will look the same as '18/'19 except for those ways that I've outlined it. That's generally the way to look at it. So anything you had in '18/'19, and I would note that the commission did ask in the mid cycle in '18/'19. I believe it was \$126,000 that was given in the mid-cycle budget as an amendment on top of that. That remains there. The 103 is now an addition to that number.

Chair: That's our carry over.

Brad Johnson: Right. And I can talk to you how carry forward works versus anything else. Every year, whatever is adjusted that's the new number you start over with this new authority at the beginning of that year. Let me jump to '18/'19 to what's in the proposed budget, and let me go back to the actual so you can see those. So just to move on to that, this is that breakdown of what you would be looking at for next year. And so, I broke it down in some just general categories. Your personnel budget if you look at it for the commission, that's your one position that specifically serves and is your admin. I'm forgetting what her name is right now.

Chair: Ms. [Laff 04:13:45].

Brad Johnson: Yes. You also have internal service cost, those allocated costs and all city departments get them allocated. It's largely related to space in IT and there's other things that are allocated. It's an allocated charge. Then you have contract services. That's the amount that you guys have available for spending on different topics and priorities. Then again, you see in CPR you see that there is a personnel budget. There's an internal service clause attached to CPRA in the same way. They have contract services, supplies and materials, and travel and education listed out.

Brad Johnson: I will tell you this, the commission's contract service line, if there is a desire to use that on supplies and material, or travel and education, that is an adjustment that can be made within the year from contract services to something else. That is something that can be done. Specifically, I wanted to point out that in that 384, there was a desired to break that out, and break what that different looks like. What I want you to see is that legal fees number, because I know that's a major consideration for the commission is what was available for you in terms of getting outside legal help, and I want you to see that number there to practically point that out.

Brad Johnson: And then you mentioned to me these budgeted positions. What's missing here because the request was to go over the commission and the CPRA is the office of the inspector general, which is also on a departmental basis located under the Police Commission as it relates to your budget. And so, if you look at our budget book where it says Police Commission, that will also include the inspector general on this case, and there's two positions in that. One is the civilian inspector general, which is being held with the place holder classification. You just are going forward with the actual [classpects] right now, but there's a place holder in for that once it comes in line.

Brad Johnson: And then and I do not know if it's the Measure LL or the establishing ordinance, there's a requirement that that office also have the equivalent of a police performance auditor position. And so, that position is actually the other ... The number two FTE in that inspector general org.

Commr. Harris: But who was-

PART 8 OF 10 ENDS [04:16:04]

- Mr. Johnson: Number two FTE and then Inspector General Org.
- Speaker 16: But who was that discussed with, that position? Because it was not discussed with this commission.
- Mr. Johnson: My understanding is it's either an LL or the establishing ordinance that were supposed to budget for it. So one of the things we're doing is budgeting for it. That is we're taking that step. You're not actually seeing it as a change there because it's in an ordinance. We're trying to execute that ordinance. So we have that position, and we wanted to make sure it's there. Obviously, how that position operates, it's not so much a financial function. But we want to make sure that we have allocated the resources for it.
- Mr. Johnson: So that police performance audit supervisor is ... I think that position is called out ... I can see the legislation. It's in the ordinance. Thank you. It's in the ordinance. So -
- Speaker 16: Is there a job description for that?
- Mr. Johnson: There is a class description for that. I think the ordinance says something equivalent to. If there is desire then to do what we refer to as add, delete that to a different position or a different classification, that can be done. But for the purpose of sort of making sure that there's money behind it, we have to put that in there. So those two positions. So if you look at right now, your FTE count is 15 on the screen. Add two, and we'll get to the 17 across that what you see in the book for the department. That's that Inspector General Org.
- Speaker 16: Through the chair. Through the [crosstalk 04:17:32].
- Mr. Johnson: Is that helpful?
- Chair: Yes.
- Speaker 16: Thank you.
- Chair: Yes. Commissioner Harris.
- Comm. Harris: Through the chair. Mr. Roose and I and Ms. Benson, at the time, Commissioner Benson, we worked on the budget together. Mr Roose, through the chair, do you remember us asking for the actual numbers? I have an email.
- Mr. Roose: Hello. Okay. As I remember, at the time, I did provide financial information that I had requested from finance at that time. I'm happy to go back and reprovide everything I showed you then. I'm trying to understand what the question is.

Comm. Harris: Well, the question is because we completed a budget. We went over it. We had a meeting together, me, you and Maureen. We discussed the budget. You didn't agree with the budget. However, we asked you to give us the information that we needed, so we could make an informed decision on that ad hoc. One of those questions was ... we needed actual numbers from the budget department. You were asked to go back and get those numbers. However, we didn't receive them. Not saying that you didn't ask for them, but we just, we never received them. So our budget didn't get to the budgeting office. I'd like to forward that, so you can take a look.

Mr. Roose: One thing I would say is that ... and obviously, we'd need to take a look at whatever was intended to be submitted to see what the inconsistency is. There is flexibility. So I mentioned the fact that contracts versus education ... we have ability within the year to move things. There is capacity. It's not ... we refer to the term, the technical term internally is something called a BCR. I don't give you a budget for pencils, and then say you can't use it on paper.

Comm. Harris: Right.

Mr. Roose: So if there is ... the bigger concern is the total dollar amount. I think this may be helpful than now to go back to where you are with your 18-19 projection because maybe that'll be helpful in sort of showing where you are. So for 18-19, this is a projection I ran based last week. So this is a standard model projection we would run for any of our departments. On the personnel side, we basically straight line what your personnel are, assuming that it's the current year to date spin rate continues. We had, I think, 40 pay periods that were done through that time period. So it sort of continues that through.

Chair: Excuse me, Mr. Johnson. I hate to interrupt you because you are doing a stunning job of being clear and walking us through these numbers. I have let the time go. It's 10:50, so we have to vote to extend our meeting for KTOP. Okay? So, I'd like to move that we extend our meeting to 11:15. Can y'all give me 11:15? Okay, somebody second please.

Female: Second.

Chair: Okay. Thank you. We're still going to do community input. But for the purposes of this, we're going to go ahead and take the vote to extend the meeting. Commissioner Dorado?

Dorado: Aye.

Chair: Commissioner Anderson.

Anderson: Aye.

Chair: Commissioner Harris.

Comm. Harris: Aye.

Chair: Aye, for myself. Commissioner [inaudible 04:21:07]?

Male: Yes.

Chair: Okay. Thank you very much, unanimous pass. Thank you, KTOP. Mr. Johnson, you're back on.

Mr. Johnson: Thank you. So what this is is a projection. So what you're seeing in that column is something called ... is your ... sorry, was your adjusted budget for 18-19. Then what I've given you in the next column through April 4th is what you had spent year to date. So that's what has been allocated in all these orgs, what you have actually ... dollars have gone out the door. The available number is what is left on that balance. The projected number is where I expect you, based on the normal factors we'd use to do a projection to end the year. And again, that budget minus projection is that differential of either the surplus or the deficit that would be left over.

Mr. Johnson: So one of the things you'll see for personnel, for instance, taking that first line with the commission; I assume Ms. Love did not start at the beginning of the fiscal year. So you'll probably have some salary savings there. That's typical. The \$80,000 there is a contract service line that was allocated that, as of right now, we have not seen expenditures against. So it's available through the end of the year. In CPRA, similarly, there are a bunch of investigators that are vacant, along with the director.

Chair: Excuse me, Mr. Johnson.

Mr. Johnson: Go ahead. Absolutely.

Chair: Sorry, one more thing. Given the fact that we are now spending in that category, where an admin person is, when do your accruals catch up?

Mr. Johnson: Every pay period. So the expenditures would hit every pay period.

Chair: Okay. So we really could get actual numbers from you at this point.

Mr. Johnson: These are actual numbers through the fourth.

Chair: Okay. So we're just, a month ahead.

Mr. Johnson: And I would say that normally that's about the length of time that we have a lag on things. But as an example, today is a pay date. Today, there's a check going out. That is for the pay period that ended last week. There's a whole time period, where they do payroll adjustments. Then it actually has to get booked on. So a month lag is normally what you're looking at for any kind of projection.

Chair: That's tight. Thank you.

Mr. Johnson: So this, suffice to say, that budgeted projection column is where you would end. For most types of expenditures and the way a city budgeting works is you start fresh each year. There are some circumstances, where we do something called project funding, where things continue. But that project funding ... and that's when money rolls from one year to the next. That's typically for a discrete project. So I'll give you an example, if CPRA were implementing a new database as an IT project, we might see that as a multi-year thing. We might give all the money up front to do it, but then we would continue the money year to year to year to do that discrete project.

Mr. Johnson: Personnel budgets, most general O&M, you typically lose what you don't spend. But you're not penalized for it in the next year. That's typically how the city works. So every year, you get a new fresh allocation. But anything that's different in the police commission as a whole, all three orgs: the commission, the CPRA and the inspector general are allocated in the general fund. So it goes to that total fund balance number, and counsel normally finds a way to spend the difference.

Mr. Johnson: With that, I can answer any questions about these years. Again, these are moving targets. The projections are my best guess right now. If you have a plan for that \$80,000 that I don't know about ... obviously it may be spent. But this is what I'm seeing in the system right now.

Comm. Harris: \$80,000 cost savings allocation?

Mr. Johnson: I was specifically looking at that contract line, since it's completely untouched. I think there was a desire potentially to have spending against it. There is specifically a schedule. There is a way that the city works for purchasing supplies and contracts and materials and whatnot. Calmly, I heard of a number of different things that were ordered earlier this evening by this body. So maybe that's the beams of spending that you were talking about. Maybe those are the identified expenditures. There's a process for actually getting them encumbered. But as of right now, in that particular line item, I haven't seen any expenses go through.

Female: Chair, may I?

Chair: Yes,

Female: Mr. Johnson, would you mind if I got your contact information, and we set up a time, where we could sit down; and I can kind of show you specifically what we were-

Mr. Johnson: Trying to achieve.

Female: ... dealing with with the budget.

Mr. Johnson: Absolutely. We would love to sit down with you and see what you were trying to achieve.

Female: Thank you.

Mr. Johnson: I know that, prior to the last mid-cycle budget, we had sat down with Commissioner Benson.

Female: Yes.

Mr. Johnson: I remember that specifically because she and my boss have the same last name.

Female: Yes.

Mr. Johnson: So it jumps out at me as a particular memory. As a heads up for everyone, the way we'd like this to work, not that everyone's new to this process ... it's commissions doing their budget. You guys are the biggest. Commissions departments is not a normal way that most city entities operate. Normally, we want to get proposals long in advance, so we can pull them in. It seems like that communication broke down. But let's see where we are right now. I'm guessing-

Female: We had it ready in January. So I don't think it broke down. I think-

Mr. Johnson: I'm saying ...

Female: Something.

Mr. Johnson: For whatever reason that communication didn't happen yet-

Female: Yes, sir.

Mr. Johnson: ... that is exactly the right time span that where we would want to have that done. So right now, let's sit down and see where we are. Until I see what it is, I can't tell you how far apart they are. But if it's moving things around, we have [crosstalk] do that.

Female: I would assume so since this budget has come out. We were not consulted with this budget. So I would not feel comfortable moving forward with this budget because I know we got a ton of money that we saved. So I'm like, "Okay. Where is it?" It doesn't reflect on this budget. I worked really hard on the budget to figure out where our dollars were. So I know every penny. I'm a bean counter.

Chair: So hopefully, you guys can get together quickly.

Female: Yes, we will get together quickly, and I will show you what we have.

Mr. Johnson: Okay.

Female: Thanks.

Mr. Johnson: All right.

Chair: Are there any other questions for the commission? Well, I would to compliment. I think this is one of the smoothest explanations of an overview of a budget I've heard in a long time. So she sent the right guy.

Mr. Johnson: I appreciate it. Thank you.

Chair: I really do hope that you all can nail that down, so that we can make the necessary adjustments and get them back in time for the president to review her budget and all that kind of stuff.

Mr. Johnson: Absolutely.

Chair: Okay. So we have public comment. What did I do with it? Okay, here it is. Rashida [inaudible 04:28:17], Mary Vale and Henry Gage III.

Rashida: Thank you. On the first page of this attachment, the last bullet point, "adding funding for a community engagement survey, polling for \$100,000". I don't know where that came from. I think there are much better ways to use that kind of money if it's available. So I would certainly want you to reconsider that. You are required by Measure LL to have a public hearing, not on your budget, on the police department budget. I know that's on your pending list. But I'm hoping that you'll set the date for it tonight. So that we can ... okay.

Rashida: You should be aware that there is a considerable community effort underway, as it was two years ago, called the Refund Coalition. One of their primary objectives in the budget is a reduction of the police department budget and reallocating those funds to needed services? They came close to getting many of their proposals adopted in the previous two years. But the council manage to somehow maneuver in such a way that they were depleted. However, this is a much more progressive council. They might be much more amenable to some changes in the police department budget. If not the overall amount, then possibly the actual categories of expenditures, like maybe not a BearCat, which they've applied for through [inaudible] funding.

Rashida: So in any event, I thought that I'm going to encourage them to come to your public hearing when you scheduled it. So that you can hear what their thoughts are on the police department budget. You may have your own thoughts as well that you could forward. I think that will be an aspect of this going forward. Thank you.

Chair: Thank you.

Female: I can speak to that \$100,000.

Mary: Mary Vale. Unlike Rashida, I have some strong suspicions of where the engagement money comes from. The mayor's smokescreen plan relative to NSA compliance on profiling is to do a lot of talking about how we're collecting the statistics, and to plan these community ... she thinks that if we just socialize enough with the public, the relationships will improve. But her solutions don't have as much to do about actually changing the policies and bringing down the number of stops that are questionable and stopping the profiling.

Mary: So I think what happened is, maybe temporarily, she had money for these engagement activities, justified NSA compliance either through another part of the city budget or through private foundation donations. But those sources aren't available anymore. So now she's ... as Harris, Commissioner Harris has pointed out, you haven't been consulted. She's sticking it in your budget. Aside from any of her motives, it's inappropriate for two reasons. You guys are not the community relations police commission. You're the Oakland Police Oversight Commission.

Mary: Also, under Measure Z, we have a body called the community policing advisory board. They've been doing some surveys of the NCPCs, about how things are going. I don't see any sign that they were consulted. If they like that idea, it should be in their budget funded by Measure Z, not \$100,000 and later you need something really badly, and they say, "No, we're not going to do a mid-term change of your budget because we've already given you \$100,000 for this." Aside from finding out more about how this happened, it needs to go. Then there's one position that sounds almost like somebody would be working in the police department that I've never heard of before. It's added in. That's another ... scam and needs to be dealt with further by the discussions with the Department of Finance. Thank you.

Chair: Thank you. So Commissioner Harris, I know you wanted to respond.

Comm. Harris: So in response to this \$100,000 survey, there was some months ago, where I caught wind of a survey that OPD was implementing. I looked into it. I found out the company that was hired without our knowledge. I wanted in. They had to let me in. So I was like, "What are you doing? Why is there no community people? Where are you polling? What are you doing?" So I asked that it be put to a halt. So it was. They put it to an end.

Comm. Harris: The person that was spearheading this survey no longer works for OPD. So I'm assuming the survey died. But we can ask Ms. Gleeson. They were going to poll a senior center, a youth center, and a church, which I thought was completely ridiculous that nobody knew about it. This is where ... now, it just clicked today, this is what that \$100,000 was without our knowledge. So, okay. Yeah.

Comm. Harris: So I don't know what happened to the survey. Because I was like, "No one knows about it." The commission didn't know about it. I brought it back to the commissioners and said, "Hey. What is this survey?" Everybody was like, "I don't know." But this is what this is. That was going on right under our nose. So Ms. Gleeson is aware that I'm aware. She's aware that I'm aware. So I don't know if we want to address the survey.

Female: I'd like to have her present what it was ... how much money was spent on it before it got halted.

Ms. Gleeson: Good evening, almost morning. I can give you a little bit of background on the survey. The survey was one of the Stanford recommendations. I know that Mr. Birch, when he started to work on it, invited commission members to participate in the selection of the vendor as well as the survey. I can put together documentation about that. There was not participation at that level. But then it came later on after it was partway underway. I know that Commissioner Harris raised some issues, and they decided to pull it back and to redo parts of it.

Ms. Gleeson: I am aware that the \$100,000 that was moved into the commission budget, which was just taken out of the police department budget for the survey. So the money that originally had been given to the police department got transferred to the commission to run the survey. That's my understanding. I got that from reading the budget book, where it shows, where the money was moved. The details about going forward with the survey, I will get that information and find out kind of where that left with Mr Birch leaving. His replacement, hopefully, will start in maybe eight or 10 weeks. So we'll be able to see what role the department will play in that along with the commission, since the budget had been moved over.

Chair: So Miss Gleeson, who is the coordinating organization who was facilitating the survey?

Ms. Gleeson: I think now it will be the police commission. Previously, it was the department.

Chair: Okay. And-

Comm. Harris: The department actually hired an outside company that is not from Oakland. I don't know where they're from. But they're not from Oakland. They know nothing of our community to do this survey. That's when I said, "Yeah, no. This is not going to work."

Chair: Miss Gleeson, I don't know if you know how much of the \$100,000 was spent prior to Commissioner Harris pulling the plug.

Ms. Gleeson: I don't know. But I will find out how much had been spent previously and then ... but I do know the \$100,000 was transferred over without any reduction for the amount that was previously spent.

Chair: Okay. Thank you. Are there any other questions of Miss Gleeson? Commissioner Dorado.

Dorado: Do you recall about when we were allegedly advised to be a part of this?

Ms. Gleeson: Well, it's not allegedly advised because I actually have the emails. I can provide those for you. I believe it was some time in the fall.

Dorado: Okay. Would you do that?

Ms. Gleeson: Absolutely. I would be delighted.

Chair: Okay, great. Any other questions? All right. If Mr. Johnson is still in play-

Ms. Gleeson: He is here and is going to help with ... our budget [crosstalk] director is the mother of a seven-month-old. She is in bed by now. But I told her I thought, with it being item 12, I would be happy to stay. Then Mr. Johnson, who is much more familiar with it and has worked with our budget director, Nell Wallington, throughout the time; volunteered to stay and give you the overview.

Ms. Gleeson: I do want to mention that because of the time ... and I realize we're almost at 11:15. Any specific questions you have, if you work to send them to us by maybe Monday or Tuesday, we would be able to get them in the packet for next Friday. So that we could have a written document in response to any questions you have, which I think with the numbers is usually easier to have a written document.

Ms. Gleeson: So I know there's a link to the whole budget package. The specific pages that relate to the police department are ... there's over a dozen or so pages. But whatever specific questions, we will get written answers ready for you for next meeting.

Chair: So Miss Gleeson, the 12 or so pages, will you be able to send those to us?

Ms. Gleeson: Absolutely.

Chair: Okay, great. Thank you.

Ms. Gleeson: I just word search through the document for police.

Chair: We recognize it's big.

Ms. Gleeson: So there's a whole lot of charts. Then there's several individual places.

Chair: Thank you. Thank you. So Mr. Johnson ...

Mr. Johnson: Sure.

Chair: Thank you. And our best wishes to mom of a seven-month-old. We are always here later than we intend, important work must go on.

Ms. Gleeson: I volunteered to babysit. But she said that that was too disruptive.

Chair: Yeah, I get it.

Mr. Johnson: So apologies. I will not be quite as polished on this because I was not necessarily prepared to go over OPD's budget. But I can give you a general overview of some key details that they have. OPD's budget, in general, is roughly \$318 million proposed for year one of the budget, \$330 in year two. The general purpose fund is by far the largest funding source for OPD. The other key funding sources for OPD's budget are Measure Z, which is a voter-approved measure, which funds, in addition to OPD, the Oakland Fire Department and Violence Prevention Intervention programs. Then OPD also receives a number of grants, notably the state COPS and DOJ grants and the COPS hiring grants.

Mr. Johnson: OPD oversees a number of special funds, notably, the traffic safety fund, the false alarm fund, and the vehicle abatement fund. Again, there are a number of other grants that come through it. Speaking most broadly, OPD's budgeted, this coming cycle, for 792 authorized sworn personnel, that is unchanged from the last cycle. The budget contains two police academies in each year of the budget, which is roughly what we're projecting needs to maintain OPD's staffing at its current level.

Mr. Johnson: The key changes in OPD's budget. There was a desire to delete seven police communication operators and replace them with police communication dispatchers. This is basically an upgrade of that classification to a slightly higher one for operational efficiency in the communication center. There was funding added in year two of the budget for the ShotSpotter gun, detection systems' expansion phases. There was the deletion of a project manager three. So it's as a straight deletion.

Mr. Johnson: Then some key changes that we had to do, OPD is responsible for the city's crossing guards. So it's one of the things that sit within the traffic unit. They're responsible for all the crossing guards across the city. The normal funding source, which is used in most ... in these throughout the state to fund that is what we refer to as our Traffic Safety Fund. The resources from that are from moving violations by OPD officers. Those revenues have gone down substantially and continue to go down. We managed to preserve, eight FT of those crossing guards, which otherwise we would not have had funding for by using funds from Measure BB, which is a state for transportation instead.

Mr. Johnson: So where the financial pressures on that fund might have resulted in service reduction, the proposed budget doesn't reduce that particular service. Instead we move the funding source in order to maintain it.

Female: Excuse me, Mr. Johnson's.

Mr. Johnson: Absolutely.

Comm. Harris: May I object?

Chair: Yes, you may.

Comm. Harris: I remember when we were discussing not too long ago about the dispatch positions. There were so many available. Did you hire dispatchers? And if you did not, where is the money?

Mr. Johnson: Did I hire dispatchers-?

Comm. Harris: Ms. Gleeson. Ms. Gleeson. Ms. Gleeson.

Mr. Johnson: Sorry.

Comm. Harris: Ms. Gleeson.

Ms. Gleeson: Thank you. We are fully staffed on dispatchers at the moment. I had, in our proposed budget that didn't make it all the way, we actually asked for a few additional ones since we are, for the first time in many, many years, completely staffed at the comm center. It's very exciting times there.

Chair: Mr. Johnson, I am really mindful of the hour and the fact that ... not withstanding the fact that you weren't prepared. I'm sure you're going to do a great job. But I would like to actually recommend that we put this over to the next budget, so we can get the 12 pages that Miss Gleeson's going to send us. And so you can either come back to us or have the seven-month baby mama ... well, excuse me. The mama with the seven-month-old baby come. So I hope you don't consider it being rude.

Ms. Gleeson: No, it's okay.

Chair: But I really would just like to stop you, and then we can recycle next time.

Ms. Gleeson: My only agenda request is if we do bring our budget director, if we could have her early on the agenda.

Chair: Yes.

Ms. Gleeson: That would ...

Chair: I can make that happen.

Ms. Gleeson: Thank you very much. Okay. Thank you very much. So I would respectfully request to hold onto the speaker cards for that item, so that we can revisit it at the next meeting. Okay. So thank you very much. You all are free to go. I want to move forward quickly to the next item.

Male: [inaudible 04:44:55].

Ms. Gleeson: Pardon me?

Male: [inaudible 04:44:57].

Male: Yeah, that is correct. You do have to hear the public speakers. Additionally, we are at 11:15, so we may need to extend the [crosstalk 04:45:05].

Chair: Okay, go ahead. Oscar Fuentes, [inaudible] Rashida [inaudible 04:45:09]. Rashida's going to cede her time. Mr. Fuentes.

Male: [inaudible 04:45:14].

Chair: Okay.

Oscar Fuentes: I don't see how you guys all saw that chart, where it has crime and violence as the third thing with only 11% of the people and the police and homelessness double that amount. And the police got two, three more million dollars in overtime budgeted and another like 15%, I think, or 20% increase in their budget. It makes no sense. They won't be able to explain it to you. And it won't change ever.

Chair: Thank you very much. So given that I'm making the recommendation that they come back, and at the next meeting, that we schedule our hearing on the budget. Okay?

Chair: I'd like to move forward to item 13, pro bono legal services agreement. At our personnel committee meeting, we actually received a pro bono agreement from Henry Gage. At some point-

Male: Chair, you just might want to vote to extend the meeting, if we haven't done that already.

Chair: Okay, like five more minutes, guys. Okay. Can we? Okay. So what did you say? I'd better ask for 15. Okay. So I'm going to ask for 15 and hope that we can move expeditiously. So I move that we extend our meeting 15 more minutes. It's 11:16, so we go to 11:30.

Male: Seconded.

Chair: Thank you. We'll take a vote. Commissioner Dorado?

Dorado: Aye.

Chair: Commissioner Anderson?

Anderson: Aye.

Chair: Commissioner Harris?

Comm. Harris: Aye.

Chair: Aye for myself. Commissioner [inaudible 04:46:52]?

Male: No.

Chair: Okay, well, we're still going to be here. So it's four affirmatives. So one no. We will extend the meeting to 11:30. I'm sorry, Mr. Munson. Okay. Anyway. Sorry, [inaudible 04:47:08]. We're chopping this up. Some months ago, Mr Gage said, "You all need legal counsel. You need somebody to advise you. You're having a tough time hiring the staff, I'd like to do it for free." And of course, we were told, "Well, you can't accept free services. Blah, blah, blah, blah, blah.

Chair: So we asked him to put together a pro bono legal service agreement with the specific idea that we would provide special projects, projects like the appellate process and ask his advice and counsel on that. He put together an agreement that the personnel committee ... excuse me, personnel committee reviewed and ask questions about. We made a couple of changes, specifically identifying a conflict of interest-

PART 9 OF 10 ENDS [04:48:04]

Chair: specifically identifying a conflict of interest section and decided that we would put it forward to the broader commission to ask questions about, and or affirm or move forward. Clearly we need as much help as we can get, and we are looking for it everywhere. So I don't know if you all have any questions about the agreement. I'm certain that Henry has stayed this long so that he can answer any questions you all may have. I am very mindful that we want to provide very, very specific guidelines around the special projects that are done for us so that we don't mix and match any kinds of, I don't know, like for example our process to design the procedure for performance review with the Police Chief. He wouldn't work on that.

Chair: Okay. So do you all have any questions? Commissioner Prather.

Speaker 17: Thank you, Madam Chair. Okay. So in regards to this agreement I have two things, and as a threshold matter, I think the concern I have is that what

precedent does this create for the City Attorney denying us legal services in the future because we've obtained pro bono counsel? We've obtained counsel who's not costing us anything, and therefore could... What might be affected down the line? And I don't know the answer to that, and I don't know that any of us has the answer to that.

Chair: Well, she's going to say no because she always says no.

Speaker 17: I appreciate that, Madam Chair.

Chair: I'm sorry, I'm being a little facetious right now.

Speaker 17: No, that's okay, but it... Look, I feel like my job here is to be, regardless of how I support it or don't support it, to identify possible pitfalls that would, in order to us, if we moved forward with this... I don't think it's a simple no-brainer. This is not about Mr. Gage and his qualifications or anything else. I think Henry's a lovely person. What I'm concerned about is, do we get into trouble by entering into an agreement? I would be much more comfortable if there was an agreement for paid services, that there could be a potential for reimbursement in the future as we have with another counsel who's providing legal services to us with the... more of the promise of payment.

Speaker 17: And so I don't think the issue with the City Attorney is about payment. The issue is about the power to hire and fire. And so this is still going to be squarely in the crosshairs of the City Attorney. That being said, it's the potential for precedent-setting action that concerns me, and I don't have the answer to that. I don't know that we can get legal counsel on legal counsel, but to advise us on that, but perhaps one thing we could do is ask Mr. Gage to take a look at whether there is precedent set by this, because I would at least want someone to look at... Okay, in a situation where pro bono services are rendered to municipality, what is the lasting effect of that? And that's not been presented to me. And so while I do appreciate we need a lot of help in a lot of places, that to me would be the start of something like this, is to look at that particular issue and then to bring it back.

Speaker 17: The second point I would have on this is, having that I deal with engagement or retainer agreements all the time, is that I think it needs to be even more specific than it currently is. I know, Madam Chair, you talked about having Mr. Gage only work on specific matters. I think we need to have an agreement for each specific matter, not a general agreement, and then where we email, or we have some email or document exchange about what the issue is. I think if we have him work on five different matters that we would need a agreement five different times that is specific, and it lays out what the scope of that agreement is.

Speaker 17: But for me it's the threshold matter. It's can we actually do this without shooting ourselves in the foot later.

Chair: So Mr. Gage, would you be willing to take a look at the precedent setting for rendering pro bono services to a municipality, and perhaps we put this over to the next meeting?

Henry Gage: Thank you, Chair.

Henry Gage: There are a number of interesting concerns that are raised by this sort of proposal, and as an aside, I don't think I've ever had to work harder to try to work for free.

Henry Gage: As a kind of a place-setting, what's interesting here is that the City Attorney has made very clear that in her opinion, the charter mandates her as the sole counsel for the commission. I would argue that rather than sole counsel, default counsel's perhaps a better term of phrase, and with respect to litigation in particular, the City Attorney is mandated to represent city departments, so you're not really in danger of losing representation from the City Attorney at this point, as far as I'm aware. However, there's some interesting and interrelated issues with respect to the independence of this commission, and that really is the threshold issue. If this commission is truly independent or not is a question that really hasn't been determined to my knowledge, and needs to be determined at some point in the future.

Henry Gage: At present, I am largely unaware of any potentially disastrous consequences that would arise from pro bono work for municipalities. Most of the research I've seen has been largely focused on city attorneys who also have private practices and the interplay between those different masters. This is a slightly different situation. It's also slightly different because we have a commission here that is punitively independent, but could really be viewed in many senses like a newborn, the newborn of course being independent of its birth mother, but necessarily needs that mother to care for itself in its early development. This commission is really no different. There's a lot of attachment still between the commission and the city, and analyzing the independence of the commission is an open question. I'm not sure I can... if that answers the questions you raised. Frankly, I'm just here to help, so if I can provide any further information I'd be happy to do so.

Chair: So perhaps Commissioner Prather, could you follow up with Henry as it relates to any documentation that can back up some of what you've said? As a statement, and again it's a personal opinion, I think that we are the most dependent independent commission I've ever heard of, and whole lots of things have to change for us to really be what the community envisioned when they voted for this, but I'm certainly hoping that you can help us get there.

Chair: So we'll put this over to the next commission meeting in hopes that we can have a little more clarity. Is everybody okay with that?

Chair: You have a question?

Speaker 18: Just real quick. Mr. Gage, you wouldn't have any problem with doing separate dealings for separate projects, would you?

Henry Gage: I'll make sure to invoice you separately.

Chair: We'll pay you double. So we have speaker [Carrs] on item 13, Lorelei Bosserman, Michael Tigges, Rashidah Grinage and Henry Gage. Okay, Lorelei's waving me off. Michael's waving me off. Rashidah, you waving me off? Okay. And Henry, I assume you're waving me off?

Chair: All right, very good. So I would like to recommend that we table items 14, 15, 16, 17, go straight to closed session, come right back out, and then adjourn. Is everybody with me? Okay, so let us-

Speaker 19: I will just recommend you extend the meeting to cover the length of the closed session too.

Chair: I'm sorry, say what, what?

Speaker 19: I would recommend voting to extend the meeting to cover the closed session.

Chair: Yeah, okay. So I'd like to move that we table items 14 through 17, and that we extend the meeting... Don't, don't kill me. 30 minutes, Commissioner Prather? 15? 20. Yes, we had it on here. And then we extend the meeting 20 more minutes to facilitate closed session, then come back and report up, and then we go home.

Speaker 18: Second.

Chair: Thank you, Commissioner Dorado. Okay, so Commissioner Dorado?

Speaker 18: Aye.

Chair: Commissioner Anderson?

Speaker 20: Aye.

Chair: Commissioner Harris?

Speaker 21: Aye.

Chair: Commissioner Jackson. Oh, aye. And Commissioner Prather?

Speaker 17: Yes.

Chair: Man, you're working hard for this volunteer job. Okay, so we will be back. You all may go home or stay here, but we will be back in 20 minutes. Thank you very much. See you, bye bye.

Chair: [silence]

Chair: So it is now 11:43, and I just wanted to report that we're coming out of closed session. We have no reportable items. So we will see you all, same bat-channel. Oh sorry, we got to vote to adjourn.

Speaker 22: Move we adjourn.

Chair: Set.

Speaker 18: Second.

Chair: Second, third. Okay, let's take a vote. Commissioner Dorado?

Speaker 18: Aye.

Chair: Commissioner Anderson?

Speaker 20: Aye.

Chair: Commissioner Harris?

Speaker 21: Aye.

Chair: Aye for myself. Commissioner Prather?

Speaker 17: Yes.

Chair: Okay, we're going home. It's 11:44. Thank you.

PART 10 OF 10 ENDS [05:15:09]