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CITY OF  
**PORTLAND, OREGON**

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**OFFICIAL  
MINUTES**

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A REGULAR MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 14<sup>th</sup> DAY OF MARCH, 2001 AT 9:30 A.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Hales, Saltzman and Sten, 5.

OFFICERS IN ATTENDANCE: Britta Olson, Clerk of the Council; Ben Walters, Senior Deputy City Attorney; and Peter Hurley, Sergeant at Arms.

On a Y-5 roll call, the Consent Agenda was adopted.

- 283**      **TIME CERTAIN: 9:30 AM** - City of Portland, [www.BusinessInPortland.org](http://www.BusinessInPortland.org), and Oregon Economic and Community Development Department Business Portal Project Report (Report introduced by Commissioner Francesconi)

**Disposition:** Accepted. (Y-5)

- 284**      **TIME CERTAIN: 9:45 AM** - Salir Adelante: Needs and Assets Assessment of the Hispanic Community of Multnomah County conducted by the Latino Network (Report introduced by Mayor Katz, Commissioners Francesconi, Hales, Saltzman, and Sten)

**Disposition:** Accepted. (Y-5)

**CONSENT AGENDA - NO DISCUSSION**

- 285**      Cash investment balances January 18 through February 14, 2001 (Report; Treasurer)

**Disposition:** Placed on File.

- 286**      Accept bid of St. Vincent dePaul to furnish Uniformed Security Officer Services for the Bureaus of General Services and Parks and Recreation for \$650,583 (Purchasing Report - RFP No. 100568)

**Disposition:** Accepted Prepare Contract. (Y-5)

**Mayor Vera Katz**

- 287**      Confirm re-appointment of Linly Rees to the Hospital Facilities Authority Board for a term to expire December 31, 2004 (Report)

**Disposition:** Confirmed. (Y-5)

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- 288** Confirm appointments to the Purchasing Board of Appeals of Franna Hathaway and Daniel M. Knauss for terms to expire March 14, 2003 and confirm appointment of Brant Williams to serve, in his capacity as City Engineer, indefinitely (Report)
- Disposition:** Confirmed. (Y-5)
- 289** Accept Bureau of General Services report on the Construction Manager/General Contractor construction contracting method used for the Classical Chinese Garden (Report)
- Disposition:** Accepted. (Y-5)
- \*290** Accept donation of five Mountain Bikes from the Don Rasmussen Mercedes-Benz dealership to the Police Bureau (Ordinance)
- Disposition:** Ordinance No. 175393. (Y-5)
- \*291** Authorize Interlocal Agreement with Clark Regional Communications Agency, Vancouver, Washington, for mutual aid access to the City 800 MHz Trunking Radio System (Ordinance)
- Disposition:** Ordinance No. 175394. (Y-5)
- \*292** Authorize payment to Valley Environmental Services for environmental remediation work at PGE Park (Ordinance)
- Disposition:** Ordinance No. 175395. (Y-5)
- \*293** Amend contract with Par-Tech Construction, Inc. for remodels of Fire Stations 10 and 14 and provide for payment (Ordinance; amend contract No. 33180)
- Disposition:** Ordinance No. 175396. (Y-5)
- \*294** Create one Environmental Services Manager position for the Bureau of Environmental Services (Ordinance)
- Disposition:** Ordinance No. 175397. (Y-5)
- \*295** Authorize an Intergovernmental Agreement to accept up to \$23,871 from Multnomah County to continue Metro Functional Plan compliance work (Ordinance)
- Disposition:** Ordinance No. 175398. (Y-5)
- \*296** Authorize payment of \$600,000 in support of Metropolitan Exposition Recreation Commission operations (Ordinance)
- Disposition:** Ordinance No. 175399. (Y-5)

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**Commissioner Jim Francesconi**

297 Adopt revision to Basic Emergency Services Plan as required by Title 15 of the City Code (Resolution)

**Disposition:** Resolution No. 35973. (Y-5)

\*298 Approve payment to Olson & Jones Construction, Inc. for work on park property contracted for by Friends of Terwilliger Parkway (Ordinance)

**Disposition:** Ordinance No. 175400. (Y-5)

**Commissioner Charlie Hales**

\*299 Call for bids to complete Contract Asphalt Paving 2001, authorize a contract and provide for payment (Ordinance)

**Disposition:** Ordinance No. 175401. (Y-5)

**Commissioner Dan Saltzman**

\*300 Authorize an agreement between the City and the U.S. Geological Survey to develop a detailed approach and methodology for completion of a thermal load assessment project in Portland rivers and streams (Ordinance)

**Disposition:** Ordinance No. 175402. (Y-5)

\*301 Authorize payment extension to Hansen Information Technologies, Inc. for delivery of additional professional/technical services and computer hardware and software (Ordinance)

**Disposition:** Ordinance No. 175403. (Y-5)

\*302 Authorize a contract and provide for payment for the construction of the Insley parallel trunk sewer, Project No. 6528 (Ordinance)

**Disposition:** Ordinance No. 175404. (Y-5)

303 Amend City Code to modify Solid Waste and Recycling Regulations for commercial permittees (Second Reading Agenda 270; amend Code Chapter 17.102)

**Disposition:** Ordinance No. 175405. (Y-5)

**Commissioner Erik Sten**

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- \*304** Contract with Peninsula Community Development Corporation for \$42,000 for the outreach and public participation portions of development of a Portsmouth neighborhood plan and provide for payment (Ordinance)

**Disposition:** Ordinance No. 175406. (Y-5)

**REGULAR AGENDA**

**Mayor Vera Katz**

- \*305** Agreement between Multnomah County Department of Juvenile and Adult Community Justice and the City for use of Local Law Enforcement Block Grant funds (Ordinance)

**Disposition:** Ordinance No. 175407. (Y-5)

**Commissioner Jim Francesconi**

- 306** Authorize a Request for Proposals and a contract with an agent to market and negotiate a commercial naming rights agreement for the Portland International Raceway (Ordinance)

**Disposition:** Passed to Second Reading March 21, 2001 at 9:30 a.m.

**Communications**

- 307** Request of Rick Seifert to address Council regarding one percent for undergrounding utilities on City-approved projects (Communication)

**Disposition:** Placed on File.

- 308** Request of Patrick Dinan to address Council regarding police and citizen rights (Communication)

**Disposition:** Placed on File.

- 309** Request of Ron Strasser to address Council to ask why Richard Koenig is spending so much time at City Hall (Communication)

**Disposition:** Placed on File.

- 310** Request of Richard Koenig to address Council regarding a nine-page affidavit to Chief Kroeker, starting with paragraph five (Communication)

**Disposition:** Placed on File.

At 12:17 p.m., Council recessed.

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A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS 14<sup>th</sup> DAY OF MARCH, 2001 AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Katz, Presiding; Commissioners Francesconi, Hales, Saltzman and Sten, 5.

OFFICERS IN ATTENDANCE: Britta Olson, Clerk of the Council; Kathryn Beaumont, Senior Deputy City Attorney; and Peter Hurley, Sergeant at Arms.

**311** **TIME CERTAIN: 2:00 PM** - Hear appeal of Dora P. McCrae (PIIAC No. 00-15/IAD No. 98-054) to the Police Internal Investigations Auditing Committee, per City Code 3.21.085(4)(d) (Previous Agenda 1683 introduced by Auditor Blackmer)

**Motion to uphold the PIIAC advisors' finding of insufficient evidence:** Moved by Commissioner Hales and seconded by Commissioner Sten.

**Disposition:** Appeal Denied. (Y-3; N-2, Francesconi and Saltzman)

At 4:43 p.m., Council adjourned.

**GARY BLACKMER**  
Auditor of the City of Portland



By Britta Olson  
Clerk of the Council

For discussion of agenda items, please consult the following Closed Caption Transcript.

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**Closed Caption Transcript of Portland City Council Meeting**

This transcript was produced through the closed captioning process for the televised City Council broadcast.

Key: \*\*\*\*\* means unidentified speaker.

**MARCH 14, 2001 9:30 AM**

**Katz:** We are going to start our council agenda. Council will come to order. Britta, please call the roll. **Francesconi:** Here. **Hales:** Here. **Saltzman:** here. **Sten:** Here.

**Katz:** Present. Hello, everybody. Consent agenda. Any items to be removed off the consent agenda? You don't have any. Does the council have any? Does anybody in the audience have any? If not, roll call on the consent agenda. **Francesconi:** Aye. **Hales:** Aye. **Saltzman:** Aye. **Sten:** Aye. **Katz:** Mayor votes aye. All right. Time certain, 283.

**Item 283.**

**Katz:** Commissioner Francesconi, did you want to say anything?

**Francesconi:** Well, just briefly. I am very proud of jim and sell celia for doing this. I underestimated the importance of doing this -- and sue, and others, but I want to specifically mention, especially sue and cecilia. But, the importance of kind of assembling information in a very readily accessible way, and get it go out to business in general, and small business, in particular, is really a big deal, and as we are going to hear the Oregon economic development department is kind of, really, also been our partner and helped us, so we are going to have a demonstration today, but I really underestimated this tool, and I want to thank you for doing this. That's all.

**Jim Wadsworth, Director, Bureau of Licenses:** I am jim wadsworth, director of the bureau of licenses. A presentation of the city of Portland business portal, [www.businessinPortland.org](http://www.businessinPortland.org), represents the product of a city-wide collaborative effort among a number of city bureaus, and the funding and development partnership between the bureau of licenses and oaecd, the Oregon economic and community development partner. It also represents the first step in the challenge that commissioner Francesconi --

**Francesconi:** I am sear, I was waving because I forgot to acknowledge robyn roberts. But the role that pdc played in helping partner with oad, sorry, I don't remember his name. Okay. I am sorry to interrupt you, but I just realized my mistake.

**Wadsworth:** That's quite all right. The business portal represents the challenge that commissioner Francesconi made to the bureau of licenses, and the council endorsed with funding to provide better service and support to businesses as they attempt to comply with various government requirements while becoming viable business concerns. One common theme that we heard from business is as we toured business districts across the city with commissioner Francesconi and that small business is echoed at round tables and conferences sponsored by the governor's small business council, of which sue is on the advisory committee, was that business needed one place where they could find out about, about the government requirements and services that were available to them and how to access them [www.businessinPortland.org](http://www.businessinPortland.org), does just that, whether they are over the internet or visiting one of the 30 points of contact or even through a phone call, where those businesses can obtain those services and that that one point of contact, use the business portal to help them get the information that they need. The one-stop concept is particularly important to smaller emerging businesses, who may not have the staff time to spend looking for those services or may not be able

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to do it when government is open for business, when they are also open for business. So we have a, a 7-day a week, 24-hour a day, 365-day a week, any time a business needs to access a tool. There is one other important point that I would like to make, before cecelia gives an important tool of the website. And that's that, in our partnership with oacd, we wanted to develop a business portal that could serve as many businesses as possible and the city of Portland filled that bill, but what we also wanted to develop a portal that could be reusable at a minimal cost of serving businesses anywhere in Oregon, and that, perhaps, other cities and jurisdictions could, could tag onto. And again, the, the business portal, [www.businessinPortland.org](http://www.businessinPortland.org) so, without further ado, take us away.

**Celia Heron, Financial Planning, Office of Management and Finance (OMF):** Okay. What you have got here is a product of a lot of people's work, and as folks have said, the idea really came from the fact that, that the recognition that the government has spent a lot of money and spends a lot of money on business related information and services, but the problem is, that the array of services is bewildering, people don't necessarily know how to get the service, where to get the service, who to contact. Government staff don't necessarily know that, and the average small business person working 14 to 16 hours a day doesn't necessarily know that. So what we have tried to do here is make use of the technology to, to, basically, make a one-stop find your way to the information of service services provided by the Portland area, public agencies, so we are coming across the bureaucracy, because the average business person doesn't matter when it is the business of Portland, Multnomah county, or state of Oregon, they just want to get their permit and their license and they want to get on with business, so I will give you a quick tour in case you haven't been there already. Going down the side, this is what I would call our chronological categories and this is building on the knowledge the folks who work with small businesses, this is (e) from getting started in business to once you are started, financing and growing your business, day-to-day operations, et cetera. So if anybody wants to link on the site, you are going to get a brief explanation of what you will find here, and as you might imagine, getting started in business in Portland, well, most of the things you need to know are about getting started in business in Oregon. So, without replicating somebody else's -- oh, somebody else's information, we just link you to a wonderful website down in the state at the business information center. So then the small business person can read all this information, figure out what it takes to get started in Oregon. But, as we all know, there is something you need about doing business in Portland, and so we have created information that talks about getting started in Portland. Everything from your basic requirements, you can scroll on down to business licenses and income tax, personal income tax, taking care of those requirements. Now what you don't necessarily see here, is that most of what's on this website are links to other people's websites. By design, it makes maintenance very simple, makes the other agencies responsible for the information, so you are not getting outdated information, so if I am wanting to start a business and I want to find out if, in fact, I need a, license, I can come here and go to the bureau licenses web page, I don't send you to their home page, I send you to the information that you need. And in fact, I could send you directly, you say, I don't need to know -- I do need a business license, just send me directly to the forum. So we are trying to get people to the place they need to be as fast as possible. It is time to go and pay for it, you don't need to go to the website to figure that out, and basically what you do on your quick info, it is like a rolodex, here's the fax, the phone, the e-mail. Here's the address. So again, it gets you the information you need as fast as possible, so that you can take care of business. So we have the chronological categories, going down, day-to-day operations, what do you need to do. Licenses, taxes, permits, and et cetera. My suspicion, even though these are chronological and these are the kinds of services that people are asking for, if we get frequent users of the website, they will come to the search engine,

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and type in something like, "permit," and out pops everything relating to permits. You have got 15 records about permits. And if you want to find out about a home permit, and there you go, so basically, anything from the home down as quickly as possible to the information you need, and again, this is available to any, any business, but obviously, the smaller you are, the more time you save and the more this makes a difference. A primary audience is also the staff and government agencies and the staff of community-based agencies that search small business. The folks, when they want that phone number for the permit number, it is the folks at the community college, business development center, they don't have time to keep this information up to date and they shouldn't have to. They can use this, and some of our, our most enthusiastic supporters of this website have been our agencies and community and government agencies, say this is exactly what we need to do. This saves me so much time, and now I can take the time to help my small business that I work with every day get to what they need. And I want to take a lot of time because you can check this out on your own. I will point out one thing, that I do like about it. It is very flexible. It is built off of a data base that can be updated without major programming cost. You can type in the word in spanish, you can type in the word, espaniol, and I have linked to all the websites that I have found so far, and if you know other ones translating into spanish that people can read in spanish, so people who prefer to read it in spanish can find the information they need. A lot of government agencies have taken the time to create those websites. This website, this portal just makes it easier for people to find their way to that. We will find what we can do to clip away at that, as well.

**Katz:** How do you tie in with sue [Purchasing] and contracts.

**Heron:** Well, in terms of the portal, this -- the portal is one of the more physical manifestations of the website. It can be physical, the kind of collaboration that we have been -- we put together for the last year under -- the auspices of small business, and purchasing and pdc and housing community development and Francesconi, and the license, have all said, how do we work together and coordinate this information. In terms of connecting with the opportunity -- excuse me, with purchasing, right now, we don't create any more functionality that's, that's already out there on other people's websites, but you can go here and look for contracting opportunities, and here's all the different places that you can do business, if you are a business ready to do business with government, here is Portland, here is the feds, here is metro, here is tri-met, trying to make it a little easier to find out about the contracting opportunities. I would like to see six months or a year from now some kind of database thing, you type in once, I want to do business with anybody in government and you can get e-mail notification back and cut down on the paperwork, cut down on the lack of connection. They have been very supportive, and the whole group, in fact, I want to make sure I mention, not all of them are here, but I would like a couple of them to come up. In addition to the great development work done by, by a programmer, I create what had I call an editorial board. People taking the consent and sort of the vision of what this is, and those people are tony, who is in Multnomah county. They -- the library decided they were going to target small business so they are really excited to be part of this. Tenny kenny, meredith, a web master, diana, bureau of purchases, donna reed with cascade link, who has been very, very active in this in terms of the database development, and linda, who is going to speak, she's with Oregon economic community development department, who gave us the \$45,000 grant to get this thing going. And venessa blake, too, so we have tried to get a broad reach of the public, and across the agencies to make sure that we do organize information the way businesses want it and provide the information the businesses need.

**Saltzman:** Do they have to be found online or downloaded?

**Wadsworth:** If they are down loadable --



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**Heron:** This website didn't create any functionality to be able to do things online that didn't already exist.

**Wadsworth:** At this point, they can be downloaded. We are working on the fillable forms right now, and we have got them in a, in a test mode, so, so we are close to having them on fillable forms, and then that leads to the next step, which is submitting directly, and electronically through e-commerce and we are working on that project, too.

\*\*\*\*\*: So once those are all in line, you can access them here.

**Katz:** Thank you.

**Katz:** Who wants to go first?

**Ellen Nyberg?:** I will go first. I am ellen with the Oregon economic and community development department, and I am sure you know that we have in the Portland area, a northwest team. We partner up with the Portland development commission, and the city and the county to look at what are the opportunities that you all are interested in investing in, to solve problems in the community, I guess would be the best way to say that, so this project was brought to us, and i, I got the opportunity to work with it, and we will make the investment, partly because I know a little bit about the information, the databases and a lot of people, you know, that kind of scares them a little bit so, there you are. Anyway, I want to just say that, my experience with working with these kinds of projects, that I was really pleased, and impressed with sort of not only meeting our expectations for what we hope the site would be, but exceeding those expectations. I think that we are looking at how in the future, we might work with the same kind of portal and make it available statewide. This is certainly a leading edge product, and you should be very proud.

**Katz:** We can sell it to you. [ laughter ]

**Nyberg?:** Well, we --

**Katz:** Well, a little tacky there. [ laughter ]

**Francesconi:** We can sell it together. [ laughter ]

**Nyberg?:** There you go.

**Francesconi:** And what we can sell would be bigger and better if you would give us another grant.

**Nyberg?:** Oh, yeah, no doubt. [ laughter ]

**Katz:** You can't win here. [ laughter ]

**Nyberg?:** Well, yes, and then I was going to say on behalf of the department, you know, bill and jerry and john, our manager here in the region, I wanted to also express our appreciation for the hard work that was done here, particularly we are impressed by the collaboration that's come out of it. Cecelia talks about the editorial board and all the various departments that have gotten together, sort of how you streamline this process, so that staff has more time to actually serve small business and assist small business, rather than spending time to try and find information, and to me, that's the real value of managing information well. I just wanted to, I guess, say that I appreciate even being asked to come today, and share a little bit of sort of how we see this project, and you know, wish you the best in the future on this.

**Tim Liszt, Portland Development Commission (PDC):** I will go. My name is tim list, and I am involved with, actually, two aspects of my job. I've been involved in graphics and publications at pdc for almost 15 years now. And part of what I do there is to accumulate and collect the data that goes into our business publications, until this point in time, that this collaboration with the business in Portland, website has been primarily printed pieces, or pdf documents that have been disseminated to our website, and one of the real exciting things about what we were able to do is to take the content of what's been a very useful publication, and get it into more people's hands, talking about the business resource directory that we did through you, mayor, and that's been a successful and frequently requested publication, but not enough people are getting their hands on it,

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so the content and the individual pieces of that publication were broken up, and basically, entered into this database in a real search be, user friendly way. The collaboration of working with cecelia was a great experience, and it was a wonderful opportunity to work together and leverage existing information so that more people had access to it, and then we have, in several places, on our website, point people to, and also in our information requests, refer people directly to the business in Portland website, as well, so it is a great way to leverage, I think, the information sources that already exist, and just one anecdotal thing that I would share, is many times when I am talking to a small business owner and they have made their way to my phone at my desk, they have talked to, unfortunately, several people within the city, and you know, if they are lucky enough to get that main information number, those people are skilled and oftentimes help cut through that maze, but by the time I have talked to them, spoken with folks, oftentimes it is like, well, you know being I talked to licenses and at bes, and they don't know, you know, where to go. They know what they want, and this is giving a lot more of that power and control to those small business owners, and it is really effective.

**Katz:** Move the mike closer.

**Robin Roberts, PDC:** Portland development commission, and the partnership has been exciting. I have been here about a year hoof, going on two years, it doesn't seem possible, but this group, the small business group with sue, cecelia, jim and others, came together for their first meeting not long after I started and it was exciting for us to be able to have the first real tangible product be such a successful product in the business in Portland portal, and it is one of a lot of things that are on the agenda in that collaborative effort on behalf of small business, but I just think that, again, applaud the partnership, the support of everyone in getting this done, particularly the state because we did need some financial resources to jump-start the process. But again, it is just one early win, and when you are trying to do difficult things, like cross jurisdictional boundaries and so forth, it is nice to have that early win for the small businesses.

**Katz:** Thank you. Questions? Thank you for the grant. We won't sell it until -- [ laughter ] All right. Anybody else want to testify? All right. I will take a motion to adopt the report.

**Saltzman:** So move.

**Katz:** Do I hear a second?

**Francesconi:** Second.

**Katz:** Roll call.

**Francesconi:** I promised not to turn this into a budget thing. I want to follow up, though, on what robyn just said. It is the first of small efforts to kind of do this, and you know, the way that mayor and commissioner Sten kind of pulled together a unified front on housing, I have been much less successful, but working with the mayor and sam adams, in particular, as well as the people that have been named, sue, cecelia, jim, robyn, kristina, we are trying to do that same kind of approach on a much reduced scale on small business. And so I want to thank the council because it was the council that gave one-time dollars that funded cecelia. You had to have that staff person because then they went out and did the product, and the product isn't just the portal, but it is the most visibility sign. But it is also, now, trying to be a concentrated effort to address this. One of the things we came up with was a pdc paper that was done in 1985 about the needs of small business, by patricia scrubbs, and they identified the importance of getting the information out in a easily accessible way, like you, now, have just delivered. They identified a few other things. In a few weeks, I would like these folks to come back and do a brief report on the small business, the rest of the small business strategy, and we will keep it brief, and I will give you the status, but I just want to thank you all for your efforts to respond to an important part of our community.

**Liszt:** I just want to make this comment.

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**Katz:** Hold on, we are in the middle of roll call.

**Liszt:** I am sorry.

**Francesconi:** That's all, aye.

**Hales:** Great example of working smart. Thank you, aye.

**Saltzman:** Very impressive. Good job. Aye.

**Sten:** I think this will make a difference, and thank commissioner Francesconi and for you for all your hard work. We do need to help people connect better, and this is great. Aye.

**Katz:** Thank you very much. You all know that the city is now working on budgets and she knows a lot of your budgets, and she is going to be very, very helpful. And we are very happy that we have her now in the office. In the office of finance and management. Aye.

**Francesconi:** Could I have your discretion to say something?

**Katz:** Sir, what did you want to add?

**\*\*\*\*\*:** I apologize for the lack of protocol.

**Katz:** That's all right.

**Liszt:** I actually just wanted to make the comment, ellen is quick to remind us of the generosity of the grant, which I appreciate, and I think this is one of the most effective bangs for the buck. I have a lot of experience with costs and dedicated resources to produce this kind of product, and I think that the value for this amount, for this dollar amount was extraordinary.

**Katz:** Except we don't use that expression any more. [ laughter ] Thanks.

**Francesconi:** The only thing I wanted to add, there may be a transition to this next item on the agenda, but one of the focuses of that editorial board has been how do you get more information and resources to minority businesses. It has been an important part in recognition, and that's why it was good cecelia, how you put the link to the spanish language. But this -- I want to thank the group for having a special focus on minority business.

**Katz:** Okay. Item 284.

**Item 284.**

**Katz:** Okay. Come on up. Serina, why don't you go first and then back to Multnomah county to do some work. You can stay --

**Cristina Germain, aide to Commissioner Francesconi:** Actually, I was going to kind of introduce the people that are going to speak, and then I was going to speak right after that. Thanks for hearing us today. I am going to introduce cynthia is going to talk about Multnomah county and how they are taking on the latino network needs assessment, rosemary will talk about the latino network and how -- it started about four years ago, trying to get together a united agenda and where they are today. Marine will talk about the needs assessment, itself, maria smith is going to speak about kind of the grass-roots organizing of the community, and here in Portland, and lastly, rhea is going to talk about where we are and where it fits in with the city. And I think that there is a couple of other people that would like to testify at some point.

**Katz:** Okay. Commissioner kruse.

**Serena Cruz, Multnomah County Commissioner:** It is an honor and a pleasure for me, commissioner kruse, to be here before you today to introduce the latino network and the amazing product they have before you. I know many of you have had an opportunity to see the results in one-on-one opportunities, but it is really the magnitude of the study and the magnitude of the potential impact, not only that the latino community has and will have in our community, but that your changes and that the things you do to respond to these new demographics in our community can have over the upcoming years. Like kristina said, the county commission reported a few years ago but it was out of the efforts of the latino network that rosemary will tell you about that started, I don't know, about 1996-97 with the leadership of a lot of folks who had been here for a while in the

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community, but had seen rapid changes since is the 1990s, and as you know, the census is going to indicate some pretty staggering changes anywhere from a 6 to 8% percentage of our population is now latino. And that's a rapid change in this community, and the county sought firsthand, I mean, as you all see it in many different ways, but the county saw it, for example, in our health clinics. 25% of our self-paid clients are latinos, and of all of the sessions that we have translated, over 60% of them are translated into spanish. So, if you talk about an organization that is recognized and grappled, to some degree, with the changes in the community that it is serving, the county is definitely facing that, and looking at the, looking at the needs and assets assessment, as a way to prioritize how we are going to figure out where to make the next set of investments, and how we are going to figure out how to make sure we best serve the latino community that is very different from other ethnic racial groups, in terms of settlement in our community. Very, um, spread out across the community from north, northeast, to outer east. And that presents a whole -- it is an exciting thing because there is not a similar type of segregation, as african-american community has faced, on the other hand, it makes providing services a little more difficult because you have to spread out and figure out how to spread out those resources so that everybody gets access to them. So that the latino needs assessment, I think you will find, is an important piece in our community because it outlines the priorities and the challenges facing our community, the latino community, and the number one challenge being education. And the drop-out rate, which all of you are familiar with, their recent finding, which said that, in fact, one out of every three students is dropping out of high school every year, and this figure is at twice at rate of the national figures so, we have got a staggering crisis in our schools, we have got health care issues that we are facing, as well as community development issues, that the network will share with you that, that the report found. So the county is responding to this on a whole number of levels trying to figure out how to prioritize our next step, and this is important for you, a city, to figure out which of your services are the places to prioritize, how your client bases are changing from water, from bus, to folks that are making calls for fire and police service, as well as differences in new arrest rates. The whole latino impact affects and crosses so many different city services that I look forward to working with all of you and hearing them and hope you enjoy hearing the network's newest and greatest efforts to, to move this community forward and to play the role that we really can play here in making Portland just the doggone best place to live, ever. So thanks.

**Katz:** Commissioner kruse, thanks for your leadership on this, and for your commitment. And pushing this forward, so that the public is aware of it, both in the city of Portland and Multnomah county. The importance of the diversity in our community, and making sure that each one of our citizens succeed. The drop-out rate figures are national, they are horrifying, and I hope we can hear some solutions, so thank you.

**Francesconi:** And your work with the schools.

**Katz:** Okay. Who is next?

**Rosemary Celaya-Alston, Multnomah County Behavioral Health:** Me. You will find that I don't have a difficult --

**Katz:** Identify yourself for the record.

**Celaya-Alston:** My name is rosemary, and I am the latino chair. And have been for the last two years. We have had the opportunity within the last couple of weeks to meet with each and every one of you on different levels, to share who we are, what we are about, what our mission is, and where we are headed. And basically, who we were was a breakfast club. It started about seven years ago with miss andrews, and she really initiated and saw the vision of trying to get folks together from all levels to talk. It became much more than a breakfast club, and we moved into looking at what we could do as a network in terms of assisting our community, given that

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everybody defines community different, example being, the hispanic chamber of commerce defines community different than community folks define community. And we have -- maria smith is one of those members, and we are pleased to have her. She will be talking in just a little bit here. She's anxious, though. Where we are headed and what our mission is. We are basically a group of folks, members include everybody from folks from sisters of alaharda, folks from the educational, health, social service, business, and community level. So it encompasses a membership, and we are looking at that that more so, and it is more of an advocacy, activist kind of role. We would like to see some policies and some things change. Because this community does not work, does not think oftentimes in the same way. So, how can we impact that? Where are the barriers? You are going to be hearing a little bit of where those barriers are, but we are excited. This is a challenging time. Portland has an opportunity to, to really take these communities and blend them and work in a different, diverse way. It is a big job. And as we roll up our sleeves in the network, we are excited about some of the possibilities and the projects. Ray will be talking a little bit more about that. And we are really excited at looking at what we can do with the city in terms of, you know, your infrastructure, as well, where we would fit in some of the things that the needs assessment is stating to you, and the story that people have told. So, with that, I will go ahead and turn that over to maria.

**Marie Dahlstrom, aide to Commissioner Cruz:** Thank you, rosemary. My name is maria, and I worked as consultant with dr. Mike mcglade and maria smith on this project. First of all, I would like to thank you, mayor, and commissioners for allowing us to be here today. It is truly a pleasure, and an honor to represent the community. This was a community-based project, and many voices of our community members were represented in this project, and I also would like to thank commissioner kruse for really leading this effort, and again, as you said, mayor Katz, pushing and continuing to bring to all of our -- the attention of city and county, the needs of our changing community. I also would like to thank kristina germane for all the hard work that she has done in serving as a link between the city and latino network. What I want to do now and, I would like to share some information about who the latinos are, who live in the city of Portland, and in the county of Multnomah. I know that you all have received the report, and I hope have had an opportunity to read, read it. I know that commissioner Francesconi read all of it, and we were very impressed to hear that. But who are these people? Some demographics. We believe there are about 50,000 latinos that live in the city of, or live in Multnomah county. It is difficult to tell because we believe that we undercount often, but as commissioner kruse said, they don't all live in one region. They are spread out throughout the county. We know that in northeast Portland, north Portland, st. John, columbia villa area, rockwood and also southeast has a growing latino community, and north Portland and rockwood and southeast have limited resources and are, our commitment is to work to increase some of these. We -- the largest number of latinos in Multnomah county, even though we have large numbers growing in the rockwood area, actually live in Portland. The growth rate has been phenomenal, as you all know, and we do know, with the census reports coming out, that the rates are increasing nationally, as well. But, in the last decade, in the u.s. Nationally, the hispanic growth rate was about 58%. Compare that to Multnomah county, which grew by 150%. So, three times the growth rate here in Multnomah county, as in, in the united states. The tricounty metro area has the highest growth rate of any, any area in the northwest. And there are two reasons for that. Dr. Mcglade, if he were here, would speak to this, as an expert on integration patterns and trends. First of all, 80% of the population is from mexico, and most of them are from the outlying rural areas, from the pueblos, and one of, one factor that has to be present for a large hispanic population growth, as we are experiencing here in the tricounty area, is that there has to be an area of labor intensive agriculture. Nurseries, greenhouses and vineyards, and the second part of that is

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that we -- that the area must have access or be near urban, the urban labor market. So, in Seattle, for example, which has not seen anywhere near the growth rate as Oregon or Portland has, that would be because there isn't the close access to agriculture, as we do here. One of the things that we know is that many of the residents in Portland actually work in Clackamas county, or even Washington county. We had an example of one of our leaders who was profiled recently on Channel 8 news, where he actually works in the Orient but he lives in Rockwood so, we see a lot of that. And there is only one other county in the state of Oregon who has higher concentration of Latinos than Multnomah, and that is Marion county. So, what did we -- what did the members of the community tell us? Without exception, families, parents are very proud to be here, and have high hopes for their children. They want their children to complete school, and why do we have a 31% drop-out rate in Multnomah county? It isn't because our families don't care, but our families remain disengaged. They remain uninvolved in the school process. They come from countries where the relationship between family and school is different, and yet, they have very little orientation or mentoring in how it is different here. Programs that exist to be able to engage parents, for example, Sun, hasn't really demonstrated overall a high effectiveness with Latino parents, with the exception, I will refer to, Rindler school, which because of its involvement with the family, which is a multidisciplinary team, that works on mental health and overall family support, they have been demonstrated effectiveness in engaging families, relationship building. The next is our community members are not unemployed. But they are severely underemployed. Many of them have two and three jobs, and this is just to survive, not to be able to get ahead. So, what we are recommending, and Ray will speak to that is, that we need more resources in the development of microenterprise. We have people from countries like, like Guatemala, Costa Rica, Ecuador, who have degrees, for example, but are not able to use them here, they have skills that, if they have the right support and resources, can begin to develop their own microenterprise. Our families, many of them feel isolated. They don't know -- often, they say, where is the center -- where do people go here in Portland to get to know one another, to, to have a sense of community, and so what we, we see is that, and what we recommend, is that we really look creatively in community development at how to create and enhance day-to-day physical interaction with one another because, in most countries of the world, a sense of community is built by actually talking to one another every day, not e-mailing, but talking to one another, and our community thrives on that, and to really look creatively at areas like North Portland and Rockwood and Southeast in terms of combining housing with small business development, and cultural activities and family strengthening at this time it is, and I would like for Maria to talk about what it was to recruit the community.

**Maria Smith, Desarrollo Integral de la Familia:** Thank you so much. It is an honor to be here, and I am very excited to have this opportunity to let you know -- first of all, I want to share that I have been privileged to experience the best of both cultures. My heart's desire is to be able to help the community to experience that, that because it is very important to teach people how to fish, not to just give them a fish, and to empower them, you know, to, through the programs, to strengthen activities. One of the wonderful things that the Hispanic culture has is the, the respect that they have for one another for the elderly, for the, the human being, you know, in a sense, and the willingness to learn once they know where to do it. So, I am very grateful to have the opportunity to be a link to helping the Latino community, to draw, to, to be an asset for this country because if you give us the opportunity to show you what we can do, you will be very happy and proud of having us in this country. And I thank you all for this opportunity. Thank you.

**Ray Espana, Multnomah County Aging Services:** Good morning, Mayor, Commissioners. Ray. It is a pleasure to be with you this morning and to share some observations. I think today marks,

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with the release report, kind of a celebration in the latino community of a very important document. It is a description that tells a story. It is very hopeful. It is our best effort, and we are really very proud of maria and miguel, who were the principal invest -- investigators in the report, that it is -- it builds upon prior research. It relays a good foundation for the direction that we would like to go. The vision that the latino network has, is probably not any different than any aspiring kind of community that aspires for community building, comprehensive community development, in all its aspects, providing for, for culture and arts to, to, to housing and jobs. The network is focused in, on a very important portion of our latino community, and those are the individuals, the hispanics, that fall below the poverty level. There are specific concerns in the network, is to deal and address the issues of nearly one in four latinos, as being below the poverty level. It is clear the research indicates, that, that educational achievement, leads to, to skill development, which leads to, to better paying jobs. It is a tragedy that our children are failing, or being failed by the system, when we talk about one in three. We are very, very concerned and have been so for years of the overrepresentation in the criminal justice system of our young people, in our community. We are concerned about, about the development of livable communities that are inclusive of recently arrived immigrants, latino-spanish speakers. So, we have a profound kind of breath to our concerns. We are here in mutual respect, and we are communicating our desires for partnership. We see the future, again, as very hopeful, and as anything, you can imagine, we have ideas. Rosemary has talked about the growth and evolution of the, the latino culture club or the breakfast club. The latino network, I think, will develop organizationally and I think those are issues that we will be facing as a group in terms of the type of nonprofit organization that we will eventually evolve into 501-c-3, I don't know. But I think that the, the path is clear that that evolution is very important. We have two specific things that I wanted to mention to you before going into the two initiatives, and one is that, that we are requesting that you distribute -- I will make available copies of the needs assessment, and we would like to have it distributed to all your bureaus, and your bureau heads. We would like, also, for the mayor and commissioner to consider identifying some senior level personnel staff that, that would engage the networks in some discussions to begin to, to identify areas of mutual interests in the future. Before I forget, I wanted to share, I touched upon those two things. We had an opportunity to talk with a number of you, had some very good ideas. But I think that, that the time is now to kind of present what I think is a very important initiative, and that is to build a partnership. The network has, as a significant issue, for the city, is to engage our community. We entitle it, the network's social capital initiative, and we are requesting that the city strengthened its relationship with the network and the community, and we can do it through community outreach and active engagement of our community and many of your community planning responsibilities. We have demonstrated time and time again, an ability to mobilize community to, to bring together community to advise people on budget priorities, and maybe we can do something next year for the city, as well, on this particular matter. But, I think that we have a track record of success in mobilization of community. And we feel that that needs to be strengthened throughout your bureaus, we believe that happens in coordination with key sponsored initiatives. You have been very active in sponsoring the, the neighborhoods without boundaries. I had to stutter there for a second. I always mistate state that program. You have been instrumental in developing the school, connecting with the kids initiative and active supporters of caring communities. You have been very active with the urban renewal ventures. You have been key leaders in anti-poverty workforce development, and we can go on and on, and looking at the types of things that you have been concerned with, that we now want to engage you and be a partner with you in the future. Our effort, in terms of community engagement and outreach, is coupled with our desire for accountability. We like to -- we plan to examine and review the strategies and make

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whatever recommendations to the city, bureaus, and programs, to assist in developing the effective strategy to connect our community with particular projects. In summary, that is our community outreach initiative. The second initiative strikes at the heart of, of, of the future for low income hispanics, and that is state housing and minimum wage jobs. We entitled this, our community and economic strategy. Under your auspices, there is a number of authorities within your city structure, as well, in the community, that we would like your support in bringing key people together to be able to look at effective strategies and make it a difference for low income latinos. Certainly, the Portland development commission, we have had a great conversation with the bureau of community housing and development. As commissioner kruse said, we had occasion to talk with the county commissioners. We have active participants in the hispanic chamber of commerce, and the list could go on. We are very proud to report, at least was reported to me, that our hacienda development corporation last year made the possibility for first time homeowners, 12 latino families, so not only are we concerned about shelter, but we have experts in the field, building rental housing and we are crossing over into homeownership. Let me just close by saying, that we look forward to working with you and we have specific projects that I have shared with staff. The two specific areas that, that we are interested in, is that the rockwood project, and we have, we have, we have interest in the hope 6, north Portland area. Our strategy simply is to look first at, at, where -- areas of high concentration of latinos households. This is not magic. Just kind of common sense. And to provide support in organizing and information that people need to become actively involved. We are monitoring very closely the urban renewal, the interstate corridor of the max project, as its impact on latinos. Let me just close by, by saying to you that, as part of our strategy, to be very aggressive about, about developing resources for multiple source to say make these kinds of projects happen. We, on behalf of the latinos, appreciate your time today and your attention. Thank you.

**Katz:** Any questions? All right, anybody else? Do you have questions?

**Francesconi:** On the statistic side, first, one thing to point out, you did it very well in your report, 75% of the latinos are above the poverty line, that are contributing, paying taxes, contributing to the community, working in jobs, and you are focused on that 25%, which is important. But, sometimes I think that we forget, we, not you, but the public, that 75% are out paying taxes, contributing to society. One statistics that jumped out at me was, that the average age for latino males, the death rate is age 39 in Multnomah county. Compared to the average 78 for males. What, what -- can you say a little more about what's behind that?

**Dahlstrom:** Well, what I can say is that the cause of death is accidental death, is the number one cause. And why we have such a, a young age for our men dying -- do you want to say --  
\*\*\*\*\*: What kind?

**Celaya-Alston:** Accidental.

**Katz:** What kind of accidents are we talking about? Identify yourself for the record, since there is a lot of you here.

**Celaya-Alston:** I am rosemary, on the job accidental deaths, and if you look at this population, these kids are having to grow up very, very fast, and the wear and tear that these men have had to go through with working three or four jobs, heart diseases, have increased. Diabetes, is a major health disparity with this population. They oftentimes go on undetected so, insulin or anything else is not part of their daily routine, so it goes to a massive, oftentimes terminal. The other major thing we don't talk about is that these folks are confronted with pesticides.

**Katz:** I was going to say that.

**Celaya-Alston:** They have to work with chemicals that are hazardous, and we are not collecting the data to really indicate what that looks like, but we have got to look at our dd, our developmental



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disabilities issues. We have women who are, that are impregnated and also having some real difficult pregnancies, and children are being born with dd. Because of the amounts and the effects and the long-term consequences of being in the fields. So I think that it goes across a number of lines, it is just the wear and tear, and the accidental rate for men are oftentimes happening on the job.

**Francesconi:** Okay. My second three questions, is that, again, it is a demographic, more of a demographic question. I had the perception from my prior life, the concentrations in hillsboro, boring, of latinos, but in this report, it actually shows that the migration rate is to Portland. In fact, I think they tracked 40 from hillsboro to Portland and zero from Portland to hillsboro. And from boring, it was also. Can you say, is that the economic shift away from migrant labor to other kinds of work?

**Dahlstrom:** Exactly. The jobs are here, and our people are doing a lot of service jobs, working in hotels, working in -- in the labor force, it is very much urban centered. And initially, what happens is that a lot of, of the, the migrants, or the immigrants coming into Oregon may initially, first generation, in particular, go to the outlying areas, but then more and more are moving toward the urban areas.

**Francesconi:** My last question is really directed at the -- why is the county, from my perception, doing a better job in -- on both the service delivery side, as well as the workforce side, in reaching out to the latino community.

**Espana:** I don't know if they are.

\*\*\*\*\*: Because ray is working for the county. [ laughter ]

**Katz:** Ray, he was slow to respond. He's not sure if that's an accurate statement. [ laughter ]

**Espana:** I appreciate the rates are that high.

**Katz:** Be honest, ray.

**Espana:** Yes. I think it is -- let me just say that I think the county has been, at the beginning of recognizing the latino community's roots, taking hold on the community. Ten years ago when I came up, almost 11 years ago when I came up from los angeles, I was introduced to east county, and the mayor, and she was concerned about some issues with latinos, and viewed as kind of the migrant problem. Migrant issue. And I think that's a fair characterization of a, a perception of the latinos, and that it was matter of the migrant stream and they kind of come and go, they kind of move on. And over the few years, of course, I think that, that they had someone, like myself, and like rosemary and others that preceded us, that were kind of pointing to that situation, and it is not necessarily always the, the, you know, things being put on the wall. Graffiti. You begin to see indicators of roots taking hold. The community is changing. You begin to look at school enrollment, and while mobility is very -- there is a fluidity you begin to see enough indicators to say our children are now entering school. There is not, has not been a study on fertility rates among latino women, but who is having children, their enrollment in school, they are not leaving, they are more, more consistently, the county, you know, primary health role, through human services, so the, with the studies to see these kind of indicators, and therefore, it is not magical. You have individuals who can connect with the community, who happen to look like that community. You begin to point to, needing to develop more resources. You begin to push for, for appropriate hiring. You begin to look at policy and departmental policies that are reflective of open access. The issue of health, and poor health indicators has traditionally been one of nonaccess. Certainly, there is exposure to, to pesticides. There is environmental issues, but, you know, class issues, low income issues, alaska, the, the -- access, the ability to get into the prevention of things, we are very good users of emergency rooms. Last-minute. It is only now that we begin to see neonatal and prenatal health care programs and kind of getting people connected.

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So I think, to make a very difficult answer to commissioner Francesconi, I think that we saw on the county side some indicators. We advocated as best we can, and we are met with some response to that. We began to increase resources. Our organizations begin to broaden and develop an expertise. We brought other people in the community, we identified other leaders who have struggled in this community, and pretty soon you begin to develop some momentum for change, and I think for change and for inclusion, and I think that's kind of where we are attitude. I think the questions you have is that I would not say that the city is behind the county. I would say the city needs to better, and I think that I am going to work with, with my fellow members to kind of help the city do that, and maybe raise the bar a little higher.

**Katz:** Thank you. All right. Thank you, ladies and gentlemen. Anybody else want to testify?

**Espana:** I got involved in quite a number of the activities. In Oregon and southwest Washington, and also in the senior coalition. Recently, I got involved in the elders program. It is very active. Today, I would like to --

\*\*\*\*\*: How to reach them. --

**[Greg Acuna, Oregon Council for Hispanic Advancement (OCHA):** 108 NW 9<sup>th</sup>, 97209. said he called to help 15 men applying for work, one of whom needed to eat. Look not only at helping Latinos, but to have the corporate world to help them.]

**Charles Shi, Immigrant and Refugee Consortium, Central Northeast Neighbors:** They are benefited by all the things available, fortunately, available, and also they can contribute. As a society, as a whole. That's why some years ago I came up with the idea, a concept, a concept of, of a boundary, a neighborhood beyond boundary. It had gone through the neighborhood association, meeting, and finally, it included in the guideline, passed by the city council, so, the idea is that how to do a good job, to bring the services, the information to those who came. They have maria, they have the language problem, as many of you have, this kind of issue. And myself. I am fortunate because I came from berma, where we are part of the, of the british columbia colony, so we learned english. And we learned english, we may have some accent, but we can read and write. That's why I became a college schoolteacher. A public schoolteacher, so I just want to say, I have a lot of experience in and out, as an outsider and an insider, and that's a real, real, real picnic so, when I talk about, talk about how to meet those kind of needs, so I began to think about, about how about going through the neighborhood structure, because as you all know, the city of Portland has a very strong structure, and I think you a know they are 95 neighborhood association in all the Portland area. Very briefly. That's why I came up -- the main thing is, we have to work with the neighborhood association, they are the, the neighborhood, and work with ethnic neighborhood because many of our people, when they came here, they have some problem, they don't talk with the next door neighbor. They pick up the phone and call their cousin in beaverton or in vancouver. [laughter] To talk about the I know. That's why there are many things that, that upset -- that they don't know. For example, the home invasion. Education problem, and health problem. Insurance problem. They don't know. The neighborhoods don't know, only their own relative know. That's why this is called the ethnic neighborhood, so the idea now is to interweaving the neighborhood with the geographic neighborhood. So we need to have a good way how to -- to the neighborhood association. So I just want to add one point here. I am working among our ethnic people is very good, but we need the connection. We don't want to duplicate another neighborhood. We have to use that assisting neighborhood. And how, how they connect.

**Katz:** Thank you.

**Shi:** And this is all here.

**Katz:** Why don't you pass that along and we will all read it. Thank you.

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**Erik Thompson, OCHA:** I am erik thompson with the Oregon council for hispanic advancement. Commissioners, and mayor, I thank you for your time today. I am here as an agency, as ocha, and the work that we do. We are excited about the assessment, very excited about it and the force it has brought with it, the census, as well. The board mentioned, as well some of our own experience that we have had. It is it has us in a position where we are strategizing internally, how are we responding to what's needed in the community, in our own mission statement of what it is that ocha does. And in doing that, we have created different collaborations, partnerships with different folks. One could be the hispanic access center. And the county funded programs. And really trying to address this and not be so, so separate in our approaches to what's going on. In -- I guess one point commissioner Francesconi brought up, the county and then, and then he brought up the indicators that, that put the county in that position. And I would also like to include what greg mentioned about corporate Portland, and what they are doing, as well as the schools and how they are responding to some of those indicators. In the end, I think that, as an agency, what we really look for is some communication and a clear understanding of what's going on. In order to help the city, and what our role is as a community-based organization and how to help the city communicate and present what it is that they are doing to the latino community, and vice versa, the latino community to the city. And so again, I would just, I just want to support the assessment, any work that may come out of this presentation today, and identifying certain people, that that communication does become very clear, that the folks that have been working with the community, has a clear understanding of the city, of where the city is moving and how they are working with the community ethnics. It is very important with us that we can share this with the community and in turn, share the community's concerns with you, and identifying who those people are, would be a great help to us. I think we have a wonderful base in the assessment coming out. The network, as well as the group home, which is a consortium of our free agencies, but we are really looking to unify and create, just a real solid system of access, livability, in the people feel that they are part of the city, that they can talk to the city and that the city will listen. And I would just ask, I just say that ocha is willing to step in, in however roles we can, to help facilitate that, any of those communicates coming out of the city, how do we best relate that to the community we are work with, in working with over a thousand families, we have access to quite a few people. So I would just offer our support for some of what was talked about today, as well as letting you know that ocha is available to help in any way we can.

**Buzz ortiz, Hacienda Community Development Corp.:** PO Box 1094, Sandy, Or. Good morning, mayor. Commissioners. My name is buzz. And I am here to, to support the assessment that was done, but I am also here to thank the, the commissioners and the city for the efforts and the dollars that it has invested in the past, in some of the projects that today, are paying back dividends to the community, to the city, and I would hope that the assessment that was done and the warning signs that are showing up to the commission that, that the commissioners and the mayor would take heed to some of the things that could be prevented early on. And specifically, I speak of the rockwood area. The rockwood area, in my opinion, has the makings of a situation that was presented years back, in northeast Portland, and I think that with the county, that mainly with the city being behind it, that maybe we could prevent some of those problems that are going to arise there. The issues, the housing issues, the community center, the clinic, those services that have been opened up earlier today, really need to come through that community, and I would hope that the city would take a lead in doing that. Thank you.

**Katz:** Let me ask a question. I would be remiss if I didn't. This is within the county's borders, right? Describe to me, other than in the area of housing where we do cooperate, what is it that you think the city should be doing outside of the city limits?

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**Ortiz:** I think that, since the city has already been involved in a project that can be used as a model, for that particular community, the rockwood area, the housing is, is being involved in housing issue, is the base, if you do not have, say, affordable housing to start out with, the rest of the programs are going to have very difficult times. So I think that the city, in its role that it has shown in the past, there is a lot of people sitting up there that, that were very supportive, and without their help, this would probably have never happened. Experience is what I am asking for. Experience that this council has.

**Richard Schwartz:** My name is rick richard schwartz, schwartz. It is a good latino name. [ laughter ] And I am at 1480 southeast liberty, in gresham. I am not a very good public speaker, but I am here to just basically say a few words from my heart. I have been arrested at the Multnomah county for 22 years. I came up here from, from southern california. [ speaking in latino ] We know it as l.a. And growing up there, I know the problems that can develop within a city, if left unchecked. We are very, very fortunate with the fact that we are at a point where we can do something to address a lot of these problems before they become problems. If we want this to turn into communities that have had severe problems, such as south central los angeles, places in oakland and other cities, we don't have to do anything. Just kickback and relax. It will happen. But I am very, very proud to be associated with, with people from other agencies, government, and so forth, that are willing to, to address these issues and to do something about it. Because, because we are all on the same boat, the gentleman from berma, stated we are all in the same boat. We have to work together. We are our community. And one of the saddest things that I can think of, is if we let this turn into that type of mentality, which is great for tourism because you have got your chinatown, korea town, your havana, you have got this and that and everything, but they don't cross the lines. Looks pretty on photographs, but it is a terrible place to live in. We have to blend in together and work together. We are all in the same boat. I have the honor and privilege of knowing kristina for many years. We worked together at the hispanic program in north clackamas and east Multnomah county. We saw the migration initially from, from that area into north, northeast Portland. A lot of it was to affordable housing. And to read in the paper to the point in which the hispanic -- a lot of people are offended by that. The spanish-speaking population has grown, you ain't seen nothing yet. Five, ten years down the road, we are going to have a tremendous number of latinos in the area. We all know that. It is inevitable. So, we better do something about it while we can. Because it will get out of hand very, very quickly, and you can't go back and fix it. We have seen that. And 3,000, 5,000 police officers are not going to solve the problems in the schools, the gangs, the drugs, the neighborhoods, it is not going to work. I have seen it in l.a., Los angeles, and the only thing we can do is co-exist. That's sad. But thank you very much for the opportunity to address this, and I want to thank my colleagues for all the work they have put into this study. A lot of you already knew the results, but it certainly will open up the eyes of a lot of other people in our city and county.

**Virginia Salinas:** 6706 NE Killingsworth, 97218. Good morning. I am virginia, a family resource center for Multnomah county. And I work at the one of the departments, and I know I have been here at the departments on several occasions, but in another role, bringing families here before you to give testimony in support of children and families. And I am here again today, again, in support of the needs assessment. We have mothers and fathers. We call them corporate mothers before they become corporate executives. We need to do something about it. Our hispanic population continues to grow. The needs out there are so tremendous, and one of the ways that the city has really done a big improvement is working with the Portland police bureau. We have been doing a lot of work out at the departments, and I think that we have a lot of support. However, there is still a bigger need in terms of reaching out into the communities, and working together,

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such as the school, is a good model that has been working with the departments, in conjunction with the school. So I think that we need to do a lot more programs and reach out to the families and children, and whatever that's going to take to do it, it really needs to happen. I can strongly say that, as an advocate for families and working in the hispanic community, we have come a long way. I have been here for years. I have lived in, grew up in Portland. And my parents were migrant parents, and I grew up in a school in southeast Portland, where I was asked -- I was singled out because I couldn't be a participant in the rose festival because they said that I was too little. I was a very little short kid at the time. And so, you know, I can totally relate with what some of the families go through. It was a struggle for me in grade school when there was no hispanics, I was called wetback. Chief taco bender. You name it. And you know the struggles and what I have seen is now -- it is put me in a role to advocate for families and advocate for the needs of what they represent today. And I just wanted to let you know that, that I strongly encourage your support and the needs assessment. If there is any way that we can continue to support those efforts and work closely with the county to reach out to families and children, that's where it needs to go. Thank you.

**Katz:** Thank you very much. Anybody else? All right. Then I will take a motion to accept the report. { **Saltzman** moved to accept report } A second?

**Hales:** Second.

**Katz:** Roll call.

**Francesconi:** This is a terrific report at which I have both a personal and professional interest. It is a terrific report because of what it says, and the specific recommendations. But, it is also a terrific report for how it was done. This is one of the best grass-roots efforts I have seen ever. And so you went out and interviewed people. You actually hired some poor folks to go out and do the work. You hooked them up with other people and you have got a tremendous document that it is our obligation to not let, to not let sit on the shelf. I have a interest because my daughter was born in colombia, and she has only -- we are making some progress. She's only been called a racial name or an ethnic name several times, not regularly, but it is probably because she speaks the language so well, and she comes across that way. But I want her to grow up and in a different city -- sitting, in a more inclusive country. The issues you are raising are not just latino issues. They are really Portland issues and american issues. One of the best parts in your report is how you kind of start with the progression from kind of manual labor jobs to that service jobs, to, to retail kinds of jobs, through generations. First generation is migrant labor. Second generation historically, you move up a ladder. And then the third generation is professional. You just described my relatives, when they came over. But now, we are removing the middle rung in this country, so people get stuck in that migrant layer jobs. They can't progress up the system, and you have described that in your report much better than I have seen. So, the key is, how do we provide the education, the workforce training, homeownership opportunities, and others to allow people to continue to move up that. But, and then the other question, though, is, and that's how, how do we do that as a country for people who aren't born with needs, and then if you are born latino or african-american or others, there is added burdens. But the real challenge, and you described it really well, is how do you connect all the services out there with these people that need the services the most. So one of the ways you do it, is you have a workforce that reflects the people that need it. Now, with jose coming here, who sat here in the audience, but now is in our affirmative action office, he is very talented and very skilled, and having his ability to help make the connections that, frankly, I think the county is a more diverse workforce, the mayor is working on this, but we can do more in this arena. And I commit you to you, as one, 20 work on that. We have an apprenticeship program that we are trying to institute in the park's bureau, that will help us in that regard. So that's one thing.

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Our own workforce. A second is how do we improve your capacity to deliver? You need professional staff in order to organize and advance the report. And I think that we need to help you. That's a second way. The third way is the schools, what commissioner kruse did with the school district in an organized way, where you are an organized voice, is risk. So she needs to be on the strategic core team as to more, more hispanic advocates, to advance this through the district, to make sure that, that the esl changes you recommend in this report and others are addressed. The city can play a role in advocating for those things to happen at the school district. The other thing is the sun school after-school program. I know it is not being as responsive as it needs to be in some areas. I appreciated you softening it in your remarks. Ringler does do well, and charles jordan started that program after one of you came in and testified. But we need to do more. We need to do better. Frankly, I asked for a report from parks about what programs we have. I was embarrassed to even show you when I got the results back. And I am the park's commissioner. So we can do more in this regard. The other area is workforce training. You didn't really address it much in your remarks, but there's got to be more of a system to provide workforce training to that lower rung. The workforce board at both the adult level and the youth level needs to take on this issue. It is really going to ultimately be a state issue. But the workforce issue is the only part of your report that I think we need to do what we can -- we can do more in that regard. On the microenterprise side and the small business side, I also commit to work with you as part of our small business strategy. The last thing that I am committing to, is your idea of the plaza you talked about it is one of the four things of parks that the parks 20-20 plan has come up with. The idea of urban spaces. So we don't only need to talk about the park blocks. We can talk about a plaza or a piazza in st. Johns, so we can do this together. So those, I wanted to list the areas that I wanted to specifically commit to you to work on. Lastly, I think we, as a city, need a work group at which we sit down with you and talk about how we are going to implement some of these recommendations. So I will be talking with the others here on the council but how we can do that. Aye.

**Hales:** Well, I think the beginning of better public services is better information, and what you have really done is given us a base for that collective work, so I appreciate that, I know that I can -- I have a sense on how much work went into this. I appreciate the good staff work and collaboration with the community to get it, so thanks all of you for a good product that will help lead to better, a better community and better public services from those of us here who are responsible for providing them, thank you. Aye.

**Saltzman:** This is an outstanding report, and I am really impressed with the quality of the research and the information in here. It really provides some very good insights, I think, into life for latinos and in Multnomah county and Portland today, 19 -- well, 2001, excuse me. [ laughter ]

**Saltzman:** And it is a snapshot that is continually changing, and it is very important for us to take note of this, and to, and for the city to be dynamic, as the county has shown, to be adaptable to meeting the needs of this community -- this fast-growing community. And I really wanted to just sort of echo on what you mentioned. We need to make sure that members of ethnic minority communities are involved in our neighborhoods, and we have a rich infrastructure and a rich history here of neighborhood associations and using those neighborhood associations as primary channeling to -- channels to communicate with us, the city council, and one of the things I just have announced two weeks ago at the neighborhood summit is a whole reexamine and reconnect effort where we are basically going to spend the next nine months intensively interviewing people and talking to people and looking at ourselves from the office of neighborhood involvement and figuring out how do we expand participation in our neighborhoods. It has gotten a little stagnant, frankly, and we need to really reach out to involve more members of color. More members of ethnic minority communities, and people, and as charles so happily said, we need to be able to have

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people calling their neighbors, once again, know their neighbors, once again, and not have to pick up the phone and talk to somebody in beaverton just because they happen to be the same color as that person. That's not effective community building. It is an effective role. It has a role, but as the latino community becomes mainstream, they need to be able to talk to their neighbors. This is their, just as their neighbors need to be able to talk to them. So good job, and we will work on this. Aye.

**Sten:** This is really a fine piece of work, and I know many of the players, and so I would expect this level of work. But you have done it, and I think the community is changing very quickly, and it is a very good thing. You know, growing up in this community, I think its biggest problem is lack of diversity, and so with diversity comes strength. But also, some issues to work through, and there is a greater role for the city to play, and that message, I think, is receive loud and clear, and I am certainly ready to dig in and see how we can make those efforts happen. If the city did absolutely everything conceivable to it, this would fail completely if the community wasn't organized, itself. And that's what's so exciting to me. This really is the leadership of the latino community coming together, reaching out to each other. They are -- there are all kinds of differences and disagreements and great diversity in the latino community, itself, and so for this to come this far shows, I think, tremendous forward thinking and tremendous organizational capacity, and I think without that in the community, not to downplay our efforts, but what we do will fail if it is from the government. But I think with this team, us doing more and the latino network, I hope, getting staffed, we are going to work on seeing what we can do to help on that, and continuing to organize. I think we are off to a great, great running start, and the community will become more diverse, and diversity is a strength, just a matter of, do we tap that strength or do we allow it to sort of sit idly by, while some of the problems our citizens are experiencing will get worse, and I think this approach will give us a great shot to do it right. And with that, the state will just be so much stronger, and so it is with the great, a great deal of pleasure and admiration for what you have done so far, and commitment to move forward that I vote aye.

**Katz:** Thank you, everybody. It is a wonderful report, and it is the beginning of probably raising the bar for the relationship between the city and the latino community. First, a personal comment, when mr. Shie talked to coming to this country, I was an immigrant, too, and did not speak english, and it was -- the reason that we were able to pull through was because we had a community support. It was not a breakfast club. It was more an evening underground, political organization. I never quite knew exactly what they did, but they talk and had they read and they organized, and helped each other. So the fact that you are organized at a much higher level than even my parents colleagues is, is, is, is critical to your success. My, my son married an immigrant from nicaragua, so I also, now, am linked the way that commissioner Francesconi is, to even a more diverse culture, and I know about the issues of, of schooling and the drop-out issues, and workforce issues. And it is -- am very sensitive to that, and as most of you know, my political involvement was during the robert kennedy campaign, and my involvement with cesar chavez, and I even wrote a report called "the green ghetto," some of you might want to take a look at it because it really talks about the shame and the fields of the state of Oregon. It was not a focus in Portland, it was the shame in Oregon, and what we hadn't done on this, was 32 years ago. So, we have come quite a way, as the migrant population now settles into our communities, and begins to be part of our community. For me, and I think for the council, you identified a couple of issues where we can be helpful. The overrepresentation report that came out of the police work improvement teams is now in the hands of a group of citizens that, that are looking at it, and looking at the entire criminal justice system to see what we all can do. Not only the police bureau, but everybody that is involved in the criminal justice system. And I do have to tell you, there is overrepresentation by

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minorities, but it is throughout the entire system, and latinos are overrepresented, as are african-americans. We are just in the budget period, and I haven't had a conversation with steve or commissioner Sten yet on the microenterprise loans and the success or failure of those, and if we are to continue in the next budget cycle, what is it that we have learned from the ones that currently are in play. Did we learn anything. Hope 6, I just got a briefing on hope 6. It is a very exciting project. It is a project that commissioner Sten and I are going to be working on together, assuming that we can get the funding package. It is, it is tricky, but it is over long-term, and if we look at it over a long-term, we might be able to pull something together with the federal government -- with happen and federal government, as well as the, the city resources, especially the urban renewal resources, so I don't promise anything, but we are going to sign a letter for the grant application. We made that decision. And I hope that as we change our recruiting efforts in the police bureau, that just as the fire bureau looks more like the community, we can begin looking more like a community in the police bureau, and whether it is the four-year degree, or now the two-year degree, our efforts need to be focused on, on diversifying the, the bureau, as well, and we are working on that, so that is difficult because it is difficult to recruit throughout the country. Offices, regardless of, of ethnicity. But my final comment, is when my mother told me, over and over again, you aren't going to get anywhere if you don't stay in school. And if you don't get an education. And so our joint efforts really needs to be, to ask the question, why is there such a high failure rate, and what's missing in our system. And it isn't necessarily that english as a second language, so that's important, there are other factors. There are cultural factors. There is the unwillingness to understand the communications and the history, a lot of reasons, and we need you, as well as us, need to hone in and pound the table at our school districts to pay attention to the fact that this kind of drop-out rate is totally, totally unacceptable. So, thank you. It is great to see this report, and we will pay attention to it. I don't know, who was it, buzz, I don't know to what extent we can work in rockwood, but we can kernel work in north and northeast Portland, and in outer southeast within our jurisdictions. Thank you. Aye. All right. At some 305.

**Item 305.**

**Katz:** Do we have anybody here from, from the police bureau? If not, I will comment on it. Anybody want to testify on this item? All right. This is a 2000 block grant, and we work very closely with the county on funding some of these programs. This project will fund the stop program, if you will recall correctly. It is a program that serves 125 offenders per year that have been arrested because of drug use. It is a program that's administered by the county. There is intensive services and monitoring and you are familiar with that program, and you are also, you also heard testimony months ago as to why this program wasn't funded, and I said that, that for some reason, the county let it, it drop through the cracks, but that we were going to pick it up when the block grant was made available to us. And we were doing it here. Let me just flag a concern, that with the cuts that the county is going to experience, I don't know what's going to happen to any programs where the county has a match. This is primarily now funded out of our block programs. But I am also telling you right now, that I don't see any possibilities at this time to even begin thinking about picking up some of those programs at the county, may walk away from because of their budget constraints. But we will know that or I will know better on thursday or sometimes this week to see what, what the primary budget of the county looks like. We have been partners with them on a lot of programs. This is one of them. Does anybody else want to testify? If not, roll call.

**Francesconi:** This is a very effective program, and mary, I appreciate -- mayor, I appreciate your commitment and efforts to make sure that this was able to continue. Aye. **Hales:** Aye.

**Saltzman:** Aye. **Sten:** Aye. **Katz:** Mayor votes aye. 306.

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**Francesconi:** Mark, why don't you come on up. Let me introduce it by saying that we didn't know, Charles is here, as well, come on up, Charles. Parks, we didn't have to really put this on the agenda because it is a request for proposal. But because of the interests in the subject, in other words, it is the beginning of the process, as opposed to selling naming rights at pir, but we thought it was important to initiate the discussion earlier to alert the council and the public. So that's the first point. The second is, although technically, pir is a park, it is more of a racetrack than a park, and I guess I want to assure the council and the public that we are not going to sell names of neighborhood parks, community parks, community centers or any of that. There is a line, I am not sure exactly where it is, but I know it is not selling those names commercially, and that's not going to happen. The point I am trying to make here is the racetrack at pir is a little different than a neighborhood park. Having said that, we have some serious significant financial issues that Mark is going to talk more about, capital needs at pir to keep it a world class facility, so the question is, do the taxpayers pay for it or is there another way to do it. The other issue is, there is serious significant budget issues that the council is very aware of. For example, in this budget in front of us, 48 \$48,000 can mean 18 summer playgrounds. So, we are forced with making real choices, and what we are trying to do is make the responsible choices that are responsible for the taxpayers, but allow parks, also, to accomplish its essential mission. Go ahead, Director Jordan, do you want to go first?

**Charles Jordan, Director, Parks Bureau:** Well, I can't add to what you have already said. I will let Mark go, and if the council has any questions about -- any questions about policy and questions practices, I would be happy to share what we do now.

**Mark Wigginton, Director, Portland International Raceway (PIR):** Mark, I am the track manager at pir. As you probably know, it is an enterprise fund unit of parks. It doesn't receive any general fund money at all, and I operate it as a small business, as part of parks. A budget of just under a million dollars a year, and I have to generate that revenue every day, that's how I raise the benefits and again, it is a small business. There is very little room left with the end of the year to leverage into the capital improvement projects. We are going through the, the ten-year master plan process right now, that is NOPDR, we are doing a little more data gathering for them, but the application is complete. Those are capital improvements to both repair and maintain the facility. It has been a long-time since the track was paved and it is starting to break up in places. Add permanent structures to the facility for a long time, it was in the tenure flood plain, and now we are in the 100-year flood plain, and we can start building some real business out there. And both of these are in support. All of the changes are in support of both the two large races, the American race and especially the Rose Festival Association's Indy car race, to keep a large facility competitive, plus we have more than 30 local user groups that use the track more than 500 event days during the year, and some people wonder if a racetrack is a good use of parkland but it is a supported recreational activity like golf or soccer. It is just very specific, and so what we need to do is find the money, outside the general fund to make those improvements, and a natural way to do that is to sell naming rights to the facility. Automobile racing, obviously, is a sport that lives and dies on, on advertising, and I am sort of a metaphor for it today. I had a choice this morning, do I come here to council looking like I do at the track, with logo'd shirts and jackets, or come in a more presentable suit. I think this venue, I chose the right thing but at the track, it is very natural to have the advertising, so that's what we are looking for, is the ability to find a corporate partner that will bring us money, in exchange for linkage with the track that can help us make those improvements.

**Katz:** I have a name for you. [laughter] The gentleman that I met the first year I was mayor at the track, and I said, unfortunately, I said gentlemen, start your motors because there was no ladies,

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but it was paul newman, who was a real active car racer and has, I think, several times been there. He does have some resources, I would think.

**Wigginton:** Newman's own motor sport park, a perfect opportunity.

**Katz:** I didn't know that. [ laughter ] Okay. Questions? Anybody else want to testify? All right.

**Irwin Mandel:** Good morning. Mayor Katz, members of the council, miss Olson, mr. Mandel, 1511, southwest park avenue. I know commissioner Francesconi has said that there will be no naming of other facilities in Portland, but nevertheless, I think a warning flare has to be sent up at this point. -- flair has to be sent up at this point. We might be saying, welcome to Portland. Formerly the city that works, the city that sells itself. We can put up a sign at city limits saying city for sale. I think a slippage, if you will, began with pge park. Now perhaps, as someone has said, pir can be known as valvoline speedway, which was pretty clever. I would suggest, perhaps, exxon auto track. My real concern, though, about this process is park block five. Which I have heard, you know, you are going to need money once the time expires, and the city takes the time to build it and maintain it. I hope that we will not end up with banana republic park for that liberal square. I have some additional suggestions for you. Our transit mall is badly in need of reconstruction and rebuilding. Perhaps we could have been named "starbucks mall," for us. And mayor Katz, I know you are interesting in going up the willamette river, and you are quite persuasive, and perhaps in the section within the city limits, we could find a way to rename it, "nike river" appropriate for that. Even if the city really does get to be for sale, we could rename some of the bureaus, themselves. [ laughter ] intel parks and recreation would do very nicely. Or the microsoft --

\*\*\*\*\*: Wait until the stock gets better.

**Irwin Mandel:** Wait, you know, or we could have the microsoft bureau of transportation. It would be very helpful. Now, essentially, what we do here is avoid the issue of citizen responsibility for the functions of government that we sell names this way. Citizens are unwilling to pay for a needed governmental functions, then we have to do without. Without funds to pay for road repairs, who wants another gas tax, after all, then drivers should be entitled to travel on the ruts and bumps and holes that exist in the cars. If you are unwilling to pass a park's bond for the money needed for parks, upkeep, maintenance, and creation of, and we do without parks, quite simple. There is a basic psychological principle involved, and that is there must be consequences for behavior, and inaction is a form of behavior. And if all we do every time we are unwilling to pay for what we need is a turn, to turn and sell ourselves, then you have no consequences of behavior. Why should we ever agree to any tax, or any bond that's put forward by a member of the city? I accept commissioner Francesconi's reassurance that he has no attention. But this is an issue that goes beyond this -- him as parks commissioner. It is a flair, I hope to send up for the future. Thank you.

**Katz:** Before we go on. I think you raise a real issue that I know that council struggles on, but I struggle with that, and commissioner Hales and I and his, his bureau director, and I have had conversations with, what do you do in a community where you have values to keep the streets up and to deal with livabilty issues, but where the community isn't willing to pay to maintain the streets. Do you punish them or do you try to figure out a way of dealing with the finance issues to make and keep this livable community, and it is a struggle, whether it is parks or transportation or any one of the basic services that we provide, and I have to tell you, I can go both ways and have, in fact, had discussions with vic rhodes on that particular issue. So as a council, I am not sure, or as a community, probably we have done that at a council, but I am not sure as a community we have really had a full discussion on that score.

**Irwin Mandel:** If you permit me, mayor Katz, I don't use the word "punishment," I use the word, of consequences for behavior, both good and bad. If the community agrees to pay for what they

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regard as important functions of government, the consequences for that will be a well functioning and well, I don't know, constructed city. If the community is unwilling to pay for those functions, then the consequences will be a running down of the type of life that we all would much prefer to have. It is very simple. It is like when you raise a child. There must be consequences for behavior, and that principle applies not just to children, but to adult behavior, as well. Criminal justice system. Consequences for behavior.

**Hales:** Thank you, professor. [ laughter ]

**Lili Mandel:** Hi. He was one.

**Irwin Mandel:** In a former life.

**Lili Mandel:** And a shrink.

**Katz:** In another place.

**Lili Mandel:** Hi, lille mandel, 1511 southwest park avenue. Just excluding tobacco and alcohol companies from getting, you know, having naming rights for the racetrack or parks, plazas, squares, I know you said no, but I still want to make sure, is just -- is not the answer. And I don't think it cuts it. What's in a name? Well, how about beauty rest mattress racetrack, or I have some others to come across. We could have playboy racetrack or playboy park or play girl park. Escorts for everyone, plaza. Well, I am thinking of, if I were successful and wanted a, a, wanted something for flowers and had enough money, lille of the valley park, or lille of yally park. Adult entertain element square, go-go gambling square, get high on caffeine center. Oh, I can go on with these. They get ridiculous, but they are -- the first one is actually for real. And then there is -- who is going to decide, what businesses should be allowed to advertise? It is quite important. And as my husband had said, obviously, there are always unintended consequences from this. Oh, I forgot a good one. The tailor's or garment workers, needle park. You know, we can really make it needle park. I see a society, I see a whole thing of this, adds on buses, adds on maxes, adds on trolley, adds on dollies, and adds on parks, adds on marts. Adds in schools, adds on pools. Adds on squares, adds on chairs, adds, at the races, adds on braces. Advertising here, advertising there. Advertising everywhere. Thank you.

**Rick Seifert:** I am at 2115 southwest tyrol, the mandells and I are part of, actually, a growing movement across the country that's in opposition to selling the naming rights of public facilities to private corporations. In denver, there is a huge bureau over the replacement of the name, might have had, and they may actually be winning there. The subway stops in boston, and there has been a tremendous outcry there, against renaming the scully square, for instance, that stop. A bill introduced in texas, of all places, to oppose this. Our own representative, chris beck, has introduced house bill 3299, which does exactly the same thing. We are beginning to get the message that there is a problem here. Why is there a problem? Where is this opposition coming from? Names reflect tradition. They stand for values. They honor people and concepts. In our own city, we are rich with wonderful names. Native parkway. Martin luther king, jr. Boulevard, harriet tubman school. The names go on and on and on. And these names weren't so old. These names were bee stowed because we cared about these people and what they stood for. Some of them cared enough to craft a name that has meaning and significance and worked its way into our consciousness and into our owe being, so we had civic stadium. Civic, civil, civilization, and civic duty, and we replaced it and lost something when we did. Portland international raceway. Portland is a link to the world by our racing teams from around the world. I might say that Portland international raceway sounds very much like Portland international airport. Could that be added to the mandel's list, can we not sell, for instance, when we need to expand Portland international airport, the naming rights to it. But, the importance we give our names is couched in our language. Your name is dragged through the mud. If you defend your reputation, you stand up for your name

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standings for you for you. If you are a success, you make a name for yourself. If you are known publicly, you have name recognition, and you know how important that is, you spent a lot of money making sure that happens. Considering the importance we give our name, we are talking about selling names, but jim would no more sell his name to me or to general foods than I would sell mine to him or general motors. If our nails are priceless, why should we put a price on the city's names. The names of places are at least as important as the names of people. The names of our schools where we spent years studying, the names of our parks where we played endlessly, the names of the streets that transport us through the days of our lives, that mark where we live and work. The names become a part of our experience, they become a part of us. Change your name and you take something from our past and something from our lives. Names also reply ownership, the Francesconi home, the seifert garage. Disney world. One of the many things that offenders me about pge park name is its deception. Pge doesn't own civic stadium, the people own it. Likewise, the people on the stadium in salem and safeco field in seattle. If these companies want to contribute to improving the places, there are other ways for us to recognize their contributions. We don't have to reward them with intrusive advertising that turns the places of our civic life into deceitful billboards.

**Katz:** Your time is up.

**Seifert:** I just have two more points very quickly. One of the really truly insidious aspects of all of this is that, these names become part of our conversation. It turns me into an advertising media, and the public, I cannot refer to you a place, civic stadium, without mouthing the words, pge park. These are called, impressions, and they are sold that way. I am sold, you have made me be sold in the public marketplace, as an advertisement, and I really resent it. Finally, just one more point, where does it stop? The pge park thing put us at the top of the slippery slope. The mandels are pointing this out, too. We sit in a building here today that could one day help you solve your budget problems. We have to think of that. The place to stop this is today and here.

**Jay Palmer:** Good morning, I am with the wilsonville of Oregon, and I would like to talk a little bit about the raceway, itself, and my experiences with the different raceways around the country. For the last 25 years I have had the opportunity to visit and work at most of the raceways that Portland competes with in the world of motor sports. And if you followed the newspaper accounts and television accounts, motor sports is on the rise. And one of the things that, that, as I was reading the article yesterday, I just came into town and saw the article in the Oregonian concerning our raceway and what we are looking at and looking at the tenure plan. I think it is very important we do consider corporate sponsorships. It is on the rise, and like I say, speaking two days ago to a good friend of mine who is basically in control of the hospital situation in that, at that raceway, you are seeing corporate hospitality growing, the amount of people coming to these races growing. You are seeing the revenue that is generated by these particular motor sports events growing rapidly. Portland is competing with all these tracks. I think if we want to continue to compete and to keep our event, the cart race here and to keep the series and possibly take a at a nascar event, we need the ability to expand our facility. And as mark mentioned earlier, the facility, itself, runs basically from rentals, and doesn't leave much money to expand, and I think that it would give us an opportunity, if we bring in corporate sponsorships, to move to this next level. Thank you.

**Katz:** Thank you. Anybody else? All right. Roll call.

**Francesconi:** You know, in a name, it does imply some ownership. And that's the reason that neighborhood parks, community parks, community centers should not be named over commercial enterprises because these are public facilities that clearly, the name and everything else, they need to be public. And that's why I said what I said. But I also want to be clear that there is a field within a park, that the name strausser field, there it was a donation, but the name is strauser field,

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and because of that, kids can play there, and we, as we are thinking about the argument about, about let the people, you know, if they don't vote for these things, let the people suffer. The truth is, some of the people that are going to be suffering are the people not voting, and kind of that next generation that's coming up. So, the question is, you know, where do you draw the line and make sure that it is drawn, and I tried to do that here. But here, where we have a commercial establishment, like pir, for the most part, it is -- does have a lot of volunteers and amateurs, and we have some real capital needs, \$15 million, to keep this a whorl class facility that brings \$30 million into our economy, just from the race, alone. And you know, the council, you know, and I agree, do not want to put capital dollars into this. So then we had a work session on using lottery dollars to do this, but then life is filled with choices. The council understands if lottery dollars are at the top of the list, you know, then other education, other things might suffer, so council gave it a good rating, but not at the very top, so how do we do this, folks? It would be nice to have an -- ideal whorl but we don't live in an ideal world, so if we have some restrictions and we give some opportunities to do this, I do not believe the arts community is worse off for what they are doing at the performing arts center. And they understand that there is some things that need to be done in a business-like way. Now having said all of that, we are -- the parks board, which isn't yet created, being created. The park's foundation and our citizens need to be engaged in this dialogue about where the line is. But, I think, I am comfortable in proceeding with this one. Aye.

**Hales:** Well, jim, I appreciate you bringing the discussion here, although obviously, you and the director could have authorized this request for proposals without asking for the council, and I say this with no rancor because I know it is a hard decision, but you are asked for our opinion and I am going to disagree. We should proceed, and I guess I could have called you up, charles, and asked you this question, and the question is, when are we going to start this, and one of the things I pondered in considering this, how do -- I would respect your good judgment about what proposals to accept, but how would we know what proposals to reject. How would we know, in other words, how would we authorize a request for proposals, and then maybe, make the decision, to not go ahead. It is -- I am sorry, I don't want to debate with you now about it, because, because I don't suspect I might be the only one that's going to say, let's not do this. And I think, in retrospect, the pge park decision was a mistake and I was one of people that participated in making that mistake, and I think this has been very persuasive testimony. I am not worried about a wholesale, you know, commercialization of the city. I am not concerned about that. I have confidence, jim, new and in charles and the good judgment of the people of all that we would not be naming laurel hurst park, you know, or any other civic landmark with a commercial name, but I think we did cross a boundary that I now wish we hadn't crossed, with civic stadium, and that is there is a distinction between what we have traditionally done and that is we named the places, nato parkway, the bill roberts transit mall, after citizens who we want to honor, and no money changes hands. And then secondly, we named places, you are right, strauser field, the william owens softball complex, that one is a hybrid because there was both a donation and an honoring going on there. Ask the theaters and the performing arts facilities, the keller auditorium, the concert hall, in recognition of, and frankly, in negotiation with donors, who are doing this for the general benefit of the community, as well as their own, their own stature, if you will, in the community, or their families. But, to go to the next phase of that, and actually sell the name of the place, is, again, a step I wish we hadn't taken, and the indianapolis speedway won't do this because it is so well-known and so unique and so identified that it would be a false economy for them to sell that. Yankees stadium won't do this. The really great places won't do this because their name is priceless. Now, is pir in that category? I don't know. I hope so. I hope is becomes -- gets into that category, but I fear once we sell the name, ironically, you don't get into the big leagues. And I am worried about that. So, again, this is

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a tough judgment call for you. And if we go this, you know, I am not -- I am certainly not going to have any rancor towards anybody who makes this decision if the majority of the council says yeah, jim, go ahead, or if you just choose to go ahead. I am not worried, again, that this is going to spread to other things. Although, I guess the challenge I would throw out here, particularly to charles, because of all your work on the projects over the years, is how would we say no to a request for heron lakes golf course? I would think the golf courses would be the next place in the system where this gray area would start to be gray. It is black and white between laurel hurst park and you know, pioneer courthouse square. Those aren't for sale. But the golf courses, too, are enterprise funds, and you have been right to not ask the voters of the city to fix up pir. It is an enterprise fund, a specialized purpose and so are the golf courses so it is right not to ask nongolfers to pay for improving the commercial operations of the golf course and is right to pay nonmotor sports fans, to not ask nonmotor sports fans to pay for those improvements. So, this is a tough call. Particularly since the pir environment, by the way, is already commercialized, I mean, not only -- every square foot of the place has a logo on it. But the name, I hang up on that. And I think that this critique is valid, not that we are on a slippery slope and going down it but that each time we do this, we lose something and I would rather look for every other way first, and again, i, I don't think we tried everything else first before selling the name of civic stadium, and I wish we hadn't. And having made that mistake once, I don't want to make it again. No.

**Saltzman:** I think there is a very valid point raised by the public testimony today. However, I continue to believe that we need to, in this government, we need to always search out creative ways to help pay the bills, and naming rights are appropriate, and they are, there are appropriate places for naming rights, and I believe this happens to be one of those. We need to be able to have that opportunity. One of the things I worked on as a county commissioner was to make our library system more entrepreneur to, look at ways to bring in additional revenues and we have done things like bring in a starbucks into the central library, the idea was, you know, look on -- looked on poorly at the time, they thought commercialism. We established a gift store to sell book related items. People, you know, well, you know, those ideas now work. They have been accepted. And they helped bring in money. They bring in nontax dollars to help provide one of the most popular services to the county. This is a little different, but, you know, I have somebody who has no affinity for race cars, you know. It bores me to no end. And I absolutely reject the idea that I would want to have any of my tax dollars going to help pir on the same token, you know, the race car industry is, as commissioner Hales just said, it is one of the most refined sciences of how you advertise images and logos, every inch of a uniform and car, it is a refined science. I have seen news stories about it, it is amazing, so I think this is one of those opportunities where it seems entirely appropriate for some sort of a private sponsorship name. It just goes with the business, and again, it is an area where I don't want to have to see my tax dollars going to support. So I think these have to be made on careful case-by-case bases but I think this is an area where it should extend.

**Sten:** I think there's been some pretty compelling arguments on both sides, to be honest, and I believe I think probably the most compelling against if that these are publicly owned facilities but I will support this, and let me tell you why I draw the line. My line is that, comfortable is not a great word because I am not entirely comfortable with -- I like the name, civic stadium better, and I thought that mr. Seifert's testimony was very compelling on the power that has. Although I might sell the name to my garage. [ laughter ] If the right price came along. But certainly not my family name. I am just joking. But the place that I think that I am capable of drawing a line, and the citizens who, who disagree with this entirely can decide if that's an appropriate line, is facilities that are primarily expensive because they are used for, for profit, sports ventures. I think the difference

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between this and a golf course, in my opinion, is that a golf course is something that the users pay a fee to use and is open to all of the public. And the fee is, whatever it takes to run the operation. That has nothing to do with the way that professional sports runs in the society. Athletes make extraordinary salaries. The opinion, as a whole, and I am a fan of some sports and not of others but I do support professional sports. But the public has bought into the way that we do professional sports, and so the cost of admission to have a place like pge park is way, way too high, and I don't support taxpayer supported arenas and I don't support taxpayer support. I am very skeptical of the idea of putting a lot of public money into major league, and there is a huge move to do that thing, so on this occasion, we have a major league park available for high school football games and a pir that is available for hobbyists to use, but it really isn't a public venue in the sense you can't get in there really free to watch the things the park is primarily used for. It is not open to the public to go and see the baseball team play. It is open to people who buy reasonably expensive tickets, and the same is true for car racing. So we, either have to have these kind of facilities in the city, and enough of the population wants them have to come up with schemes to help make them work or we have to subsidize them. That's the economics of these deals. So as long as other cities are willing to do what I think is sort of collective political and taxpayer suicide, and buy the price of athletes up by subsidizing stadiums because that's what happens when each city in the country decides to do this, and I have lots and lots of famous stadiums have been knocked down and replaced by corporately owned stadiums. There is a few left but it is not most of them. So we either don't have triple a baseball, which a lot of people want. We subsidize it or we do some things like this. And so those are the three choices I see. I could live without some of the sports personally but I think that people want them and I don't want to subsidize them so pragmatically on professional sports arenas in this town, selling the naming rights is a compromise between not having them and to subsidizing them with taxpayers dollars and I see ady distinct difference between that and public facilities we charge a small fee for because, because only a certain amount of people use them. So I think that on professional sports, I can live with it, and for that reason, I vote aye.

**Ben Walters, Senior Deputy City Attorney:** Before you vote, I just want to point out to the council, this is, this is structured as an emergency ordinance and by charter that requires an unanimous, a unanimous consent of all of the members present.

**Katz:** I am sorry, you are right. Do we stop the vote now or, and --

**Walters:** Well, the vote could be stopped and there could be a friendly amendment to strip the emergency clause.

**Katz:** Okay.

**Sten:** I move we strip the emergency clause.

**Hales:** Second.

**Katz:** Any objections? Hearing none, all right, so let me add my two --

{At this point, the Clerk stopped taking roll, after Commissioners Francesconi, Saltzman and Sten had voted aye and Commissioner Hales voted nay.}

**Walters:** This will pass to second reading.

**Katz:** All right. Pass to second.

\*\*\*\*\*: Pass without an emergency?

**Katz:** What?

\*\*\*\*\*: It won't be an emergency, but it passes, just not with emergency clause.

**Walters:** Well, ordinarily with a nonemergency ordinance, if there are two readings, and so it is not passing as an emergency. It would have to be a first and second reading and then it doesn't take into effect until 30 days.

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**Hales:** Excuse me for getting into a parliamentary discussion but you started this, ben. Ordinances appear on the calendar council once and approved by a vote. They are having emergency clause which means they go into right away or they don't. We don't have the legislative system of first and second reading of ordinances.

**Katz:** Ben? I will turn to you.

**Hales:** In other words, I think we can do this and have it go into effect later.

**Walters:** While I am looking that up, why don't you go ahead and proceed. I will offer my opinion.

**Katz:** Every ordinance, except an emergency ordinance shall have two public readings. Section 2,-12.

**Hales:** So they are on the consent calendar twice?

**\*\*\*\*\*:** All ordinances on the consent calendar are required to be emergency ordinances.

**Olson:** That's not correct.

**Katz:** Let's continue. We will figure it out. Let me add --

**Hales:** See what you did?

**Katz:** No, it is what you did. [ laughter ] Let me start by saying that I think that I was the first person on this council that had to face the possibility of, of naming rights to the, to the civic stadium, and I have to tell you, until the very end, I did not want to do it. But as commissioner Sten raises the issue, I had to make a decision, as all of you had to make a decision, that if the revenues from other sources were not available, we had a couple of choices. The civic stadium would not have been remodeled and it would have been shut down. Because the financing comes from other than taxpayers. Now, I know that it is hard for people to believe that, but I know that conversation out in the community that I heard was that you are, in fact, paying out of property taxes for the renovation of the stadium. And unless everything turns negative in terms of, of the success of the stadium or of the soccer and the baseball games, and I don't think that that's going to happen, that's not true. So, I want to, you know, the myth that we were supporting it with our taxes is inaccurate. It is paid by tourists would come here and the, to pay off the bonds, as well as the revenues from our civic stadium, guaranteed to us and we will make money on it to support the arts and tourism and other ventures. And it was at that point that I had to make the decision that yes, I was, with certain conditions, and there were conditions built into that, that I would recommend to the council that we name the civic stadium because it was considerable amount of revenue that was flowing, as part of the business plan. I just need also to add this is not permanent. The naming rights before a period of time, and so the council, future councils will have the opportunity to review that. And so I name a determination as to when it is appropriate and when it is not appropriate, and made the determination on that one. It was a commercial venture. It would not -- it would have shut down, guaranteed to shut down if we didn't do anything. We looked at other sources of revenue, found the other sources because of the wonderful arrangement we were able to make with the hotel and motel and rental car communities, and interests and made this happen. I think the same goes for the pir. I have to tell you, I am not sure -- I probably would rather have a different name than pir because I think if you went out and asked the community what does it stand for, they don't know. But there is a line, and I think rick and the mandel's testimony is very compelling. There is a line where we have to say no. We can honor citizens in this community that have done extraordinary work or who have given us such important values over their years of service, but there is a line and today, I am not able to articulate what the line is, but I know -- I know that when I -- I will know it when I see it, and perhaps we need to articulate it into our code and say, beyond this, and public places, such as pioneer square or parks, we will not go. And so thank you, the three of you, for flagging that. Aye.



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**Walters:** The answer is, that a nonemergency ordinance does require two readings, and it can be passed on the second reading. The consent agenda does provide that any ordinance resolution or other action may be placed on the consent agenda, and the council is to establish procedures. The procedures do allow for any ordinance be placed on the consent agenda and imagine it is the clerk's responsibility to make sure that if a nonemergency ordinance is put on the consent agenda, it is there two weeks in a row to make sure it is passed in accordance with the council's rules.

**Katz:** And that is done. So folks, let me, the city of Portland manual, of ordinance, resolutions, and reports.

**Francesconi:** The folks that are about to read letters, I promise to watch the tape but I have got to be somewhere at 12:00, so with all due respect.

**Katz:** 3307. -- 307.

**Katz:** I have lost two members?

**\*\*\*\*\*:** That's all right. You have the most important ones. [ laughter ] actually, you are, because I

**Item 307.**

**Katz:** Rich, identify yourself.

**Rick Seifert:** I am rick seifert, hillsdale resident. I wanted to return and talk to you about the undergrounding report we submitted to you a year ago, that you accepted with the promise that it would not be put on the shelf and that dust would not gather on it, and as you may know, I wrote an article that appeared in yesterday's tribune, and I pretty much want to just underline a few things I said in that article. I should blow the dust off first of all. I do believe that when you, you last summer when you, you awarded franchises to cable companies and made no reference to this, and we reminded you of it, that you were quite remiss, and then at that time, I believe the mayor said that you would bring this up at your fall retreat, well, there was election, and I guess maybe it never happened. All right. I am tracking this, and I really would like to keep this in your consciousness, as an issue that is important because in the last year, the situation has gotten worse. I can see it on the telephone poles. I see strands of, of cable that were put in place and are, and are in big, big circles waiting to go up and maybe these are the folks who backed out because they couldn't do it and they don't, maybe they don't have the money to take them down. We have cell towers, and you are hearing about this. I know you are, commissioner Sten. That are growing up seemingly at random, and I know you may have a handle on this, but there is obviously a concern about the cell towers going up that are another light on our streetscapes, and finally, of course, is the ohsu one, one of the arguments being used against it is that it is, indeed, a -- what I am suggesting here, is something that is based on policy measures that you have in place. You have a tree ordinance. You say if you take down the tree, you put money in there, baby trees in. You plant other trees. You make amends for the destruction you are causing. By putting money aside. 6 we have review quarters where we say you can't do anything that degrades the corridor. You can't do anything that does that. So if you add something that causes 5 problem, some place, you have got to make it better somewhere else. And finally, there is, and we referenced this before, the 1% for the arts program, which is an excellent idea that if you are going to go in and build a public building, you need to beautify what you are doing. Those three pieces are in place, and I am suggesting to you that, that a 1% for underground on any project that degrades the streetscape or the scenic views, be put aside into an undergrounding fund to begin to address this problem. We are trying to get people out of their cars and into the streets and we put them out in these environments that are streaming with wires and transformers. It sends the wrong message. I am here to take it down or wherever it was being kept, to, to renew your attention to this, to say that I am tracking it. I would love to have someone be the hero and champion of this, and to carry it forward, and we talked about this the other night. It is a tough one, I know. I am here alone, I thought that wes would be

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here, too. But I am trying to get people to open their eyes and see this stuff and to say, we need to do something about it.

**Item 308.**

**Patrick Dinan:** Good morning. My name is patrick dinan and I am here to seek your assistance for correct alleged illegal acts done to me by the Portland police. Do you remember, mayor, sharing some of these very thoughtful words, be bold, community partners are needed, be involved, get involved? You, mayor Katz, have made these statements to we citizens in the last year. Why did you not walk -- why are you not walking your talk. In january, I wrote your office, as well as letters I wrote to the police. The letter to you, mayor, was to generate information the police claimed lawful exclusion order I have been seeking that simple proof for the last 30 months. Nothing has been produced by the police, iad, d.a.'s office, piiac or even your office. Excuse me, there was two replies. If you consider captain smith and assistant chief berg's letters. You have copies and I hope that you have read and will drop a note to the chief asking him, is this how his senior officers reply to their community partners? This investigation can easily establish there is no lawful order, and no one on the city's payroll has proven it otherwise in the last 30 months. Then on the 21st of february, you, mayor, after a piiac meeting, told me that I wasn't excluded from the northeast precinct. But instead, trespassed. I followed up with a very simple question for the lawful reason I was trespassed, you looked at me and claimed it was because I raised my voice. Which, by the way, is not against the law if I had. However, this is not needed since other requests I made was by fax. If you will read my iad complaint, it would show you after I was denied in writing, I did attempt to contact sergeant stevenson but had to leave a message. Then pushing a number two button to get a quick reply, which did not come. With my many attempts to have the police provide lawful use, why after 30 months you will make such an illogical claim bows me away. There is no way that you can back up your response lawfully. I even gave you the benefit of the doubt and put in writing a request for proof. Not once, but twice. You got the second request last wednesday, but still, no written reply. Why don't you walk the talk? Be bold. Answer the serious issue. Is it because I say it is the truth? No. One has proven otherwise. Why doesn't the commissioner and police provide leadership? You have the comprehensive -- you have to understand the seriousness of this whole situation. First, you have a sergeant, what the investigation shows are his violations and general orders, as well as state and federal laws, then you have the iad, attempting to conceal the facts and protect the officers officer, not me, the citizen. By the way, officers take an oath to protect each citizen, if I remember correctly, nod if that's right, mayor. Then, you have commander, mr. Fox worth, review the file and without question, should and would know the lack of lawful order exclusion to trespass that happened in his precinct. The iad provided a questionable report, they signed off to the citizen piiac advisors. It commences the advisors, as well as you, the city council, as well as piiac that I was not wronged. The way the appellate is not able to review, its apparent the police thought this they could cover up the facts and with the clearing of the officer the citizen would not be able to review the iad police file. Just because the new law, senate bill 975 -- I have two paragraphs to go.

**Katz:** No, your time is up.

**Dinan:** This gentleman was not here for only three minutes. He was here longer. I have two sentences left.

**Katz:** Your time is up. We have heard this over and over again. Your time is up.

**Dinan:** When are you going to do something about it? Do I have to, to -- again, mayor, all I am asking you to do is do your job.

**Katz:** Your time is up.

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**Dinan:** There are no facts to assist this situation, review the duties of your body here. And I will I will be back next week with additional facts. I don't respect you, mayor, for turning around and not taking this seriously. Sorry.

**Katz:** Okay. 309. Strauser.

**Item 309.**

**Ron Strasser:** Okay. My name is ron strasser. Good morning. I am here by the love of freedom and hunger for justice. I can't understand why richard koenig has to keep coming to city council. According to the chapters of the story I have seen, he was arrested for attempting to file a police report against a judge, but found not guilty. And then you folks didn't arrest him, when he made the same report here. Why don't you just make some sort of apology, and let him get on with more important things. People out here in the cable tv land, like me, are curious.

**Katz:** Thank you. 310. Let me just add in response the code, as written today, allows anybody to come at any time every wednesday for three minutes. And unless the code is changed, people can come and say the same things over and over and over again. So I have lost two members, I may eventually lose the entire council, and then we will just adjourn.

**Item 310.**

**Richard Koenig:** Good morning, city council. I hope I don't have to say the same thing over and over again. And I think that we are, we are working through the details of things. I would like to make a little remark about my mother, since vera was talking about her family today. My mother taught me to never walk around a mess that I found laying in front of me. To clean it up so the next person didn't stumble across, if he didn't see it. That's why I am here. I am addressing a mess that exists in this city that tens of thousands of people also recognize as a mess, and thousands of them, tens of thousands have signed a petition initiative to clean up. It is police accountability, all right. Now I would like to remind you that I am exhausting my administrative remedies. I would like to remind you that you have a right to remain silent, so as to not incriminate yourself, but you have to assert that right. Because, here's a little maximum of law that's going to be governing. The silence of a party implies his consent when his interest is at stake. Now, with that, we will go onto the facts, and if you don't say you disagree, you consent to the validity of these facts. This is the nine-page report that chief kroeker got from me last september, and has not been able to respond to yet. Paragraph number 5, unfortunately, for james, who wrote the false police report, the meetings minutes were routinely audio recorded. And that recording did not reflect the allegations in his report. Number six, he forwarded copies of that report to the person in charge of the courthouse facility security. Number seven, shortly thereafter, I received correspondence from an alleged judicial officer purporting to ban me indefinitely from continuing my career in the courthouse. Paragraph 8, although the alleged judicial officer has yet to state probable cause for this banishment, an exhaustive review of other possibilities turned up nothing more likely than bella's false police report. Portland police bureau's criminal intelligence division made a threatening phone call to my sister in seattle, seeking to gain intelligence on her brother, myself. Number ten, as a result of criminal intelligence division's activities, I made contact with their person in charge, in an audio recorded and witnessed meeting. As a result of that meeting, I learned of bella's false police report, eventually receiving a copy of it from then commander, larry, or he was a lieutenant, but in charge of the criminal intelligence division. To help criminal intelligence, clarify my intentions toward paula, the suspect of my report, I wrote her a letter, courtesy copy to findling, inquiring as to her lawful authority to require a statutory mandate and giving her notice that failure to do so might have legal consequences.

**Katz:** Thank you.

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**Koenig:** She failed to respond. One other note, the police report or the crime report, which wasn't a police report, did get accepted by the d.a..

**Katz:** Everybody, we stand adjourned until 2:00.

At 12:17 p.m., Council recessed.

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**Katz:** The council will come to order. Let me just make the announcement that city council meetings are broadcast on citinet, channel 30. They are also broadcast live on the internet and can be accessed on the city's home page. If you follow the link to the council agenda, and the weekly council agendas are also available on the internet at the same site. 311.

**Katz:** I am sorry, the council will come to order. Britta, please call the roll. **Hales:** Here.

**Francesconi:** Here. **Saltzman:** Here. **Sten:** Here. **Katz:** All right. 311.

**Item 311.**

**Dr. Michael Hess, Police Internal Investigations Auditing Committee (PIIAC) Examiner:** I am dr. Michael hess, the piiac examiner for the city of Portland. What I am going to do is read my report, which is the same report that I presented to the citizen advisors back in september. And since there are a lot of, of, a lot of audience here, a lot of public here, I am going to just read the report. Okay. The appellant filed a complaint with the Portland police bureau internal affairs division on march 6th, 1998. This complaint was regarding an incident that occurred on february 26th of '98. On march 16th, there was an intake interview with the appellant by telephone. Iad sergeant wisler conducted the investigation. The complaint was categorized as use of force. I viewed the file in its entirety, and I listened to all the audio tapes. Of the interviews. First I will give a summary of the incident. This is a brief summary of what happened. On february 26th, at approximately 7:45 p.m., The appellant was pulled over by a Portland police officer for failure to, failure to signal a turn. She was turning off of denver onto alberta street. After being directed by the officer to turn off the motor and to show the officer her driver's license, registration, and proof of insurance, the appellant stated that she first wanted to know why she had been stopped. Officer "a," I am not going to mention names in my report, officer "a" told her why he had stopped her and he advised her that if he did not -- if she did not show him her driver's license, she could be arrested. Or she would be arrested. For failure to show her driver's license. The appellant restarted the motor, despite the officer's directive not to do so. Officer "a" called dispatch for backup assistance with an uncooperative person. Since he was, he was intending to arrest her at that point. He physically removed the appellant from the car, laid her on the ground, and put handcuffs on her. The backup officers then arrived and one of them assisted the officer in placing the appellant in the police car after searching her. For weapons. This is a typical police procedure for anybody who is arrested. After locating the appellant's driver's license in her wallet, the officer cited her for failure to turn and failure to display proof of ballot insurance, and then he released her. He did not have the car towed, even though there was -- he could have had the car towed at that point, but he chose not to. Now, I will give the summary of the appellant's allegations. The allegation that the appellant made in this case was that the officer used excessive force in removing her from the van and arresting her. The appellant's interview. The appellant told the intake sergeant that she pulled over when she saw a car behind her on denver street. She pulled -- she turned onto alberta, and she told her passenger at the time that she was going to turn over -- she didn't realize this was a police officer car at the time. She just saw a car behind her and she said, I am going to turn left and see if that car just gets around me. Because she didn't want a car right behind her. When she turned left, she saw the officer turn his lights on, and she realized this was a police officer. She turned off her motor when the officer asked her to do so. When asked for her driver's license, she asked the officer where he stopped her. When told why she had been stopped, which was for not signaling a turn, she turned, actually, she said that at that point, she was reaching for her driver's license and that's the last thing that she remembered. And when the interviewer

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then asked her if she had turned the car back on to show the officer that the turn signal was working, she said, I must have done that, but she said she couldn't recall anything after the point of turning to look for her driver's license. She said that, that the next thing that she can remember was the time that she was partially on the ground, with the handcuffs on. She said that it was difficult for her to get up and officer "a" told her he was not going to pick her up, or something like that. Officer "a" then searched her and put her in the back seat of the police car and asked her if she was hurt. After asking her if her driver's license was in her wallet, he took it out and placed her wallet on her knee. The appellant stated that she went to the doctor the next day because she felt like she was going to have what she described as a nervous breakdown. She was taken to providence hospital several days after the incident with complaint of chest pain and pain in her left arm, left ankle, and right knee. When advised to check with her attorney about release of medical records, the appellant told the intake sergeant that she did not have an attorney. There was one witness to this, the witness was the driver. He was an elderly gentleman, who was sitting in the passenger seat at the time of this incident. The internal affairs investigator tried several times to reach the witness by telephone and mail but there was no response. And it was subsequently learned that the witness had actually died during the process of the investigation. Now, I am going to summarize the interview of the officer. Who made the stop. The officer was interviewed on may 24th, 1999, which was 15 months after the incident. The officer stated that he stopped the van, that the appellant was driving, for failure to, failure to signal a turn. He asked the appellant to turn off the van for officers, she asked them then, why do I -- why did you stop me. First, he said, turn off the van, for reasons of officer safety and to control the noise. So that he could hear her. He then asked for her driver's license, registration, and proof of insurance. She said, no, not until you tell me why you stopped me. He again asked her for her driver's license and she said the same thing. No, not until you tell me why you stopped me. At that time, he said that if she did not display her driver's license, that he would arrest her. And she said, then go ahead and arrest me. At that point, he, he opened the van door. He stepped up onto the step of the van, and he called dispatch for backup because he intended, at that point, to arrest her. He radioed that he had an uncooperative person, that he was going to be taking into custody, and he requested another car. After the officer opened the van door, the appellant pulled a small wallet out of her purse and started to reach up to start the van. He repeatedly told her not to start the van. But she started it anyway. He told her to get out of the van, and she reached with her right hand behind the right side of the steering wheel, and since the turn signal lever was on the left side and the gear shift lever was on the right side, the officer thought that she was going to put the van into gear and drive away. And he had his foot up on the step of the van at this time. He was fearful for his safety, that this happened, so he pulled the appellant's left arm off of the steering while telling her to get out of the van. She made a motion with her right hand like she was going to put the van in gear as before. The officer tried to pull the appellant out of the van. To keep herself in the van, she grabbed the steering while with her right hand. She tried to pull away, saying, you are going to have to pull harder than that. I am a big woman. [ laughter ] Quote.

**Katz:** We don't need --

**Hess:** I am giving direct quotes here.

**Katz:** I understand.

**Hess:** Officer "a" placed his foot against the step of the van and pulled her halfway out, while she was still holding onto the steering while with her right hand. He told her again to get out of the van. She, then, let go of the steering wheel. The officer lowered her to the street and handcuffed her. She still had her legs, her feet up on the step of the van and the top of her body and her arms were on the ground at this point. He asked her to put her, her feet on the ground and cross her legs,

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and she refused to do that. She continued refusing to follow verbal instructions of the officer. He told her he was not going to pick her up because he could hurt himself or her, if he tried to pick her up. Officer "c" then came over, and together, they succeeded in helping her to her feet and placing her in the police car, after searching her. Officer "a" then spoke with the passenger in the van, who helped him to find the proof of insurance. And the insurance paper was, showed that the insurance had been expired, I think it was like ten days previous. The passenger in the van was cooperative and told officer "a" that he had been telling the appellant to cooperate and stop doing the things that she was doing.

**Katz:** This is the elderly gentleman?

**Hess:** This is the elderly gentleman. He told officer "a" that he had been telling the appellant to cooperate and stop doing what she was doing. Officer "a" then cited the appellant for an unsignaled turn and for failure to display proof of valid insurance. He offered to call medical assistance if she needed it, and she refused medical treatment. There were also tapes of the backup officers who arrived at the scene, but they did not see any of the incident. They didn't arrive until he had already placed the handcuffs on the appellant, so they didn't have anything to, to, relevant to add to this. The only thing that officer "c" did talk to the witness, to the elderly gentleman who was in the passenger sit, and, and he said that the mannitol him, I don't know what the matter with her. I have never seen her act this way. Now I will let you know what was in the file. In the internal affairs file, there were no entries of officer "a" dispatch records, documenting the date and the time of the incident, and the time that the officer called for backup. The officer's report of an uncooperative person, police report of officer "a" regarding the incident, traffic citations issued to the appellant, and medical records of the appellant documenting muscular pain following the incident. The file also included a letter dated march 4th, 1998, from the appellant's attorney for chief lewis. At this point, I will give my analysis of the internal affairs investigation. The appellant was given a full interview. It was a telephone interview but it was a complete interview, and the interview was tape recorded. The intake interview was approximately 30 minutes in length, and the appellant was given sufficient opportunity to explain the nature of the complaint. The intake investigator used clear and open-ended questions to elicit a detailed account of what occurred. The investigating sergeant reviewed all applicable and relevant police reports and documents that included them in the iad file. The investigator made repeated and reasonable attempts to contact the civilian witness. The investigator thoroughly interviewed the principal officer and the two backup officers. The interviews were well organized and followed written questions that were prepared before the interviews. And I do have to say that sergeant wisler did an excellent job on these interviews. She had prepared the questions very well. She asked every question that could possibly have been answered in great detail. The interviews were conducted in a neutral manner without the use of leading questions. Outcomes of court proceedings regarding this complaint were not included in the file. The letter of disposition to the appellant from captain smith clearly explained the finding. And the finding was, was, was, I believe, it was exonerated. For the use of force. And this, then, the investigation did not meet the time limit standards of the Portland police bureau. The entire investigation took two, more than two years to complete. However, the investigators' notes indicated some of the delays were due to court proceedings. Letters were periodically sent to the appellant from iad, explaining that the investigation was ongoing. There was a question brought up during the ptiac hearing by the, appellant's attorney about, about why didn't the, why didn't the investigator go and look at the van. And see if the turn signal was working. But in my opinion, the question was not whether the turn signal was working or not, it was whether she used the turn signal. It wouldn't matter if the turn signal was working or not. So, I did think about that as a possibility of maybe they should have done more investigation

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but I don't think that would have added to this use of force investigation. Overall, the investigation was fair, thorough, and unbiased. The appellants inability to recall significant details of the incident left the officer's version of the events basically unchallenged. The reported statements of the civilian witness and the statements of the backup officers further supported the officer's description of the events. This was voted on by the citizen advisors, and the vote -- the first vote was taken on, whether to affirm the finding of the internal affairs -- or the finding of the police bureau on this case. That was not seconded, so one of the other advisors then made a motion to vote to change the finding from, from, from -- I am sorry, it was unfounded. Not exonerated, to change if from unfounded to insufficient evidence. Two members voted to change the finding, and one voted opposed. The five advisors abstained on this. And one advisor reaccused herself because she knew the officer.

**Katz:** Mike, let me ask you, in the iad report, there was a section where the officer "a" said that he had prior contact with the same vehicle, that it was being driven by the appellant's granddaughter, and it was the other officer in the car that had stopped the vehicle and cited for no operation license, and I think the license was suspended, about three times, as well as no insurance. The officer -- and in the report, it says officer "a" could have towed that vehicle but saw a wheelchair in the back of the van and was concerned about the possible handicap person's means of transportation. I am not sure you all have it. This is in the complete report. And this was --

**Hess:** I didn't mention that because it -- I didn't think it had relevance to the investigation, itself, but that's true. He had stopped the same van a week before. Actually, it was another officer, and he was the, the second officer in the car.

**Katz:** Well, to the extent the vehicle was recognized and the concern was that whoever was driving the vehicle may have been driving, also, there were no lights in the back, may have been driving with, with a suspended license.

**Hess:** There was a young lady who was driving. She did not have a license, and they told her if we see this -- and the insurance was, was, at that time, expired, also, and they said if, we are going to let you go, but we, we were, we are not going to tow the car, but we don't want to see it out on -- we don't want to see you out here driving it again without insurance, and without a license. So he saw it a week later, at this time, and pulled her over -- it was true, he saw it --

**Katz:** And I mentioned it -- the reason I mention it, I will explain later on, why I refer to that.

**Hess:** Okay. Good. But that was true.

**Katz:** Okay. Questions of mike?

**Francesconi:** I just have one question, perhaps. Is there a practical difference between unfounded and unsubstantiated?

**Hess:** There is no practical difference between the two. I think this would be a better question to ask captain smith. In my opinion, unfounded means something did not happen, and exonerated means it happened but it was within the guidelines of the, of the police general orders. So, I think it is a real fine line between those two sometimes. I would rather have him answer that.

**Katz:** Why don't we ask captain smith to come up before we ask the appellant because there may be some questions with regard to, to how the appellant was pulled out of the van.

**Hess:** And we do have some advisors here, too, if you would like to ask why they voted a certain way.

**Katz:** Okay. We will do that.

**Hess:** Okay.

**Katz:** Gentlemen, do you want to identify yourself?

**Captain Brett Smith, Internal Affairs Division, Police Bureau:** Captain smith with internal affairs division.



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**Lt. Steve Buchtel, Police Bureau:** Lieutenant steven bucharadt.

**Katz:** Did you want to add anything to this since the officer is not going to be here?

**Smith:** What I would like to do is read to the city council the information leading to the recommended finding made by the Portland police bureau. I think the information we have, at least the, the investigation of the chronological events we saw that related to the recommended finding may be a little more complete.

**Katz:** Okay. Go ahead.

**Smith:** Let's go ahead and start, on february 26th, 1998, Portland police officer observed the appellant turned from north denver onto the street without signaling. The officer approached the appellant's van and asked her to turn the van off. For practical reasons, in addition to officer safety, police officers asked persons to turn their car off to reduce the injured noise so the officer can hear and talk to the person. Or if, if it ends up in a custody situation, the officer does not have to deal with turning the car off. Those would be examples of why we ask people to turn the car off. The officer stated -- she stated she wanted to know why he asked her to, the stated because he asked her to. The officer asked her for her driver's license, registration and proof of insurance. This was the first request. Based on the officer's experience, he prefers to get documentation in his hand because it gives him some control. The appellant replied, no, not until you tell me why you stopped me. That was the first refusal. The officer said, he would explain, stating he will get to that. The arrest regarding the stopping for violations does not say, does not say that the police officer has to tell someone why they are stopped. Ors 807-57 requires drivers to present a driver's license unlawfully requested. Training from the Portland police bureau no longer considers traffic stop as low risk. They are identified as unknown risk encounters that are inherent the dangerous. Police officers are taught to first object tin, at the minimum a, driver's license prior to explaining why they are stopped. The police officers do not want the driver to control the situation. The police officers are trained to minimize their exposure to, one, the primary risk represented by the driver in the vehicle, and two, the secondary risk represented by the environmental factors, such as traffic. Debating the merits of the stop with, with the driver prolonged an officer's exposure to the primary and secondary risk. The officers need to know who the driver is, and then explain to the driver the reason for the stop. The officer then asked to see the appellant's license, registration, and proof of insurance. This was the second request. By the officer. The appellant replied, no, not until you tell me why you stopped me. The officer at this point explained to the appellant that she was stopped because she failed to signal. The officer told the appellant that she needed to see, to see her license, registration and proof of insurance. The third request. The appellant then told the officer that she used her signal. The officer responded that, that the appellant, to the appellant that she may have had a signal out or that it was not functioning. The officer then told the appellant if she did not show her driver's license, he would arrest her for failure to display. The appellant then replied, go ahead, and arrest me. This is the situation the officer attempted to avoid. He explained to the appellant why she was stopped and then she argued with him regarding his justification for the stop, and then refuses to cooperate. The officer, at this time, opens the van's door and radios for -- he was with an uncooperative person going 61 orb making an arrest. This is consistent with the computer aided dispatch information and the two officers were dispatched to assist. The officer waiting for assistance certainly was an indicator the officer proceeded to be serious. As the officer does this, the appellant grabbed her purse, that was sitting next to her, and puts it on her lap and begins to look through it. The officer, at this time, does not attempt to place the appellant into custody but waits to see if she is going to display her driver's license as he requested. The officer observes the appellant pull her wallet from her purse, and then change and then the appellant grabs the steering wheel with both her hands. The officer observes the appellant reach over then with her

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right hand and start the van. The officer asked the appellant repeatedly not to start the van. After the appellant fails to respond to instructions, he then asks her to get out of the van. The officer then observes the appellant reach with her right hand at the dashboard level and believed that she was about to put the van into gear. This was the first attempt to grab the gear shift, and describes the motion as the palm facing the back and up as if you were to put a car into gear using the gear lever. The officer then pulls the appellant's left-hand, by first pulling her thumb off the steering wheel and then telling her to get out of the van. With the appellant's vehicle running and her door open, the officer's exposure to potential risk has increased, and any person operating a vehicle can seriously injure or kill a police officer regardless of their size or age. To limit these potential risks, the officer must take immediate and decisive action to gain physical control and the non-- of the noncompliant driver. As the officers pull on the appellant, the appellant continues to grab the steering wheel with her right hand. This is the first attempt to resist the officer's effort to remove her from the van. The appellant at this time was demonstrating what we would call a static resistance, which detects, or dictates the use of, of physical control holds. The Portland police physical control holds are not a use of force in that they are not readily capable of causing physical injury. In fact, persons often injure themselves by resisting an attempt to control hold. The officer at this time holds the appellant's left-hand out of the hand in a modified arm hold but the control technique is not working and she, and she will not step out of the van. When the officer attempts to switch the control hold from the appellant pulls her hand away and again, grabs the steering wheel with both hands. The appellant reaches behind the steering wheel with the right hand again, and the officer believes again, she is attempting to put the van into gear. This is the time that he observed her, what he appears to be putting the van into gear. It can't be assumed the appellant would not attempt to back over the officer. The officer, again, pulls the appellant's left-hand off the steering wheel in an attempt to pull her from the van using the sagajo. The appellant, again, grabs the steering wheel with the right hand and resisting the officer's effort to pull her from the van. Again, this is the second attempt to resist the officer's effort to remove her from the van. The appellant at this time tells the officer, you are going to have to pull a lot harder than that, I am a big woman. This was perceived as a challenging statement. The police report lists the appellant as being 5'5", 159 pounds, the traffic citation lists this. The document report also lists a similar physical description of the appellant. The officer, at this time, places his right foot against a step of the vehicle, and begins to pull the appellant out of the van while holding the appellant's upper body. The situation is that the appellant is holding onto the steering wheel with the right hand, while her upper body is sitting in the driver's seat while the officer is holding the upper body, I should say, she's sitting, her lower body is sitting on the driver's seat. It is at this time that the officer realizes that there is another person sitting in the front passenger seat of the van and asks that, that the passenger remain seated. When he, and he replies with a request. The officer then asked the appellant to get out of the van, the appellant at this time lets go of the steering wheel with the right hand. The officer then gently lowers her to the ground. The appellant to the ground. While on the ground, the appellant refuses to move or follow the directions given to her by the officer, and that would be in reference to getting her right arm from under her and putting her feet on the ground. The officer applies pressure to the control hold and the appellant begins to comply with the verbal instructions given to her. The officer then handcuffs the appellant. After the handcuffing, the, after handcuffing the appellant, assisting officers respond to the scene. The officer, at this time, sets up the appellant in a sitting position. The officer asked the appellant to get up and told her that it is not going to pick her up. The appellant said, in the interview, the officer might have said, I am not going to pick up, as well. The appellant was sitting with her legs bent under her. The officer complained to the appellant that he was going to push her onto her left leg and that she needed to

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stand up. The police officers are taught to tell people that the police officers are not going to pick them up so they know what to expect. Officers are taught they will assist the person in standing up, and the person is given instructions on what to do. This instruction is intended to help the person stand up and prevent injuries to the officer. The officer told the appellant, or said the appellant leaned back as if she was going to comply with him, but instead, straightened her legs out. Again, this was another demonstration the appellant was not willing to comply with the instructions that were given. The officer then gave his instructions to the appellant on how to stand up. The officer then assisted by another officer and instructions were given and together, they pick up the appellant by rolling her onto her knee and standing her up. The officer retrieved the appellant's wallet, and she directed him to the location of her driver's license. The passenger of the van, assisted the officer located the insurance papers, and the insurance papers were expired on the 17th of february, of 1998. When the appellant was asked why she tried to leave, she replied that she wanted to show the turn signals work. However, the turn signals are on the left side of the steering wheel. The appellant in her statement stated, she attempted to demonstrate to the officer earlier in the traffic stop that her turn signals were, if this was true and she tried to do that, she would have had to use the lever on the left side of the steering wheel. If the appellant did attempt to demonstrate that the turn signals work, it is clear from her statement to iad the officer did not respond or act in any -- or act in a manner that indicated that there's a threat in any way. So the distinction the officer made on the right side of the column was relating to the gear shift and putting the car into drive. On march 12th, of '98, five days after the arrest, the appellant went to visit her doctor, reports that the appellant had pain in her left arm, left shoulder and ankle. She was given 400 milligrams of motrin. None of the pains, the appellant complained of, were specific enough for the doctor to treat, other than the 400 milligrams of motrin. There were no bruises, bumps, abrasions or swelling, but rather nonspecific complaints of pain. The complaints of pain is described by the appellant are consistent with the discomfort associated with the resistance to the application of the control holds used by the officer. Again, Portland police control holds are based on pressure and leverage and are not readily capable of causing physical injury. The appellant made no complaint of pain or injury the night of the arrest. Both the arresting officer and assisting officer asked the appellant if she needed any medical assistance, to which she replied that she did not. All three officers at the scene said the appellant did not appear ill or injured. When talking to the witness in the car, he told the arresting officer that he and the appellant were engaged, that he had been telling her to cooperate with the officer, to stop doing the things that she was doing. Later, the same witness talked to a different officer, who documented, I don't know what is the matter with her. I have never seen her act like this before. We are going to get married but now I don't know. Prior contact, approximately one week prior to this incident, february 26th of 1998, on february 20th of 1998, the appellant's granddaughter was stopped driving the same vehicle because of a defective light. The granddaughter was driving the van on this february 20th, 1998 incident. The same officer was involved in this traffic stop, however, he did not make contact with the driver, but allowed a probationary officer to handle the incident. When proof of insurance was requested. The occupants were unable to provide the documents. After discussion, between the officer and the probationary officer, it was decided not to cite the granddaughter for ors 806.010, driving uninsured because it requires the vehicle be towed. The city council passed an amendment to city code 16.30.220, subsection k, starting may 1st of 1997, requiring automobiles to be towed when the drivers are driving while uninsured. A wheelchair was observed in the back of the vehicle and it was believed if the vehicle was towed, some unknown person would not have the use of the wheelchair. It was the officer's understanding once a vehicle is tow and had parked in the tow lot, the owners of the vehicle are not allowed to take items out of the vehicle. The granddaughter was

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cited for failure to display proof of insurance, instead, which is not -- does not require the officer to tow the vehicle. It is my understanding that the granddaughter pled no contest to that citation. On february 26 of 1998, when the appellant was stopped, she still did not have current proof of insurance, and she also was cited for the same ors 806.012, for failure to display proof of insurance. The state of Oregon, under ors 806.011, it requires an unexpired insurance card to be carried in each motor vehicle operated in the state of Oregon. February 28, the sergeant interviewed the appellant at north precinct. We had two interviews that were conducted. This interview took place two days after the incident and it was made a part of the iad investigation. On march 20th, the sergeant interviewed the appellant on the telephone, and as already stated, this lasted approximately 30 minutes. The appellant was asked that the allegations were complete and correct. She indicated that they were. Phone messages were left, as well as contact letters to the witness, with no response. The witness was not interviewed by iad due to failing health. This case later in the piiac appeal, was made, and now alleged anyway to be a disparate treatment case. That never was a part of the allegation to the sergeant at north precinct or the internal affairs division, and when we asked to go over the allegations with her, that was never brought up to her. It was the use of force. It was the only complaint that was ever documented. During the course of the investigation, there was no evidence that was ever learned that the officer stopped the appellant because of it, the stop was initiated because of her driving behavior which was because of an observed traffic violation. The actions of the officer not indicative of a person to treat them in a disparate manner. The officer showed good discretion, due to -- he did not issue citations, he could have, when he stopped yet the appellant or her granddaughter. The officer did not tow the vehicle in either incident or charge the appellant with resisting arrest. The officer and appellant's statements are inscripted up until the point where the officer is forced to use force and arrest. At this point, the appellant says she lost consciousness. The statement regarding who handcuffed or picked her up off the street are not supported by the witness officers at the scene. I think, I think that completes my presentation. And that is the thought process that went into the recommended finding by the Portland police bureau.

**Katz:** Before we get to the question, I did ask, because you know how I feel about our role on this, and the fact that we are not compelled to do the kind of research that, that the citizens are doing, although some of us have, in fact, on this case, after the last case, had done that. I did ask captain smith to bring somebody in the training division, if there was a question with regard to the sancajo hold and the other arm hold, as to why, why officers use that. Just for information, and they don't need to come up unless council members make that request. They can demonstrate it, if you want. I also asked jennifer from our city attorney's office to be here because she was the city attorney who defended the officer, and as you know, the federal jury found, found him not guilty, and cleared the officer of excessive force, so the city attorney is here. So you have got -- you have got the resources, if you want to use them. Now, the citizens you have, who is here? Is bob here?

**Hess:** Bob is here, who voted -- he voted against changing the recommendation. Or the finding, I am sorry, and then benny stone, and shirley, the two who voted --

**Katz:** Okay. If the council wants, we have somebody from the, who voted in the majority and somebody in the minority. Depending on what the council's wishes, so I just wanted to -- and we will hear from the appellant in a few minutes. And give her time to explain how she perceived the situation. So if you want to hear from those folks, just ask, otherwise, we will go to questions.

**Hales:** Just a question of captain smith. The document you were just reading from, that's not in my record. What is that?

**Smith:** That's something I put together for this presentation today.

**Hales:** Could you go and have somebody make copies of that for us? You can just slip into my office, they can make five copies, because I think that it would be useful to have that detail -- we

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have got, you know, the summary report from mr. Hess but I think it would be useful to have that. So it is nice to hear it but it is nice to be able to refer to it, as well. So if you could just have --

**Smith:** I think I would like to send this with somebody because if a question comes up --

**Katz:** Captain, why don't you also take, because I have got it and I don't know who else here had it. The iad may 24th, pages up to officer david cook's testimony. Right through here. 1 through 6, so the council members can have that, as well.

**Francesconi:** This is kind of a funny deal here. I mean, we should all have the whole iad file, procedurally, ahead of time. I requested it, so I got it. But in the future, I am not looking at you, just, michael, I guess I am looking at you, everybody should have the file.

**Hess:** Nobody has ever asked me for it.

**Katz:** I got it because I asked for it, and he did, too.

**Hess:** That would have to come to from iad, but that's a good idea. This is the first I have ever --

**Katz:** We are going to change a little bit of the procedures. The council will have almost the entire report from now on, and --

**Hess:** We are not allowed to take anything out of the files, so I didn't even know that could be done.

**Katz:** It is basically the iad report.

**Hales:** We should have that. Frankly we have a half inch of paper on a zoning hearing, and I think a quarter inch of hearing on a hearing this important would be --

**Hess:** Absolutely.

**Katz:** And the medical reports, as well.

**Francesconi:** Captain smith, I just had one question, when did the disparate treatment first surface? You referred to it in your testimony.

**Smith:** The first I heard it from an iad perspective, I recall, would have been, I know for sure, would have been when we had our first appeal before the monitoring committee in which the appellant, and her attorney, came in and made allegations of disparate treatment.

**Francesconi:** So when would that have been?

**Smith:** We have the date of that -- that was on, on september 14th of year 2000.

**Hess:** And I don't know if you want a definition right now, you had asked just before I got up here, between unfounded and exonerated.

**Katz:** Somebody asked for that.

**Francesconi:** I need the definition. My question was the practical effect of the difference.

**Smith:** Well, there is a difference. Unfounded is, as the claim is unsubstantiated, and the facts in the investigation do not support the allegation, whereas exonerated is the actions of the officer within the guidelines of your policy procedure.

**Francesconi:** That wasn't -- we are confused here. I think it was the -- I didn't ask about exonerated at all. I asked the difference, not the definition, but the difference between unfounded and unsubstantiated. What the practical effect of that difference is. I don't think there is one.

**Smith:** We don't have one on unsubstantiated.

**Hess:** Unfounded, it has that word in it, the claim is unsubstantiated.

**Francesconi:** Let me ask you to rephrase it. The difference between the minority and majority opinion, what's the practical effect of that difference? Is there a practical difference? On the officer, on any --

**Smith:** Well, I think it is significant here at this point in time because I think that the recommended finding that was made by, by the monitoring committee is insufficient evidence. I think that they base that had on the fact there is one person and one person's testimony, the issue that we have here is we believe the facts of the investigation don't show that. We have a person

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that has documented this information, through some cooperation here, and another person who says, I don't know what happened. I don't remember what happened.

**Francesconi:** I understand, I think, that, but I am trying to understand the practical effect of one finding versus the other on the officer or on anybody. I understand the difference, and you have been very clear in your testimony.

**Katz:** In terms of the outcome for the officer? Is that what you are asking, commissioner?

**Francesconi:** Yes.

**Lt. Brad Ritschard, Police Bureau:** Lieutenant bacrahd. The difference would be, I think, an analogy of the o.j. Simpson verdict. When they, the first verdict when he was found not guilty, a lot of people do not believe that. Even though they have gone through a court and that has been tried. Insufficient evidence leaves that doubt that maybe the officer did do that. Or unfounded means the officer didn't do it, that he was found that he used appropriate action and that his conduct was appropriate. The stigma that there is still some doubt as to whether you, you have been accused of these allegations and whether you have done those is, is a real stigma, to be honest.

**Francesconi:** Thank you.

**Katz:** Question?

**Sten:** Captain smith, when you gave the description, especially in the first part, it was very detailed and the way you present it was factual. This happened and that happened. This happened. Is that because the two sides agree on those facts? Or is that because the --

**Smith:** We have a comparison.

**Sten:** Have you, I haven't heard that factually --

**Smith:** What I did was I gave you the, the information that was also used in determining the recommended finding. And at the end, I think I made a comment that there is a lot of things that the officer said happened, that the appellant also said happened. I think, for example, I don't have my notes right here, but the, the appellant asked the officer two times why, why she was stopped. The officer asked, said the same thing, two times why she was stopped. He also then explained why there was a stop. And then, then demonstrated that, or tried to explain the turn signals did work. Those kind of things, that are in both testimonies, there is some consistency there. Where it changes is, is when, when the officer then states that he's going to arrest her if she fails to display. At that point in time, the information is, is a little bit different, or she doesn't have any recollection of it at all.

**Sten:** I heard your testimony, sort of through the whole narrative say factually so is there a point at which, at which I would buy that, when both sides agree that that's almost a stipulated fact, where's the points at which they don't agree in terms of what happened?

**Smith:** Well, I think one of the facts that was said initially might have been that, that the officer asked that when he first approached the van to turn the van off. What the appellant indicated was the officer came up and asked for a driver's license. The appellant says later, sometime a little later he asked her to turn the van off. But there is an agreement at some point in time the officer did ask to have the van turned off. There is some of those kind of differences that go through both of these statements here. The officer, for example, stated that the appellant grabbed her purse, put it in her lap and began to look for her driver's license. That was only after the fact that he threatened to arrest her, opened the door and radioed that he was going to go 10-61. The appellant indicates that she did this prior, and was looking through her stuff but that she did go through her wallet and did look through, you know, supposedly, the display, the displaying of the driver's license and insurance, so some of those -- there is some that were not necessarily in the same sequence of how they each recall them.

**Sten:** And did iad find those disputes immaterial to what actually happened?

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**Smith:** If you read the appellant's -- no, if you read the appellant's iad version of what, what happened, according to her, it was a normal traffic stop. There didn't appear to be any issue of significance. This was a traffic stop that was going fine. There was no -- not at problem. She appeared to be complying. And that's substantially different, in that regard, to what the officer is testifying to.

**Sten:** And how did you come to the conclusion to factually present what the officer said happened rather than as an opinion that's disputed by the, the appellant?

**Smith:** I think those things were taken into consideration because, because we know that certain things were said, at certain times. The main part that comes into dispute is the fact that, that she doesn't recall the officer ever telling her that he was going to arrest her for failing to display. The fact that she was going to put the car into gear, all she remembers is the fact that when she tried to comply, with the requests and go into her wallet, the next thing she knows she's on the ground so they were taken into consideration. There was some, there was some, some of the, of the statements that were made that were consistent, different parts, but then she doesn't remember. And so based on that, I think those are the factual pieces of information.

**Sten:** On the statements that she remembers and he remembers, that are disputed, did iad come to the conclusion his fact pattern was what happened because that's the way you presented it, led me to believe.

**Ritschard:** The initial stop and when the officer approached the car and asked for the driver's license and she demanded to know why she was stopped prior to giving the driver's license. And that scenario that goes back and forth is pretty much documented cooperative by both sides. It is up to the point -- and that goes along up to the point where the officer is compelled to take some action and take her out of the vehicle and what he believes is engaging the gear. At that time, we have an officer story but we don't have anything from the, the complainant because she doesn't remember. She claims that she blacked out during that period. Next comes is when she is on the ground and being arrested. There is -- where she is being handcuffed. There is a discrepancy there as to what the officer told her as to whether he told her that he wouldn't pick her up or he couldn't pick her up. She admits later in -- she first states that he also told her that he wouldn't pick her up. And she later admitted that he said he wouldn't pick her up. Later, says, quote, "i am not going to pick you up," is what she says later. That part is corroborated not only by the officer but the arriving officers. By this time, they had arrived. The complainant didn't believe that the original officer, officer "a," is the one that picked her up. She believed it was the other officers. The testimony of the three officers show that officer "a" and officer "c" picked her up. Helped her to get up from the ground, assisted her to her feet. So that discrepancy was weighed because we had the testimony of three officers to the complainant. So, so the only, the only scenario or the only section of this, of this scenario, that there isn't some sort of agreement is during the point that, that the complainant says that she has blacked out. And that is -- so therefore, we were lying on one side of the story. She cannot tell us what happened at that point.

**Sten:** How does the dispute work at the point at which -- it seems to me the point at which this became a nonstandard traffic stop was when, when she refused to give the identification when they agree on, and at some point, they agree that she went for the identification, is that right?

**Ritschard:** No, they agree that she picked up her purse and started going through her purse, and that was the last point of -- of that agreement.

**Sten:** And after that, at some point while she was going through her purse, she reached for the drive --

**Smith:** That's the officer's statement. That was, that wasn't agreed upon by the complainant.

**Sten:** And she doesn't recall any of that?

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**Smith:** She claims at that point, she claims the officer grabbed her and she lost consciousness, blacked out, and she didn't -- wasn't aware of what occurred until she found herself on the ground being handcuffed.

**Sten:** So they agree up to the point that the purse is in her lap, more or less?

**Smith:** There is an agreement that she's going through her purse, and pulling her wallet out and looking for what the officer hopes is the driver's license.

**Sten:** At that point, the officer's testimony is she reaches to engage the gear and she blacks out? Or she doesn't remember what happened? Her testimony is she doesn't remember what happened, she went to put the car into gear and looked like she was going to do that?

**Smith:** It is my understanding after the officer made the second request for her driver's license, insurance papers, and her second refusal, she's now turned away from the officer, going through her purse, and that's the last thing that she remembers. Until she wakes up and she is on the ground.

**Katz:** You want to see the holes? Before we get to the holes, does anybody want to hear from Denise or Bob?

**Hales:** Before or after, I don't care.

**Katz:** Well, let's do it before and then we will demonstrate the hold and then bring the appellant up and come back to questions. All right. Denise and Bob.

**Denise Stone, Vice Chair, PIIAC:** My name is Denise and I am the vice chair of the citizen advisors for PIIAC, and I did not support the recommendation to affirm the unfounded finding because I believe this investigation found key factual disputes that warrant a finding of insufficient evidence. Insufficient evidence states that there was not enough evidence to prove or disprove the allegations. And I am going to give you the reasons behind my vote. One reason is the appellant stated that she wanted to show the officer that her turn signals were in good working order. She had to turn the emission on in order to demonstrate this. Officer "a's" report corroborates the claim that the appellant thought that she used her signal and the officer suggested her light was burned out. Conversely the officer stated that he thought her attention was to drive away from the scene. Also, the appellant stated that she could not remember what happened from the time that she turned the motor of her fan off and handed the, the officer her -- handed the officer her wallet to the point of which she was on the ground, but the officer stated that, that when she was brought from the van and placed on the ground, she continued to refuse his verbal instructions, yet as I said, she claimed she doesn't remember what happened at that point. Also, there is -- the factual dispute is between two people. Officer "a" and the appellant because officer "b" did not arrive to the scene until the appellant was already on the ground. In the case where what we consider to be a he said, she said situation, we try to lean towards an insufficient evidence recommends because we feel this lets both the officer and the citizen know we are not feeling that one is more, has more truth than the other. Also, we believe that the allegation was based on the appellant being pulled from the vehicle, as opposed to the appellant not being assisted to get up, and that happened when officer "a" and the appellant were together. The only other witness to the incident was not a police officer -- the only other witness to the incident wasn't available for questioning because he died during the two years that it took for this investigation to be completed. Additionally, I would want to say that officer "a" stated the appellant's demeanor was uncooperative and challenging, yet according to the officer's written report he refused twice to tell the appellant why he stopped her. He said, quote, "when I approached the vehicle, I asked the appellant to turn the van off. She demanded to know why and I told her I asked her to. She turned the van off and I asked her to -- asked to see her license, registration, and proof of insurance. She said, no, not until you tell me why you stopped me. I told her that she would get that, that I needed to see her license and registration and proof of insurance first. I understand that officers may not be required to give drivers reasons for stops but may have



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been able to diffuse the situation a bit if he had done so. Additionally, officer "a" was interviewed 15 months after the incident. And to conclude, I voted to recommend a finding of insufficient evidence on the basis of these factual disputes. And additionally, my personal feeling is that aside from the age, race, and sex of the citizen involved, I firmly believe a traffic stop for reasons of failure to signal a turn should not result in a citizen being pulled from their vehicle to the ground.

**Katz:** Whoa: [ applause ] If this happens one more time, I am going to clear the council chambers and we are going to adjourn. This is not a rally. This is a thoughtful hearing. By the people who investigated it. Bob.

**Bob Ueland, Chair, PIIAC:** My name is bob, and I am chair of the, of the monitoring subcommittee of piiac. Over the past six years, and I voted against the insufficient evidence. I felt that unfounded was the correct finding. Over the past six years, I have read several cases where drivers had to be removed from automobiles after they had been arrested and were not cooperating. I, in comparing this case to the others, I found this to be a very moderate and modest escalation of force, the use of escalation of force in accomplishing the goal of the officer, which was, after he had said, the person was under arrest, he then has to place that person under control. I have read many cases where people came out of cars, right through car windows. That type of thing, you know, based on the circumstances and the demeanor of the person. So it appeared to me this officer was doing his best to get to the control point and was using the least amount of force necessary and doing it very, very slowly in comparison to other cases that I have read.

**Katz:** Questions of the citizen advisors? All right.

**Hales:** I might have to loop back to this because I am trying to read the, the more detailed report that we have here now. But, do you have any sense of the elapsed time between the point at which the officer said you need to get out of the van and when you began to apply physical force?

**Smith:** Do you have the call record there because the officer, he began, when he began his arrest procedure --

**Katz:** We don't have -- I don't think you have that. It is in the report. Captain smith, why don't you share that, the, the 9-1-1.

**Francesconi:** I think it is 71 seconds, isn't it?

**Smith:** What I have here, I don't have the record right in front of me but I have a note here that the case officer made --

**Katz:** Wait. Bob -- move over so that he can use.

**Smith:** The computer dispatch kathy the officer made a stop at 746 and 54 seconds, cover dispatch at 7:48 and 22 seconds, I think there is a difference of 46 seconds.

**Francesconi:** Made the stop I am sorry, you are going to have to give me this in writing.

**Smith:** The computer --

**Hales:** They stopped at one point and then request cover, cover was dispatched at 7:48 and 22, at approximately 86, 86 seconds.

**Hales:** Right, so during that whole conversation, the whole conversation had to take place during that time period, as well.

**Smith:** That's correct.

**Hales:** What I am asking about, is the time elapsed between his command to her to turn off the vehicle and get out of the car and when he began to apply force. Do we know anything about that time period?

**Smith:** I think it happened relatively quickly from my understanding. My understanding is after the appellant put her hands on the wheel, she then went to turn the car on. She was repeatedly told not to turn the car on. She then makes a motion to put the car into gear on the right side of the steering wheel. This was this has all taken place very, very quickly, and at that point in time, he's

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already standing inside the door. The door is open of the van. And then he attempts to, and does grab the left-hand of the appellant and tries to put the appellant into a modified arm hold at that point, so it is very quickly done at that point because the officer is looking at an officer safety issue at this point in time. For him, thinking that the appellant is going to drive off.

**Hales:** I understand that. Again I am just trying to get a sense of elapsed time. I don't think I know anything about that.

\*\*\*\*\*: I don't.

**Hales:** And I guess again, while you are here, and some comment from the advisors, I mean, so the fundamental issue here about why force is applied in a traffic stop is, is the concern about officer safety is a possible reason, right? That's one reason why force might be applied at a traffic stop? Right, one could be the person is a fleeing felon.

**Smith:** In this particular case, I think it is a control issue. The officer -- if you said officer safety and was forced at this point in time, to apply a control hold.

**Hales:** This may be a training issue, more detailed than I am capable of getting at right here. So you have a situation where someone's door is open. And the officer is attempting to get control of the situation, and there is a danger to the officer, that the, the person operating the motor vehicle might start it and start moving the vehicle around in a way that's hazardous to the officer, right?

**Smith:** Okay.

**Hales:** And the training is, get closer to that person and grab them, rather than step away so you don't get dragged around by the motor vehicle? I mean, what's the worst that could happen. The worst that could happen would be he's so close that he gets dragged around by the motor vehicle and gets injured or killed. But if he steps back three feet, the worst that could happen, if he's standing beside the vehicle, is she could drive away, and is the training, indeed, you get closer? I mean, my instinct would be, get away so I don't get -- There are a number of things contrary to instincts you would have in an encounter like that, if you weren't a police officer so that's what I am trying to get at, the training is engage the person, physically? Or is the training to get back from the vehicle so you don't get dragged around.

**Katz:** Denise, thank you. We have the officer here to answer that. Officer, answer that question and then if you want to, did you -- was this in the trial? Did anybody try to take Jennifer -- did somebody show the arm hold on you? Was, was this the officer? You can try it on Jennifer because \*\*\*\*\*: If she doesn't mind.

**Katz:** No, she's much lighter, though. Okay, answer Commissioner Hales's question.

**Officer Paul Dolbey, Police Bureau:** Commissioner Hales, the officers are taught that any control is better than no control. As long as there is an opportunity to control the situation or control a person, and an officer can then do that.

**Hales:** In all situation even a traffic stop?

**Dolbey:** There is an opportunity to affect control.

**Hales:** In all situations? Remember the original, the original crime here was failure to use this turn signal, I am talking about a fleeing felon or somebody involved in a hit and run accident, so the only possible danger that we know of at this point in this encounter is danger to the officer, himself, and again, I grant that's real, if the officer is within 3 feet of the motor vehicle. But the training is no matter what the crime, no matter what the situation, get close, rather than, whoa, you drive off and we will deal with you later, right?

**Dolbey:** In order to effect a custody or effect control, an officer has to come into that safety zone. And put hands on the person, and that's what we do.

**Hales:** But that's in all cases, right? That's the training, no matter what the situation? Maintain control?

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**Dolbey:** As long as the officer's safety is maintained. As soon as the officer starts to lose control, then yes, they are talking about going to a different level of control. In this situation it is up to the officer. It is his discretion whether he believes he has an opportunity to control the or it gets to the point he thinks this is no longer safe. I will have to back out. The other part of that is, we don't know the state of mind of the occupant of the vehicle. If she is adrenalized or traumatized and we let her drive away, maybe she feels she's being pursued, who knows what the mindsets are there inherent dangers to letting her go and drive that vehicle. There's also that to consider.

**Hales:** Okay. Thanks.

**Katz:** Jennifer, is that all right, jeff? Okay. The first hold is the, the --

**Dolbey:** I will be demonstrating the control hold, and if you don't mind, just give me a minute to, to set the scenario for you here. Police officers face many dangerous situations, one of the most dangerous situations for a police officer to face is reaching into a person's vehicle. We have had officers pulled from their horses here in Portland, reaching into a subject's vehicle, and there have been officer deaths, not here in Portland, luckily, but throughout the nation being dragged by occupants in the vehicles. So, as a last resort we will reach our hands into a vehicle, but before we do that, we need a cause. We don't arbitrarily use a level of control. Our levels of control are dictated by the subject's behavior. Verbal noncompliance indicates that passive resistance or static resistance of levels of control that we may use physical control holds in that situation and that was the situation involving miss mcrae. For noncompliance the officer determined I better use a control hold. The control hold we teach the officers to use is to quickly reach into the car and get their hand out of the car as quickly as possible, because of the inherent dangers of leaving their hands inside the vehicle. In order to do that, I will have to stand up and adjust the microphone here. The officer would have to reach in, get this hand as quickly as possible, if it is locked on the steering wheel, if you can stimulate driving the steering wheel, we teach the officers to go for the thumb to drag the thumb off the steering wheel because that's the easiest way to break the grip. Keep in mind while I am doing this, she has the potential to punch me in the face or throw it in drive. There is a lot of potential so we have to act quickly. Take the hand outside the car is quickly as possible, and rotate it and put it into a control hold where the occupant would feel pressure and leverage in her wrist and forearm, and at that point, I will give more commands, place your hand on the steering wheel and your other hand on top of your head. I need you to exit the vehicle. At this point, she would exit the vehicle and if that happened, fine. Everything is fine. She walks out of the vehicle and back to the patrol car and we effect the custody at that point. As long as she's compliant now that I have got this control hold here. Again, it is pressure and leverage, any resistance to this, would start to cause some pain in the forearm and in the wrist here, but as long as there is no resistance, it is pressure and leverage.

**Saltzman:** And that was the hold that was used, out of the car and to the ground?

**Dolbey:** No, that was the hold that was first attempted, and according to the officer's report, when you attempted the control hold, miss mcrae was able to pull out of that and away. We go into a second technique, if you would like me to demonstrate that. At this point, the pertinent has pull their arm back into the vehicle, and now their resistance is elevated to the level of physical resistance, which dictates a different level of control for the officer. However, the officer determined I can still use physical controls to try to maintain control of this person. Again, reaching in and grabbing the arm is quickly as possible since there is physical resistance, now we don't have time to establish the same kind, you pull the arm out, if they are pulling back, in the case of ms. Mcrae, was pulling back onto the steering wheel, the officers are taught to use additional leverage by placing their foot against the vehicle. And use, I am sorry.

**Katz:** I think that was the first hold that was used.

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**Dolbey:** First one was a modified one, and there was an attempt to readjust. The grip was lost and then a second try resulted in the hold.

\*\*\*\*\*: So reverse it.

**Saltzman:** No, what you were showing second was --

**Katz:** Why don't you show that again.

\*\*\*\*\*: So you use the arm, put the foot up and hold on?

**Dolbey:** Right, their arm against the doorjamb to establish leveraging pressure and control the shoulder of the person and then we can try to effect the same from this position. And what ended up happening, according to the officer's report, I wasn't there, it is hard to tell. But, what ended up happening was the officer used an arm bar to take the person out of the car.

**Katz:** Is that everything? Thank you. Jennifer, since you are here, did you want to add anything?

\*\*\*\*\*: I am just here if you have questions about what happened at trial.

**Katz:** All right. Did you want to say anything else?

\*\*\*\*\*: No, that's all.

**Katz:** Thank you. Then let's have doris mccrae please come on up.

**Hess:** Who would you like to hear from first?

**Katz:** The appellant, not the lawyers. Sorry. We will hear from the lawyers later.

\*\*\*\*\*: Up to you.

**Katz:** Doris?

**Dora McCrae, appellant:** Thank you, vera Katz. For giving me this opportunity to talk to tell you my side of the story. It was on february the 26th, after I had delivered something to a homeless shelter and on my way to, to enjoy the evening, that as I turned off north killingsworth onto north denver, and stopped at the first stop sign, having crossed the street, automatically looked in my rearview mirror and is there was a bright light, blinding my vision. I couldn't see out the mirror in the car, so then I looked back at the two outside mirrors, and I still couldn't see anything. So I said, oh, I just hate for someone to drive behind me with their bright lights on. And I told my friend, I said well I am going to get up here to alberta, we will turn, and if that car turns behind, I will pull over and let it go by. Well, I got to, almost to alberta, by signal, and turned. I went down alberta, the car will not turned behind me. And I proceeded because there were a lot of cars already parked on the side of the street because it was in the evening, so the people that had gotten off from work so they had parked on the streets so I went all the way down and finally found a place to pull over near concord. And that's what I did. I pulled over. The car still had not turned. The car with the bright lights still had not turned. So we just sit there and we were talking, and finally, a car did turn with the lights on, well, I couldn't tell whether they were bright or not then because it was so far back. So, I told my friend, I said oh, yeah, a car turned, and its lights are on so we will let it go on by because we are not in a hurry, so the car finally approached us and still, instead of going on by, he pulled up behind me at an angle and then activated his overhead lights. And so I rolled my window down because I recognized it was a policeman. I rolled my window down thinking maybe the police were going to come up and say something to the effect, ma'am, is everything all right. Well, instead of that, he had something in his right hand that looked like a flashlight. And he saddled up the side of the van to my window, and then he said, turn your motor off. And I did say why. And he said because I said so. So I turned the motor off. And then he said, I want to see your driver's license. And I asked him again why. Well, we will get to that, he said. So, I reached over to my purse. We was in between the two seats. I didn't get the purse out of, off the floor. I got my wallet out of my purse, and I put it in my left-hand and I handed it to the officer. He refused to take it. And he asked me for my insurance and my, my insurance and my registration. Thank you. And my registration. And I said, I asked him, I said well why are you detaining me? I

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did use the word "stop," he said well, if you just must know, it is because you turned back there without giving your signal, and I said oh, yeah, I signaled. And he said well, then it must not be working. So that's when I reached over to turn the motor on and show him that my signal was working. And he said, just turn the motor off and get out of the car. And I turned the motor off, and I heard my friend say, don't do that to her. That's all I remembered before getting up, or finding myself on the ground outside of my van. And my left-hand was in a handcuff, and he said to me, turn over. So I could put the handcuff on your right arm, and I did. Then he said, I want you to get up, and I am not going to help you, that's what he said. So I thought, how do you expect me to get up. So by that time, the other two officers, by that time, the other, the car that had the other two officers arrived. One officer on the passenger side got out of his car, got out of the police car, and walked around on the other side of my van and I thought well, what is he going over there for, you know. But anyway, he walked on the other side of the van, and by that time, the other officer was standing at my feet, and so I said, well how do you expect me to get up? So, this other officer said, well, put your left foot underneath your right ankle, and I said, well, that sounds like I am going to be more bounded. And so I did it, though, anyway. So I -- the officer helped me up. After helping me up, they took me back behind me van, and in the movement between the vans, he said to me, are you hurt, besides your pride? And he said, um, and then they searched me, padded me down and put me in the van. In, I mean, in the back of the patrol car. While I was seated there, he said, he said how come we can't get along? And I thought, well, so anyway, he left and he came back and ed this little green wallet of mine, which probably had fallen on the ground, and he said, is this what you are, your driver's license is in? And I said yes. So he opened it up, and he tried to get it out, but that was the only thing in that little green wallet, was my driver's license. And so he took it out, and then he went around to the front of his cab, you know, through the front of the car, police car, and he did something. Then he came back, and he said, do you think that fellow in the car can give me your insurance papers? And I said no. And he said, why not? I said because he doesn't know where they are at. And he said, well, if I tell him where they are at, do you think that he can find them? And I said yes. And so he went up there and he brought it back, the papers, and then he said, who does that van belong to? I said, it belongs to my mother. He said well how old is your mother? So I told him when she was born. He asked me what was the date of birth, and I told her, and then he kingdome me my birthday, and I told him. And he said, oh, your mother must have been about 12 years old when she had you, huh. And so I didn't even answer that. And so then he said, um, these insurance papers have expired. And I said, well, yeah, those have, but I have insurance. I have current insurance. And so, just a minute, I have to think now what else happened there. I want to tell the truth here. Yeah, that was it. So he said, um, well, you know I guess, you know I can have this van towed. And I didn't say anything. And so, I am probably leaving something out, but anyway, in the end he left -- he opened the door and told me to get out. He helped me out. He helped me out. And he, he unfastened the handcuffs and then he gave me a ticket. He gave me a ticket for turning, for not turning, using my signal. And so, and then he left. He and the other officers left. They drove on across interstate and went on east. I went to court on the day that I was supposed to go for my hearing of the ticket, and the officer was not there. He didn't show up. He had not called in to make an excuse, and the judge didn't know -- the judge just threw it out. He threw it out. And so I left. Everybody else thought it was a pretty good, you know, decision that I had won, but I felt like I had not won because my, my story had not been told about this policeman's abusive attitude, and I just wanted to tell it, so that's, and after telling my daughter about the incident, and my -- I thought I was going to have a nervous breakdown. I definitely needed to, you know, heal from this. And I still haven't healed from it. I still get teary. I am still traumatized, and all of it, you know, goes along with the, with what happened.

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**Katz:** Thank you. Questions?

**Saltzman:** I have a question. So, you said that from the time you reached for your license to finding yourself on the ground, you have no recollection? Or you blacked out?

**McCrae:** I said when he asked me -- when he told me the last time to turn the motor off, when he claimed that I was going to try and drive away, I turned the motor off, and I heard my friend say, don't do that to her. I don't remember anything after that. Until I was on the ground. With the handcuff in my back.

**Saltzman:** So you don't remember. Do you think you blacked out or?

**McCrae:** I don't know what happened. I was rendered unconscious some kind of way.

**Saltzman:** And don't have any kind of a medical condition that might have made that happen?

**McCrae:** Not that I know. I have a heart problem, but no.

**Saltzman:** Okay.

**Hales:** So make sure I understand because yeah, that makes this more complicated. The last thing you remembered doing, I mean, as opposed to the conversation, last thing you physically remember doing was turning the car off?

**McCrae:** Right. He told me to turn the motor off and get out of the car. I turned the motor off and that was the last thing i, you know, did, without hearing what I said I heard.

**Hales:** You don't remember starting the car again?

**McCrae:** Well, when he said if you must know, why I stopped you, it is because, you know, you turned up there without signaling, and I said yes, I did, and he said, well then you, you, your signal must not be working, and I said oh, yes, it is working, so that's when I turned the motor on, so that the, well, the, the signal won't work unless the motor is on. So I turned the motor on to, to show him that the signals were working, and he said just turn the motor off and get out of the car. So I turned the motor off. I heard what my friends say, and that's all I remember.

**Katz:** You don't remember turning the motor on again?

**McCrae:** No, ma'am, I did not turn the motor on again. After he told me to turn it off and get out of the car.

**Sten:** Is the key to, to turn the motor off on the right, miss mccrae? Is the key to turn the motor off on the right of the steering wheel?

**McCrae:** Not on the steering wheel.

**Sten:** To the right of the steering wheel?

**McCrae:** Uh-huh. On the dash, you know, dashboard.

**Sten:** Miss mccrae, when you described it today, you are very calm --.

**McCrae:** I am not calm, believe me.

**Sten:** I understand. You hide it well, but it sounds like the, the interchange between you and the officer, to hear you describe it, was very polite. What was the tone and the conversation when the words were exchanged prior to you being -- finding yourself on the ground?

**McCrae:** Well, like I said, when he approached the window the first time, he said, turn the motor off, and I said why? Because I said so. So I turned the motor off.

**Sten:** It was tense from the very beginning?

**McCrae:** Yes, sir. I thought he was going to come to the window and say, ma'am, is everything all right because I didn't, you know, I was just waiting for this car to go by.

**Francesconi:** So he comes up to the car then, you turned off -- you had that exchange. Then what happens?

**McCrae:** When he got out of his car and he had the flashlight in his hand, or I thought it was a flashlight. Might have been something else, but anyway, he came up to the side of the van, and he

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approached the window and that was the first thing he said to me, turn the motor off. And I said why? And he said, because I said so. So I turned it off.

**Francesconi:** And then you turn it had back on.

**McCrae:** No, not then. No. I didn't turn it back on then. No, a lot of words had passed between us.

**Francesconi:** Okay.

**McCrae:** The next time I turned the motor on was when I was going to show him that the signal was working.

**Francesconi:** And then what happened? Then what happened?

**McCrae:** Then what happened, he told me to turn the motor off and get out of the car.

**Francesconi:** Okay. And did you try to show him your wallet or license?

**McCrae:** After that?

**Francesconi:** Yeah.

**McCrae:** No.

**Francesconi:** Okay. So then you turn it off and that's when you don't remember any more?

**McCrae:** Right.

**Francesconi:** Okay. And the allegation you are making, is it for how he removed you from the car or what's the behavior that you think was below the standard of the police officer? Is it stopping you? Is it pulling you out of car? What exactly is your --

**McCrae:** I don't know how he even pulled me out of the car. I didn't say he pulled me out of the car, because I don't know. But that's what he said. He did.

**Francesconi:** Okay.

**McCrae:** He said he pulled me out of the car. I don't remember. I was not conscious.

**Francesconi:** So what is that you think -- I mean, there is a lot of things it could. But what is it that you think he did wrong. Was it stopping you to begin with? Was it pulling you out of the car? Was it not letting you explain? What is it that --

**McCrae:** Well, he was wrong from the beginning.

**Francesconi:** In what?

**McCrae:** In accusing me of turning without signaling. Maybe we could go back further than that, by putting bright lights on my van, on the van, or nearly blinding me. That's dangerous. I couldn't see, left, right, or front. That's where it really began, these bright lights but I didn't know it was him at the time. I didn't know it was a police car at that time. I thought it was just another vehicle with bright lights on.

**Francesconi:** And that was on killingsworth?

**McCrae:** That was -- it was on denver. After I had turned onto denver, off of killingsworth.

**Francesconi:** See, what's really hard about this, and I will make a brief comment on this later, is we have got a lot of hearsay -- we have.

**McCrae:** What?

**Francesconi:** We have second hand statements, but in the record that we have here, the first statement, when you filed this complaint against the police officers, on february 28th, says that you said, may not be accurate, but it says that you said the bright lights happened after you turned on alberta.

**McCrae:** Yeah, that's wrong. I don't know who made that statement. I didn't make that statement.

**Francesconi:** Well, it was the investigator who take --

**McCrae:** Oh, the investigator, who was that?

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**Katz:** Said that -- says said when she turned onto north alberta, and the vehicle was still following her, she pulled over the side of the road and let it go by. I am just reading.

**McCrae:** Okay. Well, see, from what I have heard and sitting here from these two officers, were all fibs. You know. I don't know where they got it from. Maybe they got it -- that is not true. All of those statements were not true.

**Katz:** Which officers? The ones that were here?

**McCrae:** The two officers here that -- that read what he had said or did in court.

**Francesconi:** Okay. So it is the bright lights ahead of time, you think, and then it is also that they stopped you at all.

**McCrae:** They didn't stop me, period. He didn't stop me at all. What happened, sir, after I turned off of denver onto alberta, there was no car behind me. I said to my friend, we will get down here and I will just, when I find a face space, I will pull over and let that car, I didn't know who it was, or what it was, go by. The car did not turn behind me. Do you hear what I am saying? The car that had the bright lights on when I got to alberta and denver, that car did not turn in behind me when I turned. I turned onto alberta, went on down alberta, to find a place to pull over, waiting for this car to turn. The car didn't turn for quite a while, and finally, a car turned with his lights on. I didn't know who it was. Until it got closer. It pulled up in behind me. Put his overhead lights on. I said, oh, it is a policeman. I rolled my window down to see what he wanted. And he came to the window and he said what I said he said.

**Francesconi:** Okay. So then him alleging that you didn't have a turn signal, that would be the second thing, that he did wrong. I am just trying to focus on what you think he did wrong. And then the third thing would be his attitude when he approached you with the car?

**McCrae:** That was unbecoming of an officer, I thought.

**Francesconi:** And then the fourth thing might be how you came out of the car?

**McCrae:** Well, if that's how I came out, that's definitely wrong, yes. So --

**Francesconi:** And you are basing that on what the officer said happened?

**McCrae:** Yeah, uh-huh, that's the only thing I can go on.

**Francesconi:** So those are the four main allegations? I want to make sure I understand. Your lawyers can take this further, but I want to make sure I understand the behavior you are saying he did wrong.

**McCrae:** Okay. I went to the hospital, yes, you know. I was nervous and jittery. I couldn't sleep well that night. And so I went to the doctor the next morning, emergency, and I told them what had happened. I had had an encounter with a policeman the day -- the night before. And how I was feeling. And so then the nurse, she -- took my blood pressure, you know what they do, and then she started the wheelchair, and had me get in the while chair and took me across the hall and the doctor, you know, gave me a cot to lie on, and then they took ekg and all this other stuff, you know. And let me lay there for a while. And then they let me go.

**Francesconi:** Thank you very much.

**McCrae:** Okay. Did I tell you about the comments? I told you about the comments the officer made, didn't i?

**Katz:** Yes. Further questions?

**Francesconi:** I have a couple questions of the lawyers, but I didn't know if you were going to testify.

**McCrae:** May I say one other thing?

**Katz:** Yes.

**McCrae:** At this particular time, I don't think my voice was raised like I was raising it now. Every time I start talking about this incident, my voice do raise, and I was trying to be myself, at this



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particular incident, and I did was the officer asked me to do, and I thought it was my right and I still think it is my right to ask why. You know. And he could have said, well, it is none of your business or whatever, just do what I tell you to do.

**Katz:** But, just for any future, I just constantly look at the state statute, and this is for everybody, not only for you, Mrs. McCrae. That 811.535, failing to obey a police officer, a person commits the offense of failing to obey a police officer, if the person refuses to comply with any lawful order, signal, or direction of a police officer, and then it goes on. So yes, it is usually much more of a positive encounter when the officer shares with you why, why the officer is stopping you. Now I know in training there are two thoughts about that issue. But, regardless of whether they do it or not, the law that the officers have to file was very clear, that you have got to, you or everybody else, have to obey them.

**McCrae:** Well, I did. I did everything he asked me to do. Even though he never answered any of my questions.

**Katz:** Thank you. Okay. Questions of the attorneys?

**Saltzman:** Yeah. I guess, as I understand it, the whole basis of the allegation of use of excessive force is based upon officer "a's" report? Because Miss McCrae has no knowledge of how she was taken out of the car, is that correct? So it was based upon --

**David Park, attorney for appellant:** On the records, and the injuries that she received. She had significant muscle damage in the chest. Which is caused by this, this arm being jerked backwards behind her with force, driving this shoulder down into this muscle, and then for a period of several weeks thereafter, she was experiencing symptoms that she believed her chest pains associated with a heart condition. But, it turned out to be diagnosed.

**Saltzman:** This is the claim based on the medical records and --

**Park:** Right. And the fact that --

**Saltzman:** It wasn't based on the specific type of hold the officer used since -- that's not the basis of the claim, of excessive force. It is the results of that whole, the whole incident, basically?

**Park:** The entire incident.

**Saltzman:** Okay.

**Park:** Removal from the vehicle under these circumstances.

**Katz:** Further questions?

**Francesconi:** Just a couple. So you answered one of them, removal from the vehicle, is the primary. Okay, the second is you filed the civil rights complaint on, on due process, excessive force. But you didn't allege any racial discrimination, did you?

**Park:** Yes, I argued -- I argued that this was a racial profiling case. Some of the facts that support that were touched upon earlier, that I can clarify. Mayor Katz, I asked the -- asked the question about the stop of this vehicle, the prior week. And that -- this is fallout from a racial profiling incident. The testimony was that two young African-American women went into buy a pizza. Those were her granddaughters, driving this vehicle the week prior. Within two weeks from -- two blocks from leaving the pizza restaurant, they were stopped by officer "a" and trainee, officer trainee "b." Trainee "b" was the one driving the vehicle and making the stop. Officer "a," who had the encounter with Mrs. McCrae, was the coach of that officer. The basis for that stop was no license plate light. The testimony at trial and all of the evidence was that that license plate light functioned properly. There was no other driving violation that warranted the stop of that vehicle. The testimony also was that officer "a," involved with Mrs. McCrae, inquired of the two young African-American women in that vehicle, whether they were gang affiliated, and whether they had scored any drugs that evening. So, when officer "a" saw this vehicle rolling the following week, he recognized it from a prior profiled stop. So, that's, that's what I argued.

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**Katz:** Well, you see, I used that incident for the, for just the reverse because the driver did not have the license, was suspended three times and no proof of insurance, yes or no?

**Park:** If you have, unless you have x-ray vision, you are not going to know that license is suspended unless you pull the vehicle over for unlawful reason.

**Katz:** I understand that. But the reason that this particular van may have been familiar was because there was somebody driving without a license and without insurance.

**Park:** That was the young african-american woman that had been pulled over for no license plate light. That's a profile stop. That's a pretext stop.

**Francesconi:** Is it correct there was no insurance on this prior stop?

**Park:** No, it is not correct. It is -- what is correct is that the driver of the vehicle, who had borrowed it for this one night, was unable to locate the paperwork.

**Katz:** There was no insurance?

**Park:** There was no proof of insurance. There was always insurance on this vehicle.

**Katz:** No proof of insurance.

**Park:** That she could locate in the vehicle that night. So the officer doesn't know whether it is insured or not.

**Francesconi:** Just a couple more. Just two more. I am still back on the complaint that you filed now, not once but twice in federal court, as I understand it. Do you have a copy of the complaint with you?

**Park:** No.

**Francesconi:** Okay. My information may be wrong, and you can correct me, but it is my understanding that the complaint did not allege, the complaint, the legal document, I understand your argument, but race discrimination is illegal. There is a specific theory that you can file under alleging race discrimination. Did you do that?

**Park:** No. I didn't allege race discrimination. I alleged false arrest, so unlawful stop of the vehicle, and unlawful arrest of the occupant, and I alleged excessive force.

**Francesconi:** My last question, it may not -- I am not sure it is relevant and therefore, you don't have to answer it if you don't want to. But after, between the first trial and the second trial, when the jury awarded some money, was it the city that moved to strike that award of money or did you make a decision to do that?

**Park:** No. We moved for, so you understand the context of the motion, we moved for a correction of the verdict form, the first jury found there was excessive force but found that against the city of Portland only, not against the officer. The wording on the verdict form was, did the officer use greater force and was reasonable and necessary under the circumstances to arrest dora mccrae.

Answer, yes. And then a -- there was a second interrogatory on that verdict form that inquired, did officer "a" violate mrs. Mccrae's constitutional rights? And they put the "no" box. Well, there was then a legal inconsistency in the responses between the two interrogatories on the form. So, we filed a motion that said, judge, mark the "yes" box as to the constitutional rights violation because the factual interrogatory was responded by -- that, that substantiates a constitutional violation was marked yes by the jury. And the judge determined that he could not reconcile the inconsistent responses from the jury. And therefore, set that first verdict aside. And that was our alternative position. If you can't judge, if you can't mark both boxes yes, then we have to have a new trial.

**Francesconi:** Okay. So I think you answered it very well. So kind of, it raises, so the jury actually on the first case found the city responsible but not the officer?

**Park:** Correct.

**Francesconi:** There was a finding by the jury on the first case that the officer was not responsible? Is that what you are saying?

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**Park:** Yes.

**Francesconi:** Okay. Then the effect at the end, you explained the legal posture, so you made a decision, rather than accept one side of the verdict, to have a second trial. Right? That wasn't the city's choice.

**Park:** Actually, that was the judge's choice.

**Francesconi:** I think you said you had a second option, which was a new trial.

**Park:** Right.

**Francesconi:** You didn't present the judge with the option of just having the verdict.

**Park:** No.

**Francesconi:** And the city didn't try to set aside the first verdict, is that right? It was you that requested a second trial?

**Park:** That's correct.

**Francesconi:** Okay. Thank you.

**Katz:** Further questions?

**Saltzman:** I guess one other question or two. Your arguments were that the first stop of the granddaughter, or the granddaughter was, was a pretext stop.

**Park:** Yes.

**Saltzman:** So is it also your contention that the second time ms. Mccrae was stopped, that the turn signal was also a pretext stop?

**Park:** Yes. I believe mrs. Mccrae properly used her turn indicator. The officer's own testimony at trial and in the internal affairs division information, for that matter, indicates that when, when the officer saw this vehicle, he determined to follow it because he recognized it from the preceding week. It wasn't -- it was being operated fine, wasn't doing anything wrong. There were no apparent equipment violations. She was stopping for stop signs, et cetera. He followed it for several blocks. Before making the decision that he was going to have an encounter with mrs. Mccrae. And the only reason that he wanted to have that encounter is because of the prior stop.

**Saltzman:** What was ever submitted the evidence as to whether the turn signal works or didn't work?

**Park:** What was submitted in evidence was that the neighbor across the street from mrs. Mccrae, who has maintained all her vehicles for years, they have been neighbors for 25 years, she and this person's father, as well, regularly maintained the vehicles. She came home after this incident, she was concerned because of the, of the accusation that her turn indicator didn't work. She wanted it checked out and she asked mr. Sanders, check it out. Does it work. He check it out and he testified yes, it was working fine and properly. So that's the evidence that we have. It was never looked into by the city.

**Saltzman:** Just one last question, and I can ask this of you or captain smith, but the witness is somewhere -- I was given information the witness had alzheimer's?

**Park:** Yes. Mr. Orton had alzheimers.

**Saltzman:** What stage, early stage? What, what do we know about his --

**Park:** What we -- he was interviewed by us within three days of this event, and he could recall nothing. His foster parents, he was in adult foster care, they were talked to, and what they were told is that when he was dropped off that night, his comment to them was, I can't believe what they just did to her.

**Katz:** I think we are going -- we are going a little further from the particular piiac incident.

**Park:** May I speak to the piiac issue? Which, you know, the inadequacy of this investigation?

**Katz:** Why don't you let the other attorney speak, before we -- he's been --

**Francesconi:** I would like to hear from him.

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**Katz:** I will let him but he's been anxious to say something.

**Philip Schuster, NAACP attorney:** My name is Phillip and I am an attorney with the Portland chapter of the NAACP redress committee and I was one of the co-council, and I will let Mr. Park do the presentation. The only comment that I have is addressed to the issue of -- I have the medical testimony during the trial, and both trials. And Dr. Jones, Ms. McCrae's specialist, internist, testified that what she had, what she experienced was a basal reaction, a fainting spell, and that during the first trial, at least, he testified that we consider -- he considered this to be life threatening, was very concerned. Ms. McCrae also has other conditions, arthritic conditions and carpal tunnel, and the records were examined by internal affairs, you would have discovered that there was a muscle weakness and carpal tunnel in the right hand, and we asked the doctor that, was it possible for 3 feet off the ground, for her to be stretched out in this hold, which, by the way, can break bones, if it is twisted far enough or if she was capable of holding onto the steering wheel and his testimony was no. It is not probable. Highly improbable. It is not -- just going to happen.

**Saltzman:** So according to his testimony, the reason that she had a fainting spell then.

**Schuster:** Exactly, consistent with her medical history, and that's why she doesn't remember. And I asked him, would a person with a fainting spell necessarily know that or be aware of it, and he said no. They wouldn't. Okay. Any other questions?

**Katz:** Thank you. Do you want to ask the attorney?

**Francesconi:** Oh, I just thought you should have a chance to respond --

**Schuster:** I would like to add one thing, that the doctor did testify that the basal was due to the complication of the compliance holds, which, by the way, were applied when the van was turned off. There was no testimony that this van was running, or that the engine was running or that the gear shift was even touched. During this whole encounter.

**Francesconi:** I just wanted to hear your views on the adequacy of the PIIAC investigation. Which you started to say.

**Park:** There were several things about, about the investigation that were problematic. But, not the least of which is, is how much time elapsed before there was any significant investigation whatsoever, and by inquiry into the officers. A year and a half passed, or a year and a couple of months, at least, passed before any of the officers were ever spoken to. When they were interviewed, they had their union representative present and were given advance notice of the interview. They had all three officers had access to officer "a's" notes of the incident, officer's "b" and "c" did not take any notes, made no notes, and had limited knowledge as a result of all of that time passed that was independent of anything officer "a" might have had to tell them. That was a significant issue. The other issue that was overlooked completely, even though the evidence is in the file, is the fact, and the relationship of the prior stop of Miss Latrell, to, to, and my client, they didn't ask the officers questions about how that, that played into the, the decision to follow this vehicle, how long they had followed it, what they had done to follow it, et cetera. Before the alleged failure to use the turn signal occurred. That issue wasn't addressed at all. The other thing that wasn't addressed that was in the record is, it is a 71-second time period. The most accurate representation of the time elapsed between when the officer is calling in that he's going to make a stop and he's calling in he's going to make an arrest is to listen for the tape itself. That was done in the courtroom. It was 71 seconds between those two events so between there, he has to stop, get out of his car, approach this vehicle, using all the caution he normally would and then have this conversation with Mrs. McCrae. That 71 seconds tells you that, well, suggests to you that the manner of controlling this situation was for the officer to make a couple of requests and then to decide to arrest this elderly person. And it was not courtesy, patience, restraint or accommodation in this police citizen encounter. You can't have it in 60 or 70 seconds. Those two things were not

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addressed in the investigation. And then dora mccrae's status as a senior citizen wasn't addressed in the investigation. She was interviewed. Her age and whatnot is in the, in the record. There is an elaborate description of, by the officer and the officer's report as to how mrs. Mccrae is removed from the car but nobody went, bothered to go and look at the car and view the fact that the seat of the vehicle is 3 feet off the ground and compare that with mrs. Mccrae and her physical characteristics. You cannot possibly assess the credibility of one version of the events without knowing what the physical characteristics of the scene are. That's, that's one of the first things officers are trained to do when they investigate a case. Is to document the physical characteristics of the scene of the crime, so you can figure out later on, did it really happen this way. And nobody did that.

**Katz:** And so tell us why you think that the jury found the officer not guilty, if you are making such a good case. Use the, you, as the attorney.

**Park:** The first time they found him guilty and the second time they didn't. And you want my opinion on that?

**Katz:** I have heard your opinion on it, but --

**Park:** We had an all white jury that was nonsympathetic and unhearing to the african-american witnesses that testified in the case. We had a jury venire, a panel to select jurors from, of approximately 42 people of which two were persons of color. Both of which were excused from the panel. One was on my witness list, and the other was a native, an elderly native american who had been hassled by the police and didn't think that he could be fair in this situation. There were five other witnesses excused, or excuse me, jurors, excused from the panel who had negative experiences of one kind or another with the police. So, once those people with, with maybe a, a different perspective, are removed. Now we have a homogeneous population of white jurors who don't live in the urban area, none of which are from north or northeast Portland, and none of which are, I think, inclined to believe that these things happen. That's my explanation.

**Katz:** Thank you. Okay.

**Sten:** Can I call them back.

**Katz:** Sure. Thank you, ladies and gentlemen. Thank you.

**Sten:** A couple of questions, who turned off the car?

**Smith:** Who turned off the car? The car was still running at the time of the arrest. I don't know at what point in time the car was turned off.

**Katz:** He asked who did?

**Smith:** Who turned off the car?

**Sten:** Yes.

**Smith:** I don't know. Who turned off the car. That was never determined in our investigation. It was not turned off at the at the time of the arrest.

**Sten:** How do you know it was not turned off?

**Smith:** Based on officer's testimony.

**Sten:** I guess where I am confused you testified they agreed up until the point, and as I reviewed her testimony, and the summary of her interview, it says clearly from the interview that she gave the police, that she's testifying that she turned off the car before all of this happened. So how did you set that testimony aside?

**Smith:** Why don't you go ahead and --

**Ritschard:** Well, this is a direct quote from her testimony, "-- if you will go to the second paragraph, last sentence. This is of the intake sheet, and I will read this to you, "complainant says she told the officer she did signal and was attempting to show him the signal work, when he told her to turn the key off and get out of the van. Complainant said she turned away from the officer to

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get her license and insurance and the next thing she knew she was on the ground with her left arm behind her back and the officer telling her to put her right arm behind her back." By her statement the vehicle was never turned off, it was running instead of turning off the vehicle, she looked for her driver's license at which point the officer, at which point she doesn't know what happened.

**Sten:** So are you saying she changed her testimony today?

**Ritschard:** She had some discrepancies in her testimony today between what she said today and what was in her initial report, and there were also some discrepancies in what she said in her testimony today.

**Sten:** And is the initial report, that's an interview with, with the iad person, that's a taped interview and it was done by sergeant van hossier. And there is a different version on page 2 of the piiiac report, the piiiac summary says that she then recalled turning the motor off and handing officer "a" her wallet. Where does that come from?

**Ritschard:** I don't know where the piiiac report came from or the information in that came from.

**Sten:** Mr. Hesitate? That came off the tape -- so the tape that far interview is in dispute with what the iad officer typed up?

**Hess:** Came from the tape of a different interview than the interview that the lieutenant is talking about.

**Sten:** Which interview did that come from?

**Hess:** Came from the interview with, with sergeant killinger.

**Sten:** And which interview came, I mean, I am confused. There were two interviews done by the Portland police bureau. Which one was first?

**Hess:** The one on the 28th of february at north precinct.

**Sten:** Is that the one you are quoting, lieutenant?

**Ritschard:** Right.

**Sten:** So in the first interview, and in the first interview she said that, that she didn't remember whether she turned --

**Ritschard:** She said when the officer instructed her to turn the vehicle off, and get out, turn the car off and get out -- turn the key off and get out of the car, she turned to get her license and insurance and the next thing she knew she was on the ground. She didn't say that she turned off the car and went to get her license, just that she turned to get her license.

**Sten:** But she didn't speak in that interview of reaching for the signal, either, it sounds like?

**Ritschard:** No, she doesn't talk about using the signal.

**Katz:** This is the rule --

**Ritschard:** We would have to pull that one out.

**Sten:** In the officer's testimony -- I will tell you where I am trying to get at, he sees her reaching -- we have got her testifying that she reached to the right and turned off the ignition. And you have got the officer testifying that she reached -- one time she testified that she doesn't remember, but she doesn't testify anything on that subject. I think it is to be believed that he was reaching to the right and she says that she was reaching to the right and turning off the ignition and he said that he thought that she was reaching for the gear shift. A reasonable person could see that as the same motion and could understand why he thought that, so the question comes to mind, was the car on or off? And it doesn't look like anybody asked that question.

**Smith:** I think the officer articulated it was a gear because when he went up to the car, initially and asked for the car to be turned off, he saw that motion, the lower motion where the ignition wasn't turned off. When she turned it on later, it was that same motion lower, which is not the gear shift up here, but the palm facing out, as he would describe that kind of motion after talking to him. So I don't think that in his mind he was confused by that at all. Also if the car was turned off, he

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wouldn't have had a concern for officer safety the car would be able to move. Because you can put the car into gear, if it would even go into gear, with a car being off, that would not be a safety issue for him.

**Sten:** This is a pretty heated, quick exchange so you are saying that he could clearly tell that she was reaching like there as opposed to like this, I mean, his testimony seems to say I saw her reaching right. He really saw her --

**Smith:** His testimony, I think, is clear that he believed that she was reaching for the gear bar.

**Sten:** He believed that?

**Smith:** And thought the car was going to be put into motion.

**Sten:** Did any of the investigating officers, I mean, was it a long time after -- did iad ask officers "b" and "c" whether the car was running when they got there?

**Smith:** I don't have any information on the files I looked at when this car was turned off, if it was, who turned it off, if it was, the only information that we have at the time that was asked was the fact that he thought the car -- it was running. He thought the car was put into gear and the person was taken out of the car at that time. So, one, the person is removed from the vehicle, the car was still running according to the officer.

**Sten:** Okay. And there was a second, I am not -- there is a second interview with the police officer in which she said that she turned it off. There was a first interview in which she didn't remember, and a second where she said that she turned it off. Is that correct?

**Hess:** There was a second interview longer than the first interview, and I just got done listening to that about an hour ago before we came here. And in that interview she did not even recall turning the car back on. She said that, he said he said did you turn the car back on to show the officer that you, you that your signals were working, and she said, I must have, but she said, I can't remember, and what she didn't, she couldn't remember anything from the first time that she turned the car off. In the second interview with the sergeant killingier.

**Sten:** So where does the piiiac get the statement she recalled turning the motor off?

**Hess:** She recalled turning it off the first time.

**Sten:** That's just the first time? Okay.

**Hess:** That's what I got from the tape that I just now listened to. And we are in agreement with that. There is some other things that have been said today, in the testimony that weapon don't have documented as far as, we never had an allegation where the officer attempted or the appellant attempted to give the -- to the officer. That has never been mentioned at any time and then the officer refused to take it.

**Sten:** I am sorry. I read it too fast. What your piiiac report says is not what you are saying. What it says is she -- let me read t the report you are turning on, says she turned off the motor when officer "a" asked her to do so. When asked for her driver's license she asked the officer why he stopped her. When told that she had been stopped for not signaling a turn she turned the motor back on to show the turn signals were working, and then recalled turning the motor off and handing officer "a" her wallet, did piiiac make that up or did that come from testimony, that's in the report.

**Hess:** That's in the report, but I just now listened to the tape again, and that's not what I heard. In the tape.

**Sten:** This is not the testimony, this is our report. This is a city document that says this.

**Katz:** Please put the signs down. That isn't really very helpful. You will have an opportunity at some point to talk about the issue that you are holding the signs on, but not, not today.

**Hess:** I recall her saying that she did not remember anything from the time, from the first time that she turned the car off, so this, this -- the "then" is what's throwing it. Having recalled the motor being turned off and handing the officer her wallet. This is not a quote, this is a chronology.

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**Sten:** But you are -- so you are saying your description of what she said is not accurate? Because what it clearly describes is her turning it on and off twice. And the reason I am pushing on this is fairly obvious is if -- it seems to me we don't have much dispute until she reaches to the right. And I have read your report to say that she has testified that she was reaching to the right and not only did she reach to turn it off, she did turn it off. I hear the officers saying, and these could be consistent that he thought that she was going to -- he was going to move the car and I am a little disturbed that nobody asked the question, was the car running because that settles it as a matter of fact if that can be established. But, if --

**Hess:** There is a discrepancy. This is actually what's on the tape. And she turned the -- she said that she didn't remember anything after she first turned the car off but then she said that she turned the car off. That's what she said in the tape. So there is a discrepancy in what she said. I have put down what's on the tape.

**Katz:** Help me out for a second. If she wanted to show that the signal was working, wouldn't she have to turn on the car the second time?

**Sten:** I am trying to establish facts here and I am getting a little frustrated. Her testimony and the piiiac report both say, her testimony today and the piiiac report, which I am trying to figure out where it came from, say her testimony was simple. She turn it on. It was on. She got into an argument with the officer. She turned off. They got into an argument about whether the signal worked or not. She turned it on again to show the signal worked. Nobody is disputing this, that I can see, at that point, is when the conflict happened, in terms of not -- there was already a conflict. That's when the physical conflict happened. Her testimony, the piiiac report, says that, that she said earlier on that she turned the car off. The officer says that she reached for the signal. That's where there is some dispute. There is no dispute that she turned the car on and there is no dispute that they were arguing about whether the turn signal worked. So she reached to the right and either, according to her testimony, turned the car off or according to the officer's testimony, and both can actually be true, he thought that she was reaching to run the car forward. But, I am -- it would help a lot to know if the car was running after he pulled her out.

**Hess:** And we don't know.

**Sten:** And we don't know.

**Ritschard:** There is also the third statement or the third made by the complainant is her original complaint that I just read that she didn't turn the car off, but when instructed to do so, she went for her driver's license. And --

**Sten:** And she doesn't say that she remembered turning it off.

**Ritschard:** Correct.

**Sten:** Gotcha.

**Saltzman:** Another question. Did you find any discrepancies between the original police report and then the officer "a's" statement some 15 months later?

**Smith:** No, I did not.

**Saltzman:** Didn't find any discrepancies?

**Smith:** The officer has been actively involved in this particular case because of a lawsuit so his recollection of this incident, case, his police report, was very clear. It was very consistent.

**Saltzman:** Did iad inquire as to whether this officer had any sensitivity training relating to dealing with senior citizens or, for that matter, people of color in a context of traffic stops? Or does such training exist? Do he have such training?

**Smith:** We have inservice trainings and other associated trainings the bureau provides. We did not provide that information as part of that investigation.

**Saltzman:** So you did not inquire as to whether, whether or not we have this training?



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**Smith:** We did not inquire as to what training we had.

**Katz:** Lynnae, do you have any idea? What kind of training.

**Lynnae Berg, Assistant Chief, Police Bureau:** Sensitivity training with respect to senior citizens or people of color or in the context of traffic stops? [ inaudible ]

**Sten:** One more question. Captain lieutenant, is there agreement or dispute on the description that she was already pulled over and he pulled over later and turned on the lights or did he testify that he actually pulled her over on the side of the street?

**Ritschard:** There is a discrepancy there. That the officer's testimony and report is that he pulled her over and she pulled over. Which is different from, from the appellant's testimony that she pulled over to the curb already.

**Sten:** And was her testimony consistent through the different interviews on that?

**Smith:** Her interviews her that we have documented, there was a -- as I was understanding her testimony today, there was actually a continuing type of follow, and we have -- steve, if you want to on that one there.

**Bechtel:** I believe that her testimony today was that she, if I can remember right, when she turned onto denver and subsequently turned onto alberta, the car wasn't behind her and she pulled over and it appeared again, in her complaint, the, the initial complaint, again, that she filed with sergeant van hossier, she stated that she turned onto north vancouver and the vehicle continued to follow her. The complainant said when she turned onto alberta the vehicle was still following her. She pulled over to the side of the road to let it go by. So there is some discrepancy in what she said today.

**Sten:** And when does the officer say that he turned on the lights?

**Katz:** I don't think he -- I don't remember.

**Ritschard:** Again, his report, and let me refer to his interview. In his report he doesn't say specifically when he turned on the lights. In his police report that he prepared that day. In his interview, officer said he initiated a traffic stop of complainant when she failed to signal a turn while driving her vehicle. The stop was made between north denver and north concord. And then the officer stated the stop occurred at 1945 hours so it doesn't say when he activated his overhead lights.

**Sten:** Sounds like when she was on alberta, sometime between, by the observation of that intersection, between there and concord.

\*\*\*\*\*: Makes sense.

**Katz:** Further questions? Thank you. I will take a motion.

**Saltzman:** I would move that we return the piii recommendation and uphold the appellant's allegation. {No second of this motion.}

**Katz:** Of?

**Saltzman:** Of officer used excessive force in removing her from the van and arresting her.

**Katz:** Do I hear a second? All right. I will take another motion.

**Hales:** Move we uphold that advisors finding of insufficient evidence.

**Katz:** Do I hear a second?

**Sten:** Second.

**Katz:** Okay. Discussion? Are you ready to vote? Roll call.

**Francesconi:** Several primary things, before I say what I think on the particular motion. One is I am convinced more than ever from this case that the system is broken. Now, that doesn't mean that I am automatically concluding independent review, but this system is, this investigatory system is broken because we are supposed to have second-hand statements here from people, and we have to judge credibility, so one way it is broken, on a case like this, is we have to have the witnesses in front of us. Then we have to have statements by which we can judge this. And we are really

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getting into an area that we don't know what we are doing. And we can't have an adequate fact presentation to make a decision. In fact, that even goes to the question of, is it unfounded or is there not enough evidence. Boz you have got to have people that you can evaluate in front of you, then you have got to have statements. You can't rely on somebody else's investigation, if that's the level of review, folks. It is just not fair to the officer and it is not fair to the complainant. So, we need, and we also have to inject some independence, I am not saying total, into the process. And therefore, I am looking for the, forward to the reforms proposed by auditor blackmer. Income one. Number two, the preliminary statement that sometimes juries, you don't know why, or how they got there. But, there is some wisdom there. Now, both juries have said the officer was not responsible. I guess as an aside, it is not relevant to the facts of this case, I have already, I mean, I have already asked the city attorney to waive court costs, attorney fees on this claim. And I think that they should do that. Now, is this a case about racial profiling? Or is it a case about excessive force? I actually think those are two -- they can be the same, but I think that they are two different things. I was part of a majority just several weeks ago that found a racial profiling case. Held it against an officer, which is a very serious allegation, so I believe that racial profiling can exist. And I have proven that, and the chief is doing some things to address this. But the difference with this case than the earlier case is there was an additional reason for the stop in that you have an uninsured claim to an uninsured vehicle. That the officer knew, just the week before, that it was there, so I am having trouble understanding that. For the stop. See, it is different, in my mind. The other thing that's different and puzzling to me is there is no allegation of race discrimination in this case. I am having trouble understanding that. If it is a racial profiling stop, I am not that surprised that a claimant may not allege it but frankly, I am very surprised that lawyers would allege it because that's specific thing, you do that. I have done that. It is something specific. So, I don't think that's the issue. Which brings us to the tough question of the excessive force allegation. It really appears to be the removal from the car. The first thing I want to say is, I went back and refreshed myself on what the law is about our scope of review. And you know, our job, as I am reading ors 3.21.083, is probably not what I think our job should be. I want to be clear about that. But it says, we are supposed to review the adequacy of the investigation, and just whether the investigation supports the finding, and then there is another sentence that frankly, surprises me, that it is in the statute. It says the committee, that's us, shall not investigate complaints about police officer misconduct. See, but, in fact, that's what we are doing when we are trying to allege what really happened. I think. I could be wrong. So, the point I am trying to make here is that we have to change this code. Because the standard we are supposed to be reviewing is, was the investigation adequate, not what really happened. And yet, all these citizens are here asking us to make a redetermination of what really happened. And we are trying to do that without hearing from the witnesses who were there without having actual statements by which we can evaluate credibility. How can I do that? I can't do that in a way that's fair, folks. Which makes this decision very difficult. Very difficult. I cannot and would never support on these facts finding the officer to use excessive force. Not based on the evidence that's in front of me. So, I could not second commissioner Saltzman's motion. It would not be fair to the officer, given these facts. If I look at the standard that I am supposed to be following, which is, is the investigation adequate, here, and I have been very critical, very critical of the investigations that have been presented here. To us, lately. But this one, there was a complete police report. We had an officer go back, I am just talking about now the quality of the investigation. Who went and wrote a very detailed summary of what the officer thought happened, right after the fact. Very detailed. That are consistent throughout this case. Through two federal cases. No consistencies. I don't think the lawyers even, when given an opportunity, presented any

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inconsistencies in the officer's statement. I didn't hear it, here today. On the issue of the adequacy of the investigation.

**Katz:** Excuse me, we are in the process of voting.

**Francesconi:** And I didn't see it in any evidence in front of me. We also have the officer telling the same story exactly, right after the arrest, to two other officers. It is in the record. Right at the time this happened. Then we have a, a person with who doesn't have a memory at the time to weigh it against. Then we have the -- and then we have -- there is -- the issue of physical injury, as we can debate, I have read the police report, or the medical records. There is no physical evidence of injury other than muscle tenderness. That's the description. There is no bruises. There is no contusions. There is nothing of that nature. So, on that record, which is what I was supposed to have in front of me. And if the issue is pulling the person out of the car as the allegation, I really don't have a -- and the claimant, appellant wasn't even really clear that that was the behavior, so see, based on all of this, I am having a lot of difficulty because the evidence isn't in front of me. But on the basis of this record, I think the more appropriate designation is unfounded. I can go with unsubstantial evidence, insubstantial evidence, because the whole process produces insubstantial evidence. So, you know, to me, I could go with this motion because I don't think there is enough evidence and the line is so small, but for now, I am going to vote no and see what happens with the majority. And, so that's going to be my motion -- my vote. No.

**Hales:** Well, let me talk about the big picture first, and then get back to this case. I don't need to go into a great length about my opinion about the -- our review process. I think that's pretty well-known. I agree with jim, we need substantial reform and I am looking forward to that. To that community discussion, and I also was in that majority that I think for the first time the city of Portland acknowledged disparate treatment two weeks ago when the city council majority made that finding. So, obviously, those are sort of my philosophies going into these kinds of cases. I think this was at the very least, an unfortunate misunderstanding, and certainly, I am sorry that that happened, miss mccrae. Obviously, you had a very unpleasant incident there, and just as a Portlander, I am sorry that that happened. And what I am going to say next is not at all personal to you or this case, but I think this case reminds us of a few things about how we, as a community, have to work together because with the police bureau, as our public safety force, you know, we grant them some serious power, which we hope they always use appropriately. And always, it is hard after the fact to tell whether it was used appropriately or not, and again, this council has found lately, in some cases, that we don't believe that it always is. And of course, it isn't always used appropriately. Human beings being what they are. And we, as a is a city, have to have a swift, effective way of dealing with the incidents where it is not used appropriately, and we don't have one now. It is neither swift -- it is not swift. But we also have work to do, I think, as citizens and as police officers. As police officers, I expect our officers to treat everybody as a citizen, a citizen, old fashioned term, no matter what their age or their color or what kind of vehicle they are driving, or what kind of clothes they are wearing when they are walking down the street, or whether they are on big wheels or tiny wheels, I expect them to treat everybody like a citizen. And that's a high standard, and hopefully, we will always be trying to get there. And they are going, there are going to be times when that doesn't happen, and then, we have to have a mechanism for dealing with that and apologizing to people who deserve an apology and making amendments to those that -- amends to those that need amends. And we as citizens need to remember that statute that when a police officer tells us to do something, and again, I am not arguing your case here, mrs. Mccrae, I am just saying in general, we need you to remember when a police officer says to do something, we need to do it, and then deal with the particulars later. And we need to remember that driving a motor vehicle is not all right. We have some rights as a citizen, driving a motor vehicle is not one of

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them. It is a privilege. That's why we get a license. That's why we have to have insurance and proof of insurance. Again, on the other side of that coin, no matter what color we are and no matter what vehicle we are driving, it is our privilege to drive a motor vehicle. It is our right to be treated like a citizen, so it seems to me this case reminds us that we all have work to do to try to rise to that unrealistic standard of how we, as a community, ought to work together. So now to the question of this particular case, I am going to do sort of a shorthand version of the alternatives here. I know there are variations but the four alternatives, in front of the piac advisors, the citizens who -- or sorry, the bureau, then the citizens, and then us, the four options, there are variations on them are unfounded, ie, didn't happen, unfounded to me, means it didn't happen. The complainant probably is not telling the truth, or isn't remembering it clearly. Second one is exonerated. It happened, and the officer's conduct was appropriate. Third one is sustained. It happened, and the officer behaved improperly. And the fourth is insufficient evidence. We don't know. We don't know enough to make a responsible finding one way or the other. And to me, this case falls in that category. We don't know enough to say for sure that the use of force was excessive or was proper. So the best we can do, under these circumstances, is say, miss mccrae, I am sorry it happened and we don't know enough to go any further than that. Aye.

**Saltzman:** Well, I guess I believe that I do have sufficient evidence, and obviously, there is a lot of questions about some of the facts around this case. And certainly the subtext of whether there is racial profiling, but that, to me, although I believe that was a subtext, and I believe that contributed, perhaps, to miss mccrae's being pulled over, as anybody has resentment about being pulled over on anything, and maybe resulted in some of the exchange, the level of exchange between her and officer "a," but that's not how I get to the basis of believing her fundamental allegation of excessive force should be upheld. I get there because I think that there is sufficient evidence. I think when you have -- I think that there is medical evidence before us, the primary basis of the excessive force claim. I believe that medical evidence. I believe you also have a 68-year-old female, a senior citizen, and you have a van, I mean, this is not a car. We are talking about a van, a full-service van. Not a minivan. This is a van where the seat is at least three or four feet off the ground. Now, if you look at the procedures, the general procedures, about the use of physical force, it says a member of the bureau may use physical force when they reasonably believe it is necessary to make an arrest to prevent an escape. I think when you have the circumstances and you have the evidence that I have just submitted in front of you, and I do not believe it is reasonably necessary to use the level of force that officer "a" used to take miss mccrae out of the van in this situation to make an arrest. We can go back and question, I think, the fundamental training procedure here about level of risk that was talked about earlier, I believe as commissioner Hales was alluding to earlier at no time in the day, that the most appropriate response to the risk would have been to step back from the van. I mean, it is, simply being pulled over for not using their turn signal. So, specifically the officer pulled over a 68-year-old african-american female for a minor traffic violation, failure to give a turn signal, and an infraction that commonly results in a warning and is often ignored by many officers. It is unacceptable that a minor traffic incident should end up being the reason why any 68-year-old female should be taken by force from a reason, from a van, 4, or 3 feet off the ground and placed in handcuffs in a prone position on the ground. I find it harder to believe the 68-year-old female would become such a serious threat or risk that an officer had to reasonably believe it is necessary to require her being subdued in such a forceful manner, especially when that officer is armed with a weapon, club, mace, handcuffs, and that's what I believe. That this situation, the allegation should be upheld and that's why I vote no against this motion.

**Sten:** Well, obviously there is a lot of issues that play here, and I just want to touch on a couple. I think that racial profiling is a very real issue both in reality and in people's perceptions and minds.

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And I think that Mrs. McCrae perceived a situation where she hadn't done anything and an officer came up and wouldn't tell her what she got done -- had done wrong and got mad. I think at that point she had a right to be mad but the officer, I think, was trying to do their job, and we had a sticky situation. I tend to agree with Commissioner Saltzman it is hard to believe that it was necessary to pull her out of the van to control the situation. As I look, however, at the facts, and I want to say, the other issue on this, is the police review process, and if we don't change anything else, and I do think that there is a lot of other things that have to be changed in this process. These things have to be done on a timely basis because there is another one where it is a joke. The amount of time that's elapsed to really expect everybody to be able to nail down every single fact, and I really think this thing comes down to, you know, was the car still running and did the officer have a reasonable belief that she may be putting the car in gear. And at that point, I can't second-guess what the training is. The training would be, I think, it is to take physical control. It is not clear to me that that was a reasonable expectation, but it is also not clear to me it is not. And unfortunately, Miss McCrae, you don't quite remember all the pieces so I can't prove what happens. It seems unreasonable to me what happened. I think that the back-drop of racial profiling creates a situation, situations that puts all parties in a very untenable situation, and that's got to be addressed, and I think that there were clear discrepancies in, in the two testimonies that were not well enough in the investigation. You know, how was she pulled over. If you were pulled over to the side of the street as you testified, and the officer walked up to you, I would be very surprised that it, that it wasn't a courtesy call, like you said. If, however, he did pull over, pull her over, it would make perfect sense that he wants the license and I think that he would have partly escalated the situation by not being willing to show the license. So there is all kinds of facts that are swirling around this. I do find it, you know, I think clearly, this can have been avoided and I am very sorry that it happened. On the facts of it, I think for me, it is an insufficient evidence case because I can't prove beyond a reasonable doubt what happened, but I think this one should be very illustrative as we take on, and it will be very difficult to racial profiling case, and I did, too, vote a couple weeks ago for one of the first times to find a case of racial profiling because I do think it happens, and also I also think the perception it is happening escalates these situations very dramatically, so that's the issue. We do have to take on -- because it is impossible to sit up here three years after the fact with an investigation that didn't even take place on a timely basis and our key witness wasn't even able to testify, and in using his statements, the investigators never mentioned that he had alzheimers. So there is all kinds of things around this that should have been appointed out. So for me, you know, I have to fall -- I don't think this should have happened, but I don't know that it was done wrong, so I fall on insufficient evidence on this case. And I vote aye. And do pledge to try and take on some of these issues, so this doesn't happen again.

**Katz:** I am going to tell you in a minute how I am going to vote. I can tell by the split on the council my desire is to vote no, but we will never get to closure if I vote no. So I will vote aye. And so we can get -- put this issue to rest, apologize to Dora McCrae. Apologize that it has taken so long. Admit, as I have, very early on that racial profiling can and does exist. We have to find it. We are now working with a task force to address how it exists, when it exists, how do we analyze the data. How do we make changes to improve this community, of the community policing, and that work is going on now, Commissioner Francesconi is right, the code does limit us, and yet, in all of the cases that have come to us, in this environment, we go far beyond the code. And I have to tell you the code needs to be changed, as well. And I am not sure whether we ought to even be involved in this. And -- I am not sure whether we, can he council, should be involved with the procedure, and if we are involved with the procedure, I am going to insist that we change the code, that we actually listen to the tape and have all the information before us because if we, at some

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point, become the final arbitrator of this, and do not allow the chief of police to override the decision of the council, we better take a lot more responsibility in trying to identify what the case really looks like. And so, I flagged that as we begin to talk about some reforms and some of the code changes. I will ask michael that, that in the case time we have an appeal, that every member of the council have the entire and full document, including the, the appellant's report, the iad reports, iad reports from, from both the, the precinct, as well as the, the reports from precincts, as well as from the iad, the doctor's reports, any other pertinent information. So, even if we don't listen to the tape, at least every council member has the information before them. I always ask officers to explain to citizens why they stop, and maybe if that -- maybe, if that happened, this would not have escalated the way it did. On the other hand, it is very clear that when an officer of the law asks for your license and your insurance, you need to show it. And whether the officer tells you that the first time or the second time or the third time why, there is still, the request is still a very valid request. And a lot of information that we would have liked to have had, we don't have. For a variety of reasons. So I am going to vote yes. I am going to ask that, that this council take seriously the code changes that will be presented to us. And I am going to ask michael to bring us the full report, and we will work through these issues so that we aren't able to make some improvements in the future. Dora, I hope we will have a discussion with the city attorney on the fee structure and everything else that was raised, but I thank you for being patient with us. Officer "a," I am sorry you weren't here. I can understand why you didn't want to be here. On the other hand, it might have made it easier for all of us, and I hope -- I hoped that you would have. But I understand the impact of being here, to your family and anybody else is a serious one. Aye. Okay. So, we uphold the insufficient evidence ruling, and we are adjourned.

At 4:43 p.m., Council adjourned.