

PUBLIC COMMENT

TO: Oakland Public Ethics Commission

FROM: Rajni Mandal, MD, Oakland Resident, District 4

DATE: September 8, 2026

RE: Agenda Item 6 – PEC Case No. 26-08, *In the Matter of the Oakland Police Commission*

REQUESTED ACTION

I respectfully request that the Public Ethics Commission **not adopt the staff recommendation in Case No. 26-08 as presently written.** The Commission should continue the matter and request additional information regarding: (1) the investigation of how the BearCat recommendation changed; and (2) the authority and precedent for staff issuing cure-and-correct guidance before PEC considered or made a finding in the case.

This request is time-sensitive. The Oakland Police Commission has placed PEC staff's August 19 "informal preliminary guidance" on its **September 10, 2026 meeting agenda**, six days before PEC is scheduled to consider Case No. 26-08. OPC is scheduled to discuss PEC staff's guidance and whether there is a need to cure and correct its November 20, 2025 vote.¹

I am therefore submitting this comment before the September 10 OPC meeting. PEC staff's conclusion has become official business before another City commission before PEC itself has reviewed the case.

This request does not dispute that PEC should determine whether the September and October 2025 email communications violated Sunshine Ordinance § 2.20.030(F)(1). The evidence regarding those communications should be evaluated separately from whether they materially affected the November 20 action that staff now recommends be considered for cure and correction.

1. STAFF ISSUED CURE-AND-CORRECT GUIDANCE BEFORE PEC CONSIDERED THE CASE

The September 16 staff memorandum asks PEC to:

"adopt a finding that sufficient evidence of a violation of Sunshine Ordinance § 2.20.030(F)(1) exists and issue guidance to the Oakland Police Commission to agendize this matter for an immediate determination of whether to cure and correct the violation under Section 2.20.270(D)(2)."²

The memorandum states that § 2.20.270(D) applies “when the PEC determines a violation has occurred.” Staff recommends that PEC make the finding and issue an advisory letter directing OPC to agendaize the matter.³

PEC has not yet made that determination.

Nevertheless, on August 19, staff sent OPC an “informal preliminary guidance” letter concluding that the communications “constitute a violation” of the Sunshine Ordinance and would also constitute a violation of the Brown Act. Staff recommended that OPC place the matter on an upcoming agenda to determine whether to cure and correct the November 20 action. The same letter acknowledged that staff anticipated presenting its conclusions to PEC on September 16.⁴

The August 19 letter describes this as “informal preliminary guidance” and states, “If you choose to do so.”⁴ A local body may voluntarily cure an alleged violation. The issue is therefore not whether staff may communicate informally with another City body.

The issue is the **sequence and substance of the action taken here**.

Before PEC considered the investigation or made a finding, staff communicated that a violation had occurred and recommended reconsideration of a substantive action by another independent commission. That recommendation has now resulted in the issue being placed on OPC's September 10 agenda.

PEC should clarify what authority and precedent support enforcement staff announcing a violation and initiating a cure-and-correct process involving a substantive action before PEC has reviewed the investigation and made the finding contemplated by § 2.20.270(D)(2).

2. PEC'S JULY DISCUSSION DISTINGUISHED INFORMAL COMPLIANCE ASSISTANCE FROM FORMAL COMMISSION ACTION

PEC's July 15 discussion of Case No. 23-01 is instructive. During that discussion, Enforcement Chief Tovah Ackerman explained that staff can sometimes address straightforward Sunshine issues informally rather than proceeding through formal Commission action. She gave the example of an agenda that had not been timely posted and described informal staff outreach as appropriate for some matters “short of an official formal commission action.”⁵

Case No. 26-08 is materially different. It involves communications among commissioners, the evolution of a substantive policy recommendation, and a request to reconsider an adopted Police Commission action concerning public-safety equipment.

The July discussion is relevant for another reason. In discussing whether to pursue the older Police Commission matter, the Enforcement Chief stated:

“I want my work to be thorough.”

She explained that she would want additional eyewitness testimony before reaching a determination where the existing investigative record was insufficient.⁵ The same standard should apply here.

3. THE MEMORANDUM DOES NOT ESTABLISH A COMPLETE RECORD OF HOW THE BEARCAT RECOMMENDATION CHANGED

The staff memorandum documents evidence supporting the existence of the September and October email communications.² That evidence is relevant to whether a prohibited serial communication occurred. The memorandum then makes an additional factual assertion regarding the effect of those communications.

Staff compares an October 10 working draft recommending that OPD not replace its BearCat with another BearCat with the November 20 recommendation permitting two smaller Lenco tactical SUVs. Staff states:

“According to a PEC staff interview with former Commissioner Omar Farmer, the adopted recommendation reflects the position that the non-member of the Ad Hoc Committee advocated for.”⁶

The memorandum does not identify an interview with Commissioner Sam Dawit or Chair Ricardo Garcia-Acosta regarding how the recommendation evolved. Commissioner Wilson Riles had passed by the time of this investigation and therefore could not have been interviewed. The contemporaneous public record is therefore particularly important.

At the **September 2 Militarized Equipment Ad Hoc meeting**, Commissioner Dawit publicly objected to aspects of the draft and stated that he had been “**outvoted on this commission.**” He discussed the need to consider OPD's operational requirements and practices elsewhere. Commissioner Farmer defended the position against replacing the BearCat, while Commissioner Riles acknowledged disagreement among commissioners.⁷

At the **September 25 full Police Commission meeting**, commissioners discussed concerns regarding the Militarized Equipment Ad Hoc's drafting process and incorporation of feedback. The approved minutes state that Chair Garcia-Acosta directed that “further discussion occur offline before the item returns to the full Commission.”⁸ The Commission identified the Militarized Equipment Report for recommendation and vote at its October 9 meeting.

At the **October 9 full Police Commission meeting**, commissioners again publicly discussed the BearCat recommendation. Farmer and Riles described the question of replacement armored vehicles as “convoluted.” Dawit sought clarification regarding whether rejecting the BearCat SUV would restrict OPD from obtaining an alternative non-military vehicle. Chair Garcia-Acosta moved to refer the recommendations back to the Ad Hoc for clarification and reorganization, and Dawit seconded the motion.⁹

The disputed October 10 emails therefore occurred **one day after the full Commission publicly determined that the recommendations required additional work**. That chronology is relevant to any conclusion regarding why the recommendation subsequently changed.

4. THE NOVEMBER 20 PUBLIC DELIBERATION AND VOTE ARE ALSO RELEVANT

The November 20 public deliberation further complicates the assertion that the final recommendation reflected the position advocated by the commissioner who was not an Ad Hoc member. The final recommendation called for divesting the existing G3 BearCat and purchasing two smaller tactical SUVs.

Commissioner **Dawit, an Ad Hoc member, made the motion to approve that recommendation**. Commissioner Riles seconded it. Commissioners Dawit, Riles and Williams voted yes; Commissioners Jackson-Castain and Booker abstained. The motion passed 3-0-2.¹⁰

These facts do not determine whether the earlier email communications violated the Sunshine Ordinance. They are relevant, however, to the separate question of whether those communications produced or materially altered the November 20 action and whether that action should now be considered for cure and correction.

5. THE TWO QUESTIONS SHOULD BE CONSIDERED SEPARATELY

Case No. 26-08 presents two distinct questions:

First, did four Police Commission members participate in prohibited serial communications in violation of Sunshine Ordinance § 2.20.030(F)(1)?

Second, does the record support directing OPC to consider cure and correction of the November 20 action?

The evidence described in the staff memorandum may support a finding on the first question.

The second requires consideration of the broader record. Staff relies on Farmer's interview for the assertion regarding whose position the final recommendation reflected. The contemporaneous public record shows that disagreement over the recommendation preceded the disputed communications, that the matter underwent repeated public deliberation, that the full Commission referred it for additional work on October 9, and that Dawit subsequently made the motion adopting the final recommendation.

Before directing another independent commission to consider reconsideration of a substantive public-safety action, PEC should review that record.

REQUEST

I respectfully request that PEC continue Case No. 26-08 and, before taking final action:

1. **Determine whether Commissioner Dawit and Chair Garcia-Acosta were interviewed** regarding the evolution of the BearCat recommendation and identify the relevant public meeting records reviewed during the investigation.
2. **Review the relevant Militarized Equipment Ad Hoc and full Police Commission deliberations** preceding the November 20 vote.
3. **Clarify the authority and precedent for the August 19 preliminary guidance** issued before PEC considered or made a finding in Case No. 26-08.
4. **Consider separately** whether a prohibited serial communication occurred and whether the record supports directing OPC to consider cure and correction of its November 20 action.

Because OPC is scheduled to consider PEC staff's preliminary guidance on **September 10**, I respectfully request that PEC commissioners receive this information before that meeting and before considering Item 6 on September 16.

PEC is responsible for enforcing Oakland's transparency laws. Careful and independent review by the Commission itself is an important part of that enforcement process.

Respectfully submitted,

Rajni Mandal, MD
Oakland Resident, District 4

DOCUMENT SOURCES / ATTACHMENTS

1. Oakland Police Commission, [Regular Meeting Agenda, September 10, 2026](#), item regarding "Public Ethics Commission (PEC) Informal Preliminary Guidance" concerning the Militarized Equipment/BearCat action.
2. Public Ethics Commission, *Case No. 26-08: In the Matter of the Oakland Police Commission*, Staff Memorandum from Enforcement Chief Tovah Ackerman, August 12, 2026, included as Item 6 of the [September 16, 2026 PEC Regular Meeting Agenda Packet](#). Staff requests that PEC adopt a finding of sufficient evidence of a violation and issue guidance for immediate consideration of cure and correction.
3. Id., Recommendation. Staff states that § 2.20.270(D) applies "when the PEC determines a violation has occurred" and recommends an official finding and advisory letter directing OPC to agendize the matter.

4. Public Ethics Commission, Tovah Ackerman, Enforcement Chief, *PEC #26-08 – [Cure and Correct Guidance Letter, August 19, 2026.](#)*
5. Public Ethics Commission, [Regular Meeting, July 15, 2026, video](#), discussion of PEC Case No. 23-01, *In the Matter of Tyfahra Milele and the Oakland Police Commission.*
6. PEC Case No. 26-08 [Staff Memorandum, August 12, 2026](#), p. 2. The memorandum attributes the conclusion regarding whose position the final recommendation reflected to “a PEC staff interview with former Commissioner Omar Farmer.”
7. Oakland Police Commission, [Militarized Equipment Ad Hoc Meeting, September 2, 2025, video.](#)
8. Oakland Police Commission, [Regular Meeting Minutes, September 25, 2025](#), Item IX, Ad Hoc Committee Reports. Commissioners discussed concerns regarding the Militarized Equipment Ad Hoc drafting process and incorporation of feedback; the minutes state that Chair Garcia-Acosta directed “that further discussion occur offline before the item returns to the full Commission.”
9. Oakland Police Commission, [Regular Meeting Minutes, October 9, 2025](#), discussion of the 2024 Militarized Equipment Use Report and referral to the Militarized Equipment Ad Hoc.
10. Oakland Police Commission, *Special Meeting*, November 20, 2025, [video](#) and [approved minutes](#), Agenda Item VI(A), Recommendation A – Armored Vehicles (BearCat). The transcript records Dawit making the motion, Riles seconding, and the recommendation being approved 3-0-2.