MEETING
GANG DATABASE
TECHNICAL ADVISORY COMMITTEE

ROBERT H. MILLER III ROTARY CLUBHOUSE
7150 BALDWIN DAM ROAD
FOLSOM, CA 95630

FRIDAY, OCTOBER 26, 2018
9:30 A.M.

MICHELLE M. WILSON, RPR
REGISTERED PROFESSIONAL REPORTER
APPEARANCES

GANG DATABASE TECHNICAL ADVISORY COMMITTEE MEMBERS:
Mr. Sgt. Larry Mead
Mr. Chief Jarrod Burguan
Mr. Martin (Marty) Vranicar
Mr. Jeremy Thornton
Mr. Ryan Cooper
Mr. Michael Scafiddi
Mr. Fernando Huerta
Mr. Lt. Jim Considine
Mr. Sammy Nunez
Ms. Marissa Montes (On the phone)

NON-GDTAC MEMBERS, BUT SAT ON THE PANEL/LED DISCUSSION:
Ms. Shanae Kidd
Mr. Tommy Bierfreund
Ms. Arwen Flint
Ms. Jenny Reich
Ms. Shayna Rivera
Ms. Sundeep Thind
ALSO PRESENT PUBLIC COMMENT SPEAKERS:

Mr. Phal Sok, Youth Justice Coalition

Mr. Sean Garcia-Leys, Urban Peace

Ms. Rekha Arulanantuam, ACLU

Mr. Jose Valle, De-Bug

Ms. Christine Clifford, De-Bug/People Acting in Community Together (PACT)

Ms. Benee Vejar, De-Bug

Ms. Yolanda Ledasma, De-Bug

Mr. Jonathan Feldman, California Police Chiefs Association (Cal Chiefs)
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CHAIRPERSON NUNEZ: [Unintelligible] Speak into the microphone. Let's, uh, let's hope the agenda's approval of September 19th, 2018 meeting minutes. Um, copies of the minutes were submitted to the subcommittee members for review on October 10th, and they're also included in your packets. Uh, let us know if there's any minutes that we have omitted. Otherwise [unintelligible].

All those in favor say, "aye."

[Ayes.]

Oppose?

All right. Let's move forward with the, uh, brief of the meeting by Shayna.

MS. RIVERA: Hi, Marissa, thank you for joining us. Um, everybody else, welcome to Folsom. Thank you for joining us again for this meeting. Um, I'd also like to thank Marissa, Ryan, and Marty for providing their comments to us within a very short time that we afforded the Committee Members to provide us feedback. Um, your work was not in vain, as we have and continue to evaluate each comment that you provide. Um, and we've also included those comments about the meetings. So with that being said, we've made some format changes, that we hope will garner our results and provide for more opportunities to capture feedback from all of the Members.
Each topic on the agenda has been allocated a certain time limit. I will announce when five minutes are remaining; and this is done to provide the Committee with an opportunity to decide if enough discussion is heard for a vote. Or to move forward with discussion and that will hopefully allow us to, uh, make sure we get to all of the topics; and since we only have one meeting remaining, it's critical that DOJ receives a full picture to present to the attorney general. So that's kind of why we're holding on to this format.

I'd also like to mention that all of the topics under Agenda Item No. 6 were originally grouped together because they were items delegated to DOJ to draft and bring back to the Committee; however, we think it may be easier to discuss the definitions for "member" and "associate" in tandem, so Item 8C on the agenda, Retention Periods, is now going to be 6C; um, and we also heard your comments about the short lunch period, so we will have one hour for lunch today. We'll break around 11:30, and we'll have one hour for lunch. Please be sure to return on time, uh, because the next -- there will be the Second Public Committee's, uh, period -- excuse me, Public Comment Period, will take place promptly after we return from lunch, and then there will also be a short afternoon break, and we will adjourn at 4:30.
Uh, shall we get started?

CHAIRPERSON NUNEZ: Yep.

MS. RIVERA: Okay. Tom?

MR. BIERFREUND: Uh, we're going to start the Public Comment Period No. 1. Um, the -- has anyone, uh, not signed up that would like to speak? Everyone who would like to speak has signed up already? All right.

Comments made during this period may only address training, that includes consequences of unauthorized use of data, definition of the offenses consistent with gang activity, and the definition of gang associate.

Based on the number of speakers who signed up, each individual will have five minutes to provide their comments. All comments should be directed to the Committee, and speakers may not yield their time to another. Speaker shall refrain from making personal attacks, uh, while making their comments. The audience is asked to be respectful of all speakers. It is the Committee's practice to listen to the speakers and not engage in dialogue. After all the speakers have been heard, the Committee Members may respond as appropriate.

Please comply with these procedures or you will be asked to leave the podium, and we thank everyone for the participation. The first person who is signed up
is Phal Sok, with the Youth Justice Coalition.

MR. SOK: Um, can I get clarification? Shayna just said they're moving the retention period up?

MS. RIVERA: Yes.

MR. SOK: To this piece?

MS. RIVERA: Yep.

MR. SOK: Um, okay. So my name is Phal Sok. I'm with the Youth Justice Coalition. Um, I don't have anything written.

[Thereupon microphone was switched on.]

Is it on now? Okay. So my name is Phal Sok; I'm with the Youth Justice Coalition. Um, I don't really have much written to say, um, but if you don't mind, I wanted to share my personal experience, so you guys can, uh, get a sense of what it is firsthand for the community.

Um, so when I was 16, my dad had passed away and I got myself into a lot of trouble. Um, school didn't take me in, school pushed me out. [Unintelligible] lack of safety net. Things like that. So I wound up basically in the community, while hanging around with a lot of people that weren't always up to good things, doing good things, got myself into trouble. Um, got labeled a gang member by law enforcement, gang associate, got all these labels, different labels. Um, really just
because of affiliation, just because I lived in the area. Places that I went to for resources, child placement resources helped me to coping on loosing my dad, my only parent. Just really bad predicament. I didn't really have anybody to go to. These are the only people who accepted me and embraced me, but I never joined a gang, never got connected or anything, but I got labeled with that just because I was there. Right? Just because I was hanging out in neighborhoods. People would -- officer would come by and look at my car, stuff like that, just so I became labeled. All right.

Some of my concern is just in terms of how people are labeled is one thing, but in terms of retention periods, um, stuff like that -- what do you got with retention? Sorry. This agenda is messing me up.

So the use of the data; right? So unauthorized use of the data and stuff like that. Um, there should be some serious, serious consequences for un-use -- unauthorized use of data. That's some really serious stuff. Um, so some of that sharing of information what I've seen directly impacts the people. When I was placed in immigration detention, um -- so I've been there, too -- I saw the use of gang labeling and immigration detention, terrible. Talk about due process, there is no due process in there.
I saw a gentleman, he was in his late 30s, happened to live in a house where there was somebody before that was living with gang members, that was living in the house. So he had moved in, so he basically inherited this address. They came and did a raid at his house, found out that he was not that person, but they took him anyway because he didn't have documents; but then they were labeling him as a gang member just because he was living there, and so because of the information sharing; right?

So he would up not getting a law hearing. Judge didn't want to [unintelligible] and reported, that's why it's been [unintelligible] everybody here; right? So when there's information that's crossing lines and being shared, people are accessing these and they should have serious, serious consequences. Right? Just in racial context, I've seen it really, really terrible. It's really devastating. I saw a man that was just being a breadwinner.

Um, so there should be some serious consequences to that. Whatever those consequences are, is for you guys to decide; right? For you guys to figure out but the community would love to see some serious consequences.

Um, for me, when I was a juvenile, I was 17, I
got charged as an adult, I got the book thrown at me. I got the book and probably a whole another encyclopedia on top of that. All right? I got buried into the dirt.

Um, so when we do something wrong, the community we get some serious, serious issues put on us; right? We get stuck in the ground, court system all over us. We're like being, [sound effect.] But when officers do something wrong or somebody does something wrong, it's like, [sound effect], keep going on about your business.

That's what the community sees. All right? And that's very bad. If you want to talk about relationships with community, trust, accountability, like that, we don't see any of that. All right? We don't see any of that. Because people are alarmed that things are happening.

In terms of the retention period, um, you know, a lot activities that may be labeled as gang affiliated, gang activity, whatever it may be, sometimes it's serious, sometimes it's not, sometimes it's transitory. All right? Um, so a lot of things that I saw for me, personally, wasn't nothing more than a year. That's my own personal experience. A lot of my friends, a year, 18 months, and they're, like, gone; they're done with it.

And so what we'd like to see is moving down to two-year retention period. Two years. That's what I
would like to see. That's what a lot of people in our communities would like to see. And so I'm just here to express that. In terms of the retention period, we are asking for two years. Thank you.

MR. BIERFREUND: Thank you for that. Next on the list, we have Sean Garcia-Leys from Urban Peace.

MR. GARCIA-LEYS: Can you tell me one more time what are the topics for this Public Comment Period?

MR. BIERFREUND: Uh, we have training, that includes the consequences of unauthorized use of data, the definition of offenses consistent with gang activity, and the definition of gang associate.

MS. RIVERA: No. No, Tommy. We moved -- so instead of -- the C's have just swapped.

MR. GARCIA-LEYS: So not associate?

MS. RIVERA: Yeah.

MR. GARCIA-LEYS: Offenses consistent with --

MS. RIVERA: Gang activity.

MR. GARCIA-LEYS: And retention.

MS. RIVERA: And retention. Yep.

MR. GARCIA-LEYS: Okay. All right. So I have a few briefs comments on each of those. The first in regards to training, I have no doubt that the ultimate policy, um, will have adequate description of the training that's required. Uh, but based on the last
meeting and other discussions I've had with stakeholders, uh, I think the big issue is going to be who gets trained.

The current thinking on some people's part is that the training should only go to people who sit at a computer terminal and interact with CalGang. I and other people feel that everybody who creates source documentation should be trained. So that's going to be an issue that will have to be resolved and will dramatically change what is actually in the, um, the ultimate training materials. Um, and I would say that the argument in favor of making sure that everyone who creates source documentation is trained, is that training will improve the quality of the source documentation, and I think one of the biggest benefits that can come from, again, database reform, is changing some of the practices that happen out on the streets.

Um, I have talked multiple times about the one incident that really sticks in my mind is a client who was -- had an officer go through his hair, uh, looking for scalp tattoos that had been covered up by grown out hair, at the park, while he was taking his kid to the park.

But I heard, you know, hundreds of stories of people not suspected of any crime but suspected gang
membership, being stopped, being asked, consensually, to pull up their shirts to allow their tattoos to be photographed, um; and those sorts of practices are not practices that lead to safer streets. Um, that is the type of gang policing that I think most affected departments have recognized as counterproductive.

So the idea of training is not just to create a better source documents, although that was part of it, but also to ensure that those people that are out on the field making these stops have also received some training.

Um, on the issue of offenses consistent with gang activity, uh, I have several problems with that criteria in total. Uh, so not just listing which offenses should be, but the idea that somebody would be arrested but not convicted of a crime seems to make that an unreliable concept. Um, an arrest that then results in no charges by the city attorney or district attorney is probably flawed for some reason, and those flaws also suggest that it should not be reliable or held as reliable source documentation, or, you know.

So, uh, yeah. So, first, the idea of arrest rather than conviction raises some inherent, uh, concerns about reliability. Uh, the other thing is this issue of which offenses are consistent. So does it have to be a
charge as a 186, uh, charge on the, you know, on the
arresting documentation? Um, even those are pretty big.
I've seen cases where, uh, pretty straightforward DV
cases, um, where they're turned into a gang crime
because, uh, there are allegations that the reason that
this guy beat his partner was because she had been
talking to somebody from another gang. So, um, I mean,
the idea that DV is a serious crime needs to be dealt
with but that it's an a gang crime is, you know, it's not
supportable.

Um, so I would eliminate offenses consistent
with gang activity as anything but the most least
reliable criteria; however, certain sorts of convictions,
I think, should be conclusive, um, evidence of gang
membership.

Finally, on the issue of retention, I think Phal
said it well. Uh, there is -- one of the few things
there is consensus across the country amongst gang
research is that 90 percent of anybody that joins a gang
is adolescent will be out of that gang at the end of two
years, and I think one of the things that has not come up
in discussions is distinction between types of gangs. So
if you distinguish between Criminal Street Gangs and
Prison Gangs, which is the way law enforcement tends to
make these distinctions, um, Criminal Street Gangs are
kinds of folks who are in these databases, the people who are stopped on street corners, um, and those are the people who are universally recognized as being in and out of gangs remarkably quickly.

Uh, now, people who end up, picking up, uh, prison cases, do realtime in prison, get involved in Prison Gangs; right? The evidence is that those peoples' involvement in gangs is much, uh -- last a lot longer. But that's a different kind of gang and that is not necessary -- that is not typically the kind of gang that we see being tracked in CalGang, at least from what I've seen. It's more often Street Gangs, not Prison Gangs, which is more the, um, per view of CDCR.

Um, so as far as retention, we recommend two years. Thank you.

MR. BIERFREUND: Thank you for that. Next we have Rekha Arulanantuam, sorry --

MS. ARULANANTUAM: It's okay. Rekha Arulanantuam. My comments address gang associate, so I'll wait until the next --

MR. BIERFREUND: Okay. Thank you. All right. Well, that will be the end of Public Comment Period One.

UNKNOWN MALE: Um is there's room for public comment, we got here too late. We weren't able to sign up.
MR. BIERFREUND: Yeah. You got five minutes if you want to speak.

UNKNOWN MALE: Is this Public Comment Period, uh, addressing the associate definition, or has that been moved?

MR. BIERFREUND: That will be No. 2. Yeah, sorry. Things got moved around a little bit.

UNKNOWN MALE: So member, associate definitions, as well as the criteria is in the second?

MS. RIVERA: Yep. Right after lunch.

UNKNOWN MALE: Okay.

CHAIRPERSON NUNEZ: This is on consequences of unauthorized use of data, offenses consistent with gang activity and retention.

UNKNOWN MALE: Okay. Got it. Did any of you want to take it before we move on?

UNKNOWN FEMALE: Do you want to talk about retention?

CHAIRPERSON NUNEZ: Okay.

MR. BIERFREUND: Thank you.

UNKNOWN MALE: Thank you.

CHAIRPERSON NUNEZ: Yeah. We're going to turn it over to Sundeep. We're going to, uh, go over the next discussion item.

MS. THIND: Okay. So we are going to start
talking about Package 1. Um, our first item of
discussion is going to be: Training that includes the
consequences of unauthorized use of data. So I'm going
to turn your attention to, um, Page 9 of Package 1,
Article 4.

CHAIRPERSON NUNEZ: Marissa, can you hear us?
Can you hear Sundeep?

MEMBER MONTES: I can barely [unintelligible],
and I couldn't hear public comments that well.

MS. RIVERA: So just make sure you talk --

CHAIRPERSON NUNEZ: Okay.

MEMBER MONTES: But I can be there
[unintelligible] comments in a way that I could probably
provide feedback. If not, I know that --

MS. THIND: Marissa, can you hear me now? Is it
better.

MEMBER MONTES: You just sound kind of far away
is the only thing.

MS. RIVERA: You might want to take it off.

MS. THIND: Okay. I'm just going to hold it.

[Thereupon microphone was removed from
stand.]

MS. THIND: Okay. Can you hear me better now?

MEMBER MONTES: Yes.

MS. THIND: Okay. So we're going to start
talking about Package 1, and we're going to be talking about training that includes the consequences of unauthorized use of data.

I'm going to turn everyone's attention to, um, Page 9 of Package 1, Article 4, Section 754, Subdivision B12. Let me -- okay. So we re-drafted the language, um, on here, and, um, just wanted to get your feedback on what you think of it as it is right now. So it says:

Consequences of the unauthorized use of data.

Such consequences may include, but are not limited to, affecting immigration proceedings, and the denial of employment, housing, military, and public benefits. And this pertains to training. At a minimum, instruction from an improved instructor shall address the following. And then it goes --

MS. FLINT: Sundeep, can you just make sure people are tracking. Does -- does everybody know where we're at in the regulations? Okay.

MEMBER VRANICAR: Chair?

CHAIRPERSON NUNEZ: Yes, sir.

MEMBER VRANICAR: I've got a comment that kind of tries to put, uh, uh -- Marty Vranicar, Marissa.

MS. RIVERA: You have to speak into the microphone, Marty.

MEMBER VRANICAR: I've got a comment that, uh,
that kind of puts this, uh, in perspective and picks up a comment that was made, uh, by Mr. Leys-Garcia [sic]. Uh, with respect to training, and this training is not only directed toward the people who were doing input to the terminal, but it's going to be, uh, training that covers the users; and, uh, what we have here is what an instructor, or someone who, uh, intends to instruct other users on the use of CalGang, uh, will address.

And I think that, uh, what was drafted here, uh, is -- with respect to the unauthorized, uh, consequences of unauthorized use of data, uh, I think is -- is -- is appropriate, because it hits the high spots of what, uh, CalGang in the past has, uh, arguably, uh, been, um, perhaps I should use the term, "accused," of the improper use of CalGang to affect someone's employment, uh, housing and other, and I think that interesting you also, um, uh, put in, Item 8 in the draft: Best practices for mitigating the entry and dissemination of false or incorrect, uh, information.

And I think, you know, obviously, that goes to Mr. Leys-Garcia point, with respect to generally training those individuals who are responsible for the source documentation in what is going to be required. So, um, I, for one, uh, uh, I also, uh, note that this is the first one entry of proxy request, that is, if someone
else calls in and says, "I want you to run somebody in
the database" and somebody does that, then there will be
an audible record of one who made that proxy request and
the results of it.

So I'm -- I'm, uh, definitely in favor of, um,
the way this -- this was drafted. I think it meets, uh,
both concerns that, uh, individuals who have been
involved with CalGang are concerned, plus, in my mind, it
also meets some of the, uh, concerns that were directed,
uh, to us by the community members. Thank you.

CHAIRPERSON NUNEZ: Thank you, Marty. May I
chime in?

MS. RIVERA: Absolutely.

CHAIRPERSON NUNEZ: I'm just wondering, what are
the consequences of -- it doesn't really spell them out
to me. Is there -- I understand that consequences, uh,
may include but aren't limited to affect immigration
proceedings, now employment. I understand the -- I guess
I'm wondering if there's -- what are the -- I guess
because it says consequences of system misuse; right?

MEMBER COOPER: The consequences are you either
get personnel complaint to your department, a letter sent
from our Committee to the head of your Agency, Hey, you
misused the system; you did this -- whatever the case is.
You can have your account suspended, or it can be for a
certain period of time, you have to get retrained, or it can be indefinitely, or your agency can get booted out.

CHAIRPERSON NUNEZ: Shouldn't we actually -- because it seems to me that there would be a subjective to the particular, um, um -- what was it? Um, shouldn't there be consistent -- shouldn't there be language spelled out in here?

MS. THIND: It is.

CHAIRPERSON NUNEZ: It does spell out the language?

MS. THIND: It is, um -- it is on Page 22.

CHAIRPERSON NUNEZ: Okay.

MS. THIND: Yeah. Section 763. This is just the training section.

CHAIRPERSON NUNEZ: Got you. Okay.

MEMBER COOPER: This is all covered in our training anyway. We talk about the misuse of systems, letter of censure, temporary or permanent suspension, or your agency getting removed.

CHAIRPERSON NUNEZ: Does it also speak of, like, data entry? Um, you know, kind of --

MS. THIND: Mis-entry?

CHAIRPERSON NUNEZ: Yes.

MS. THIND: And what the consequences of that are?
CHAIRPERSON NUNEZ: Yes. Yeah. Obviously, the audit caught that there was people that shouldn't have been in the database in the first place. How do you, uh, create a practice where that doesn't happen? Is that in there at all?

MS. THIND: I don't --

CHAIRPERSON NUNEZ: No?

MS. THIND: I don't -- I don't recall that being exactly addressed, the consequences for that. Um, but that's something we can talk about today.

CHAIRPERSON NUNEZ: Okay.

MEMBER THORNTON: Jeremy Thornton, CPDA. Um, what, I guess this is directed to law enforcement. I don't know how -- or allegations of misuse investigate. Who is responsible and are there, I guess, norms or protocols?

MEMBER COOPER: Well, if we become aware that somebody misused the system for whatever reason, we can -- everything you do in the system from literally the second you log in to the second you log out, is tracked. Everybody you look at, any information you put in there, any information you search for, anybody's file you looked at is tracked. So we can see everything -- literally, everything you've done down to the 10th of a second. It has everything. So it would, if it was a personnel
invest -- or like an internal complaint against the agency, then that Auto-Trail will be shown to the person. "Hey, this is what they did. They looked at this guy. They searched for this person." You know, "had no reason to be searching for this," or, you know, gave out the information, whatever the case might be. That would be our evidence.

MEMBER THORNTON: Okay. So is it possible then to include on the, uh, the notice that someone's being included in the database some sort of: If you feel like this information is misused in some way, please contact your local police department, um, so that this can be looked into.

I mean, I imagine this comes up with -- "Hey. I went for my interview, and they said they ran a background check on me and said I'm in a gang, and they didn't hire me." I think that's kind of -- those are the allegations being made; right? That it's being misused in this way. And in order for those complaints to make it back to you, or the note administrator, so that they can be looked at, can we include on some kind of form that provides notice that there's a way, if it's misused, we can address this?

CHAIRPERSON NUNEZ: Speak into the microphone, please. Sorry. I'm going to have to keep reminding you.
MEMBER THORNTON: I didn't hear you.

CHAIRPERSON NUNEZ: Speak into the microphone.

MEMBER THORNTON: Oh, excuse me. I'm sorry.

[Laughter.]

CHAIRPERSON NUNEZ: Literally. Yeah.

MEMBER THORNTON: All right. Thank you.

MEMBER COOPER: There are various -- I mean, the forms don't currently have that on there. I mean, they have the right to ask, "Hey, I want to be removed from the system" or, "Am I in the database?" Um, you know, we've asked for these anecdotal stories of, "Oh, I was told I was in a gang data -- I was told I was a gang member when they did the background on me."

And nobody can come up with, all right, who this person was. Give me a name. And we said numerous times, I've said it numerous times as well, we want to find somebody that if somebody is misusing the system, we want to make an example of them. We want to say listen, besides the scare tactics we give when we give the training, "Hey, don't misuse it. Don't misuse it. Don't be that guy. Don't be the one to screw it up." If we find somebody who misuses it, we're going to make an example of it. Blow it up, you know, obviously they still have their rights as, you know, officers or deputies or whatever, but, um, we've asked for how --
okay. You didn't get a job at whatever store because they said they did a background and somehow they ran you in CalGang.

We'll find out if that's true or not. And we've asked for give me an instance of that happening, and not one person is able to provide that. This has been going on for years. It's the same -- I understand it. It's the same, you know, there's that rumor, but we're trying to find -- I've never come across it. Nobody's ever brought it up to me, and I've been doing this for ten years.

MEMBER THORNTON: Should we establish a reporting system? Um, something that's routine?

MS. THIND: So would anybody be open to, um, Jeremy's suggestion? Let's discuss.

MEMBER SCAFIDDI: Um, if I may. Mike Scafiddi. Um, good morning, Marissa. Just a quick comment about Jeremy's suggestion. We know that's already acquired to give notice to the individual that law enforcement want to put into CalGang. Different agencies have described that previously, um, how Simi County Sheriff's done it, how LAP does -- LAPD does it, and I think Jeremy's suggestion is simply about notice and simply add to the notice. For example, if some time in the future, um, you obtain information that you were denied
employment or suffer immigration consequences, this is a number that you can go -- this is a place that you can go for redress.

And, to me, notice is fundamental in our constitution. I mean, you have to have notice, and maybe there are people that have been wronged and just don't know who to contact, or maybe it's not a bigger happening, as -- as some people may think it is. But either way, I think it's a simple suggestion just asking to the original notice requirement, a sentence or two sentences. To me it seems fundamentally fair, um, for the community, and I don't think there should be any significant cost factor for governmental entities to do that. So I think it's just a fundamental fairness just to add one line to say: If in the future you get information that you're denied employment, housing, government grants, because of your inclusion in California gang database, you can contact a note administrator at blah, blah, blah.

And I think it's simply -- it's that simple. I don't think this is an issue that there should be much disagreement on.

MEMBER COOPER: I know our notice has a -- has a line on there saying: If you have any questions regarding this correspondence contact this person. It's
laid out there. You know, if you have any questions, you
want help, you want to get, it's open to any --

MEMBER SCAFIDDI: That's great --

MS. RIVERA: You have five minutes remaining.

I'm sorry.

MEMBER SCAFIDDI: Okay. That's -- that's great
that that happens, but if you talk -- if you just give
them another little primer to denyment them of grants,
education, housing, um, jobs, things like that, just if
you signify that, it would be easier; and maybe down the
line some of our local community organizations that are
represented here today, um, can send out advertisement
fliers to people in the neighborhood to say: You -- if
this becomes an issue, this is who you contact. So it
can be a collaborative effort between law enforcement and
community leaders.

So I think if you can put it on both sides, to
make it so that people can just understand, "Oh, I didn't
know that." And if just one person could come forward --
if one person can come forward and tell a story of what
happened and it can be found out that it did happen, then
there's a collateral-effective benefit for everyone else.
As Sergeant Cooper said, make an example of someone. I
have no doubt that he means that. So that's a benefit to
everybody. And so I agree with Jeremy 100 percent about
adding some language.

MS. RIVERA: Did you want to add to that?

MEMBER SGT. MEAD: I was just going to say --

Sergeant Mead. I was just going to say that we have made examples. One example, in particular, of a person who had, uh, used a proxy in an investigation. Not only was that person investigated by internal affairs and by myself running the audit, um, that person is no longer allowed into the system, and he was pulled out of the gang, uh, unit and transferred to another, um assignment. Where he is sitting in a booth looking at people. Something like that. Um, so there -- there are some serious, serious consequences related to the misuse of the system.

CHAIRPERSON NUNEZ: And I think that Jeremy's, you know, recommendation, in terms of just additional checks and balances, I think is really important. Um, I think that the consequences when somebody's, you know, put into the immigration [unintelligible], for example, something like this, the consequences are severe for the public. One, there's misuse of the, uh, system. Um, you know, I personally would love to see an Oversight Committee, that also has former gang members involved in there as well. I know that they're used quite a bit in court proceedings, uh, to -- to assist in determining
whether or not somebody is a gang member.

I know that's not in this -- perhaps a trailer bill -- but anything that puts checks and balances in place to make certain that the system is used accurately, is really important. Um, again because the implications on the public are super real; right?

Um, are we going to move on from this item now or -- I don't know that --

MS. RIVERA: Yeah. So, um, we've run out of time for this, but I want to go back. Um, Jeremy, would you be okay with the language that Ryan proposed to include that LAPD currently includes? And if we put that in the notification, and, if so, do we want to make a Motion to do that and vote? Because it seemed like you liked what he said.

MEMBER THORNTON: Yes. I did and I do like that, and I -- I am in favor of --

CHAIRPERSON NUNEZ: Could we hear it one more time?

MS. RIVERA: Yeah. Ryan, could you share the language, please? And speak into the microphone so Marissa can hear you, because we will be asking her to vote.

MEMBER COOPER: All right. So at the end of all of our notices, uh, say: Should you have any questions
regarding this correspondence, or have any inquiries regarding referral programs, please call officer or detective, has an ID number, phone number, email, whatever.

So -- that's -- that's basically the end of our letters notification letters, response letters, removal letters. Um --

MEMBER THORNTON: The letter also -- maybe you should read this part, too, because I think this is actually a little important because that comes right --

MEMBER COOPER: Yeah. So -- yeah. So on the response for the removal one that we have, we also have:

The department-shared gang database is used only to identify possible suspects in criminal investigations, not to use for purpose of employment checks, housing or welfare benefits, background investigations, or noncriminal immigration proceedings.

MEMBER THORNTON: So it's got the -- I like the aspect of that disclaimer of what it's not to be used for, and, then, if you have any questions or comments, call this officer at this; and I have no doubt this is going to be taken very seriously by detectives or police officers if someone calls and says, "Hey, they said I couldn't get this apartment, and they said it was because of this."
So I think that's great. I think that language -- these are expressed purposes it's used for. These are examples of what's it's not to be used for. Call us if there's a problem. Um, I think that's fantastic. I think that's very clear.

MS. RIVERA: Would you like to make a Motion?

MEMBER THORNTON: Oh, okay. I make the Motion to include those two, um, the express purposes for what it's used for, the examples of things that would be misuse, and then a, um, request for comments or questions if there are any concerns about, uh, use or misuse, um, with the phone number, email, or contact number for the detective.

CHAIRPERSON NUNEZ: All right. Is there a second? Sorry.

MEMBER VRANICAR: This is Marty. Question on the Motion. Um, I didn't see, uh, specifically, within the, uh, regulations of place that, uh, basically what we're talking about here is standardizing, uh, notification. So is that going to require a separate section within -- within the regulations or --

MS. RIVERA: We have that already.

MEMBER VRANICAR: Oh, you do?

MS. RIVERA: We do have sections on the notifications in the regs.
MEMBER VRANICAR: Okay. But the --

MS. THIND: We are talking about Jeremy's Motion and how -- where it would go with no text; right?

MEMBER VRANICAR: Right. Right. Thank you.

[Laughter.]

MS. THIND: I think that that's just something we're going to have to, like, review in order to determine where the perfect place for that would be, unless you have recommendations? Okay.

CHAIRPERSON NUNEZ: All right. We'll hear a second.

MEMBER COOPER: I have a question. Currently, we have this -- or my department has this on the response for removal letter. We don't have it on the notification or request for status. So it's only -- for us, right now, it's only on this one form, are those two lines. The other -- the other response letters have the, If you have any questions contact this person, whatever, but doesn't have the stuff about the immigration or housing.

MEMBER THORNTON: I guess my idea would be to include it on the, um, notification and the request for status.

MEMBER COOPER: To all three?

MEMBER SCAFIDDI: And with that modification, I would second.
CHAIRPERSON NUNEZ: Okay. We have a first and the second. Thank you, Michael. All those in favor say, "aye."

[Yes.]

MS. RIVERA: Can you raise your hand so we can capture that.

CHAIRPERSON NUNEZ: Oppose?

MS. RIVERA: And then Marissa.

CHAIRPERSON NUNEZ: Did you vote, Ryan?

MEMBER COOPER: Um, I'll agree to it.

CHAIRPERSON NUNEZ: Okay. Marissa?

MEMBER MONTES: Sorry guys. I really couldn't hear the back and forth. So I don't really feel comfortable voting, so maybe I'll just --

MS. RIVERA: Abstain.

CHAIRPERSON NUNEZ: Abstain. Okay.

MEMBER MONTES: To abstain would be the most appropriate.

CHAIRPERSON NUNEZ: Motion carries; right?

MEMBER MONTES: Because I can't hear sorry. I don't feel comfortable voting.

MR. BIERFREUND: So everyone except for Mr. Considine was "yes"?

MS. THIND: Um, Ryan, could you read that language over to me one more time so I could, um, capture
it?

MS. RIVERA: We can get it --

MS. THIND: Okay. I'll just get it from you later.

MS. RIVERA: Yeah.

MS. THIND: Thank you.

MS. RIVERA: Okay. Next we're going to move to, Definition of Offenses Consistent With Gang Activity.

CHAIRPERSON NUNEZ: All right. Good one.

MS. THIND: Sorry. Give me one second. Okay.

It will be Page 3. Okay. So I'm going to go down the comments that we received for this. So this is going to be, um, the definition you could either find in Package 1 or 2; it's on Page 3. Um, if we're looking at Package 2 since that's really the place where we can discuss this -- we're authorized to discuss these things in, it would be Line 6, and the current definition reads:

Offenses consistent with gang activity mean either those offenses that are listed in Subdivision E of Penal Code Section 186.22; Penal Code Sections 186.26, 186.28, 186.30, or those offenses committed with the intent to enhance or preserve the association's power, reputation, economic resources of the gang.

And I think there should be an "and" in there. And. So there would be comma and economic resources, or
an "or" and/or. I'll put an and/or.

      Sorry for the typo.
So the first comment, um, I received was, um, to
add on criminal enterprise. So if you'll look at the
projector up there -- sorry I know it's not good quality.
Let me try to see if I can make it bigger.

      Okay. So the first proposal was to enter in the
criminal enterprises -- enterprise right after
associations or -- yeah. Preserve the association's
criminal enterprise, power, or reputation, and/or
economic resources of the gang. So thoughts on that?

      MEMBER VRANICAR: That was my comment to
differentiate. Basically, association, uh, you know, is
a very broad term, and I wanted to clarify that we're
talking about, uh, an association that engages in a
criminal enterprise, not just any association that's
seeking power or seeking to preserve, uh, their
reputation or economic resources.

      MS. THIND: And then also in addition to that, I
wanted to direct you towards the second comment, which
also has to do -- um, it's from a different Committee
Member, and he proposed to add in, um, language saying,
um -- so if you look at the -- after the Penal Code
Sections are cited, it starts out with:

      Or those offenses committed with the intent to
enhance, promote, further, or preserve the Criminal Street Gang's power, reputation, and/or economic resources.

So those are, like, all the proposals for that Section, and, um, yeah. So he's addressing mostly to change the association to Criminal Street Gang, to make it more clear and comply with the Penal Code Section, to make it more consistent with AB 90.

CHAIRPERSON NUNEZ: Any thoughts or comments?

MEMBER VRANICAR: I'll make the motion to accept the last comment, because that's consistent with the current language in the, um, Penal Code, specific intent to enhance.

CHAIRPERSON NUNEZ: Okay. We have a first and a second. We got Marty and, uh, and LT Jim Considine is the second. Um any --

MEMBER SCAFIDDI: Just part clarification. Mike Scafidi. We're talking about Comment R, that was listed up -- yeah. Go back to the original slide. So that's -- one that's -- 52 on the left side, 2, Page 3, 5 and 7.

MEMBER VRANICAR: Yeah.

MEMBER SCAFIDDI: Okay. Thank you.

CHAIRPERSON NUNEZ: All right. All those in favor say, "aye."

[Ayes.]
MS. RIVERA: And raise your hand, please, so we can capture the votes.

CHAIRPERSON NUNEZ: Oppose? Abstentions?

Marissa?

MEMBER MONTES: Again, I can't really hear. I'm sorry. I'll stay on the line as long as you guys want, but yeah I'll stay on that way if there's any questions, especially about what I submitted, I'm happy to explain. Is that okay?

MS. RIVERA: Yeah.

CHAIRPERSON NUNEZ: Yeah. That's fine.

Okay let's keep going.

MS. RIVERA: Um, retention period.

MS. THIND: Okay. So we're moving over to Retention Period next. So the debate is between -- it was originally between three or five years, but now it's changed to three or two -- or sorry -- five or two years, from, like, the comments that we've received.

Um, if we're going to go comment by comment, the first comment I'd like to bring up is, um, pertaining to Section 775, and this is in Package 2; it is page 13. The first comment pertains to Lines 11 through 12; and, um, this Member recommended that an individual's record shall be retained in a shared gang database for up to five years, and then they added additional language
saying:

If the individual has been convicted of a
gang-related crime under Penal Code Section 186.22(a) or
186.22 (b), then the retention period is tolled during the
period of probation or parole.

So that's the new language. So let's absorb
that and discuss it.

MEMBER VRANICAR: I'll own up to that comment.

Um, I -- I think, uh, one of the things that, uh, we've
discussed in the past, if not in this forum in the prior
iteration CalGang Executive Board, is the fact that, uh,
corrections, uh, does not -- does not keep track of and
is not included in the database.

So you might have an individual who gets a --
who gets a five-year term and comes out and continues his
activity, and, uh, his records would have been purged,
and he comes out with a -- with an essence, a clean
slate. And a lot of that information that gets included
in the prison packet, uh, is, with respect to
disciplinary record or his own engagement in -- in prison
gang, is not captured; and so I think it's appropriate,
uh, and it would probably -- probably, um, uh, work, uh,
to -- to keep track of those individuals, so that the
retention period in effect is tolled during the time that
the individual is on probation or is on parole.
MEMBER SCAFIDDI: If I may comment? Mike Scafiddi. Um, so basically your -- the proposal is, someone gets convicted of 186.22(a)or(b). Let's say they go to prison for four years. They come out with a three or four year parole, where they're out in the streets, so now it's seven years, and then you want to toll that whole period, even the toll period, and then add five on top of that?

MEMBER VRANICAR: That's correct.

MEMBER SCAFIDDI: Okay. So in essence, you do three in prison, you do four parole, you got seven and so we're going to make it -- then he's got a five year later on that he's on the gang beat. I just wanted to make sure I understood that.

MEMBER VRANICAR: Yeah.

MEMBER SCAFIDDI: I'll be a hard no on that one, when we vote. I mean, we do call it CDCR now; right? I mean, there is a hope of rehabilitation. Four-year period of parole, three years people watching you, you could have GPS. You went in there on a gang crime, you're going to have the gang people watching you, um, probation officer, parole officer, whatever it may be, and we want to toll that period. To me that seems -- that doesn't seem it serves any useful purpose.

So if someone is away for three years, four
years that follow they don't commit any new gang crimes; they're not hanging out with gang members, but then we're going to watch them for another five years and keep them in the database. To me that just seems wrong.

MEMBER THORNTON: Jeremy Thornton. I think the data is consistent with the two-year proposal, particularly, when it comes to adolescents and Criminal Street Gangs, which I know is a major, um, kind of, motivator behind CalGangs and the gang database.

The -- I think it's -- it's fair to say that over inclusion will lead to better policing, more security, and -- but I think we have to acknowledge that this society in particular, America, California, is about a balance, and that balance always has to tip in favor of less government observation. Um, that's just the way it is. That's why we have judges reading over search warrants. That's why we have motions to suppress evidence when there's been a 4th Amendment violation, even when someone's been caught committing a crime.

Uh, the balance always goes toward, um, or away from the government; and so I think when the data supports two years, when the studies and what's been accepted across the states is two years, and I know that -- or I believe that the Department of Justice has been provided with the articles that support this -- I
think that a period like this, while I understand why, I don't think it should be adopted. I think we need to push forward with a two-year recommendation.

And, frankly, if someone is still active in a gang, then they're going to continue to be documented. So I don't know what the cost of a two-year period is, and I certainly see the benefit because, if someone has in fact gone to prison, changed, come out, distanced themselves, I do not think it's fair to be continued to be labeled as someone who they were a long time ago and before a prison stint, because prison is life changing.

MEMBER SCAFIDDI: Can I ask a question? Maybe, Jeremy. I read some of the studies, and I know that we had a previous speaker at one of our sessions who talked about, um, that within two years -- and they were talking about younger people, um, I don't remember what age they were using as the cut off, that most of the younger folks, 90 percent will leave gangs, but I don't remember what age group they were talking about. Does anyone recall that age group? Whether it was under 18, under 21?

MEMBER THORNTON: My recollection from literature is under 18.

MEMBER SCAFIDDI: Under 18?

MEMBER THORNTON: Yes.
MEMBER SCAFIDDI: Um, just a possible thought, and I do agree with Jeremy's comments 100 percent, but I would say this, if -- if this Committee -- if there's a majority of the Committee that's not inclined to do the two years or even consider three years, which I hope they would, is there a possibility that we would consider two years for someone 18 or under and then a three year for someone 19 and older?

Um, if studies do show us that the younger, um, people that join gangs, leave -- 90 percent of them leave within two years, then I think that's rationally related to the studies to do two years, um, and I think that if you pick a number for someone that enters the gang database, let's say at 19 and whatever age on up, I don't think there's as clear data that shows that they leave within two years. So that maybe a time period like three years would be more appropriate for someone that age coming versus someone 18 and under.

So that would be my suggestion. I would just ask if anyone had some thoughts about bifurcating, because I think we can do that. I think we can make that recommendation. Ultimately, DOJ will have to figure that out and the Attorney General, but, if we do believe these studies are correct and 90 percent of these younger folks do leave, then maybe we can do it two years, cap it at
two for people 18 and under and then at three for 19 and
older. I would just put that out for conversation if I
could.

MEMBER CONSIDINE: Jim Considine

[unintelligible] County Sheriff. Uh, yeah, five years I'm
pretty consistent with that. I understand, two years is
-- I've done this a long time, that's not enough time. I
get your vote is a hard no on two, but, yeah, I just
think five years is real consistent. It's up to them. If
they don't care to be contacted, if you're in there for
two years, don't get contacted for five years, you're out.

What's -- it's up to them if they get contacted and
documented as a gang member. Don't be hanging around gang
members, don't have tattoos and stuff like that.

So I think it's a simple process. It's on them
as much as us. If, you know, we don't contact them and
they're out at work and not being contacted by law
enforcement, then the five years is an easy ride for
them.

If they go to prison for five years, they get
[unintelligible] out. We don't like that, but, I think
-- and that's why I see Marty's idea that while they're
in prison it kind of gets tolled, especially if it's a
gang crime. I like the idea. It's a pretty stellar
point. Not just any crime but a gang crime.
MEMBER COOPER: So to follow up on what Jim said and Marty's suggestion. We thought about it for a long time, and it's possible if a guy gets convicted of a 186 crime, goes to prison for a gang-related crime, if we can put his time on hold; and then whenever he gets out, whatever he has left as far as his purge date as far as CalGang is concerned, then it would continue on from there.

There's a guy that I use as an example, and, when I give my classes, that I put into the system back in 1999, 2000, and then ended up putting -- it was involving a case with him where I sent him to prison for ten years. Well, he did ten years of, like, a twelve-year sentence. He gets out, all the stuff that we had on him back from 1999 and 2000 has all gone out of the system. He got out, he still hardcore gang member, still involved in doing this stuff, um, but all contacts we had before, the associates that he was with, uh, what he looked like at the time, is all out of the system.

So if it would be possible if we could, I don't know, push the pause button or whatever when somebody gets convicted of a gang -- gang-related offense. Then they get out and let's say they got, you know, another four, five years -- or they have another five years, once they get out of the system -- removed from the system or
purged from the system, if they have no contact like Jim said.

CHAIRPERSON NUNEZ: I think the idea that if someone is lives in a neighborhood that is a gang neighborhood as designated by law enforcement, that they're engaging in criminal activity I think is far reaching. It's not the case. It's not true. It's absolutely false. I'm concerned that we would have to have that kind of a conversation because, frankly, just listening to Mr. Phal Sok about his comments, in regards to living in a neighborhood, we know that happens.

I can tell you there's a lot of people that get caught up in this huge net that have never done anything remotely connected to advancing a gang. Uh, but by simply living there, and there is, of course, racial categorization, these are things that happen, this is why we're here. I think two years, the research says it, let's be, uh, I think, informed about our decision and parole and probation provide oversight. They provide community supervision for folks.

So they can be closely monitored already. There's already enough monitoring and surveillance and all these kind of things that are happening. Frankly, when somebody comes out of, uh, prison system, often times they have, uh -- they're, by sheer virtue of being
in that neighborhood or being related to other people in
the community, they can get, again, caught up in this
system and that's what we're trying to avoid.

We're trying to avoid this reciprocal effect of,
you know, when people come out. True justice, you make a
mistake, you pay for it, you move on with your life. If
you want justice, though, you got to continue to pay for
something over and over and over again. I feel as though
that would be truly unjust to continue to punish people,
uh, long after they served their time.

MEMBER SCAFIDDI: Can I make one additional
comment? Are we okay for time?

MS. RIVERA: Uh-huh.

MEMBER SCAFIDDI: Thank you. Um, three points I
would like to make. One, um, when I was flying up here
yesterday, flying Southwest Airlines, highly recommend
them.

[Laughter.]

MEMBER SCAFIDDI: They're pretty funny. Um, I
always think about this is an Advisory Committee. Okay?
So the attorney general has asked this group of people to
advise him, with the assistance of our Department of
Justice, to deal with the issue. I mean, where's CalGang
right now, folks? Where is it? Okay? There's a clear
indication what the AG, um, wants to see from this
Committee, and I believe that is safety for the community but also recognition that CalGang has some collateral consequences against people that it should not have a consequence against. Okay?

And I think that means we need to find consensus in a middle ground. I believe my comment of two years for 18 and under and three years and above for 19 or older, was that exact kind of middle ground that reasonable people should at least consider; um, and maybe, Marty, I shouldn't have just been a hard no on the tolling period. Um, maybe. I know you put a lot of work into thinking about that. So let me back off that hard no to like a soft no, if I can.

[Laughter.]

MEMBER SCAFIDDI: Just a little baby no, a mild no. So that's my first comment.

My second comment is directed to Ryan or Sergeant Mead from LASO. So let's say someone is on the gang list at 17 and two years goes by and that person has no more contact. Right? Under my proposal, um, they would be off the list. If they commit -- if they commit one of the crimes of a gang member and in a gang area with gang tattoos and stuff, is there anything that precludes them from going back on the list in CalGang?

So then what is the concern?
I understand CalGang is a very good tool for investigative practices, but you have to balance that. If someone hasn't done anything for two years, are really going to be focussing our investigation on that person anyway? What's the odds versus someone who's still actively involved in criminal-gang activity? So think about that. Think about -- balance that between the stories that Phal told us today and what we're hearing.

By the way, both community members that spoke, both of them, in offer to compromise, says -- basically they told you, "We agree there has to be a CalGang." In essence because they're saying, limit it to two years. That's a concession. There's some community members that don't believe there should be a CalGang at all. So I thank the two community people that came up and spoke today for that concession. That is what I'm talking about, a middle ground.

Third comment and final comment. I would defer everyone on this board to the passing SB50 a couple years ago, the change in status on the Penal Code Section 1203.4, the change on 4856.2, Certificates and Rehabilitation. Our state legislatures for the past five years, our governor, and up and down the judicial system, we are looking to sanitize and clean records up, so that people, after they have served their time, whether it be
in prison, jail, probation or parole, can take the stigma off them. But yet we're talking about five years in CalGang, we're talking about tolling their prison time, their parole time or probation time and adding five to that.

I have to tell you, I would like to be sitting in the AG's office when that comes true to see his thoughts about that, because that is -- goes against everything that we've seen in our state legislatures in the past five years about sanitizing cleaning up records. So I would urge this Committee. I would urge this Committee to not vote the toll and then add on; and, secondly, um, at the -- appropriate point, I will make a Motion for two years on the gang - CalGang for 18 and under, three years for 19 and over, um, and no tolling. So that would be my Motion when it comes to a point to make a motion.

MEMBER MONTES: Sorry to interject.

CHAIRPERSON NUNEZ: Marissa has something. Marissa?

MEMBER MONTES: Can you guys hear me?

CHAIRPERSON NUNEZ: Yes. Try to speak up a little bit.

MEMBER MONTES: I've been trying really hard to listen so I apologize if I'm going to ask some
of you guys to repeat yourself, just because I want to
make sure that I'm understanding everything clearly.

   Um, I, you know, I am one -- I am actually was
the one that put forward that I believe that it should be
two years, um, based on, you know, multiple research,
studies, and et cetera. Especially, that I made my
[unintelligible] do not stay primarily active in gangs
for more than two [unintelligible]. Um, that being
[unintelligible] I just wanted to make sure that I got
what you said, is that you're proposing that it should be
two years for 18 and under [unintelligible]. Was it
Michael?

   MEMBER SCAFIDDI: Yes, it was, Marissa. I
proposed two years 18 --

   MEMBER MONTES: Okay. Sorry.

   MEMBER SCAFIDDI: -- 18 and under, three years
19 and above.

   MEMBER MONTES: [Unintelligible] for 19 and
above. Okay. I think it was Detectives Cooper, I think
it was you, if I recognize your voice. Um, can you
please repeat [unintelligible] there was a justification
-- or your specification for five years for people who
are in prison, if I heard correctly, or do you remind
repeating yourself?

   MEMBER COOPER: Basically, if somebody is
convicted of a gang-related crime and they're already in
the CalGang system, that, whenever they get released,
that their information would still be in the CalGang
system. If they did a term of, you know, two, three,
four years, whatever --

MEMBER MONTES: Okay.

MEMBER COOPER: -- then they would still --
their information would still be in the system, or if it
was past five years, the purge date, the information
would still be there.

MEMBER MONTES: And, um, I have another question
for you, um, in regards to -- because isn't it when
you're first put into CalGang, that kind of sets when
your purge date will be, but, if you have multiple
contacts, it extends that purge date; correct?

MEMBER COOPER: Correct.

MEMBER MONTES: Okay. So if, you know, we have
a case of someone who was in prison and then subsequently
released but then came into contact multiple times, let's
say it was three years; right? That three years would be
set every single time?

MEMBER COOPER: That's -- well, right now, it's
five years, but that's the way it's set up.

MEMBER MONTES: Yeah. Hypothetically speaking
if it was three years, okay. So if it was someone like,
because I understand, Sammy, if I heard you correctly, um, and I apologize if I'm misquoting anybody, you also express concern [unintelligible] and jail and wanted to reform themselves, um, and, you know, having that five-year purge date follow them can be consequential; correct? Especially if they're going back to, like, they're same neighborhood.

CHAIRPERSON NUNEZ: Yes. They should come out with a clean slate after serving a prison sentence.

Can you hear me? Yes.

MEMBER MONTES: Yes. Now I can.

CHAIRPERSON NUNEZ: Essentially, yes.

MEMBER MONTES: Okay. Well, you know -- well, yeah. I just wanted to say then, I was trying to take [unintelligible] comments into consideration as best as I could hear. Um, I actually really like Michael's compromise, um, especially for minors. So reiterating the fact that by coming into contact with law enforcement multiple times that already extends people's purge dates, so I think if there is really someone who was recently, you know, released from prison or jail and was, you know, being involved in gang activity, obviously coming into contact with law enforcement, it could potentially even extend their purge date more than the three or five years depending on how often they come into contact.
So I, you know, I wanted to say I'm in agreement with Mike. It's a pretty good compromise, especially with how purge dates can be extended.

CHAIRPERSON NUNEZ: Is that a Motion?

[Laughter].

CHAIRPERSON NUNEZ: Go ahead, Jeremy.

MEMBER THORNTON: I have a question for, um, the law enforcement officers. The -- if -- if there was no tolling period, do you feel like that would increase the level of, um, I guess, cooperation between agencies such as parole, probation, and the local police officers?

MEMBER COOPER: If we -- if we were able to toll? To either extend it -- the reason that we've suggested in the past that we be able to retain somebody's information if they're convicted of a gang-related crime or, you know, whatever, is when this guy gets out -- when he gets released, we have no clue who the guy is. We know nothing about him. We don't know, you know, who he used to hang out with, who -- what group he was with.

And this is for the active gang members. Um, not the guy that got rehabilitated and whatever. This would be -- this is from the Intel side of it. We're looking to see who was this guy, you know, what did he do. He got released, we have nothing on him, we know
nothing about the guy.

MEMBER THORNTON: Are there -- are there obstacles, um, that prevent you from, like, parols, for instance, from notifying you, "So and so is being released tomorrow. We're driving him back to LA County. He's going back to," you know, "Silver Lake"?

MEMBER COOPER: There's a different -- Yeah. There are notifications of who's being released, like, probation, parole, stuff like that, but as far as any information besides that can name birthday and maybe CVC number, that's it.

MS. THIND: Wait. Is Jeremy asking if, like, when somebody goes to jail, is, like the officer notified? The one who entered the gang information into the database. Is that, like, kind of your question?

MEMBER THORNTON: No.

MS. THIND: Does your communication between the two, like, if somebody goes to prison after they've been classified or --

MEMBER THORNTON: Well, it seems to me one of the worries about -- I guess, not the -- one of the issues here is when someone goes to prison and they're in prison for longer than the retention period, when they get out, there's no record of them in CalGang. And so something that occurred -- or something that I wondered
is, one, the request is to include -- to toll when
they're on probation, too.

You know, I deal with individuals who are on
probation who pick up new crimes, and I know that
probation and police often work hand and hand. So I
don't know that the tolling period is really going to --
I don't know that it's so necessary that it needs to toll
when its on probation because they're on the same task
force, when they're doing sweeps -- as one example,
sweeps.

But it seems to me that this idea of tolling that
we wouldn't really need it if parole would share
information with local police officers when someone's
released; and I was wondering what barriers there were to
that, because I understand the issue with, uh,
especially, someone who there was plenty of
documentation for ahead of time, who had done really
violent acts, who police probably needs to know about,
goes to prison, and then comes out and they don't know
anything. But if parole could notify police, "Hey. This
guy is back, be on the look out." Seems to me that we
really wouldn't need a tolling period. So I wondered what
obstacles there were.

MEMBER SGT. MEAD: There's no -- Sergeant Larry
Mead from L.A. County Sheriff's Department.
There's no such, uh, system in place to notify us of the hardcore gang member; and I think what Ryan is trying to say with the five-year retention is, there is a lot of historical information in there that's probably going to come up again related to the individual or individuals and associates related to crime.

Um, my, uh, extensive background in gangs also include Prison Gangs, and I've tracked multiple people from the streets into the prisons, look at their records, seeing what's happening with the discipline, attacks, assaults, riots, et cetera. When they become shot callers and then they go back out to the street, and through investigations we learn that now they have an upper hand in a gang and commit more crime.

So when you go back into the historical records, you have something to look at, it points you in the right direction, who their associates are, and that's probably where most of fruits of the crime will end up, not with the hardcore gang member, but pass it on to the other people behind it. So that's the thing about the five-year retention is that we have something to fall back on.

Now, there are a lot of good people who come out of prison who have been rehabilitated and went on with their lives, but, um, based on my experience after
35 years of doing this, there are a lot of bad people that we have no idea that's back on the streets, doing the same thing, and they're no longer going back to their area. They're setting up the gang in a different area, and we really need that information.

MEMBER SCAFIDDI: If I may? Just a real quick comment. Um, I know Wes McBride's not here, but I'm sure if Wes was here, he would tell us that there are parole agents, probation officers, that routinely attend California Gang Investigator Association Meetings, um, Inland Empire Gang Investigator Association Meeting, there's probation officers that attend those meetings, there's parole agents that attend those meetings, so there is no barrier.

There is no doubt that at those meetings, specifically involving gang, gang associations, that there are all forms of law enforcement and peace officers present. Not just city police, deputy sheriffs, but probation, in fact, in San Bernardino County -- and I know our chief is here and we have our lieutenant from SBSO here -- in fact, San Bernardino Probation has specific probation officer's assigned to gangs. All right?

Parole, Region 4, which is Southern California up at the San Diego border, has agents assigned to gang
members. So maybe it isn't always being filtered, but there is no barriers between street deputies and law enforcement at LAPD or anywhere else from having contact or knowing when gang members get out of jail or prison because probation, parole is actively involved in those associations; and so that's my comment.

MEMBER VRANICAR: Just one comment from me. The bottom line is that CalGang remains an intelligence database. It's not a criminal record history information. When an individual who -- who may be active on the street, uh, is released from prison and all his prior documentation has been purged, then the issue is how do you go about investigating the new crime that has been committed by this individual when he's back out on the street? Especially, in those instances where, uh, the parole contact is said, "Hey, this guy -- this guy may be -- he's a member in the Prison Gang. He's now out on your street, you guys keep an eye on him."

Well, that's one way to do it, but how does local law enforcement then, basically, when they pull up this individual's record, there's -- there's no contact information, there's nothing with respect to his activity, uh, that he engaged in before -- before he went to prison.

So as an investigative tool, uh, CalGang, for
those individuals who have had their information purged while they were in prison on, and I think, specifically, I indicated in this, that he has to be convicted of a gang-related crime under 186.22 (a) or 186.22 (b); and so there's no question that, uh, this individual's status as a gang member has been determined by court, and he's been convicted of that crime, and he's -- and he's -- and he's doing his time. All we're saying is that when he gets out, the information, with respect to his prior activities, remain. If he's rehabilitated and we don't have any further contact with him, then God bless him. He's moved on and hopefully for the better. But the minute, uh, that individual engages in some sort of new criminal activity, then that information comes up and now we have a way of, uh, investigating that further.

MEMBER SCAFIDDI: Yeah. Just a brief comment in response to Marty's comments. When he talks about conviction on the 186 (a) and (b), first of all, most of those are done by way of plea; and just a news flash, people plead guilty to things every day in a courthouse that they didn't do because they get a deal. You get to go home. Okay? We're going to drop a more serious charge, but we want to gang charge, because they want them in the CalGang system.

So just to think that everyone's that's pled to
a 186 crime is a gang member, is -- is not a realistic view and it's certainly not -- if you go to the courthouse any courthouse in California on an everyday basis, people -- I cannot tell you how many times I have someone looking at ten, twenty years in prison, and they'll say, "We'll give him two years, but he's got to plead to the 186," and they plead to it because they want to do two years instead of risk twenty. So just because someone pled to a 186 crime doesn't make them a gang member.

MS. RIVERA: We have three minutes remaining.

MEMBER SCAFIDDI: I want to make a Motion.

CHAIRPERSON NUNEZ: Okay.

MEMBER SCAFIDDI: Marissa, can you hear me?

Marissa?

MEMBER MONTES: Yeah?

MEMBER SCAFIDDI: I'm going to be making a Motion. Let me know if you can hear it, okay? This is Mike Scafiddi.

MEMBER MONTES: Okay. Perfect.

MEMBER SCAFIDDI: I would like to move to add the language that, as we discussed earlier, two-year retention period in CalGang for someone 18 and under and three years for 19 and over, retention period.

Marissa, did you hear that?
MEMBER MONTES: Yes. You said it was two --
three years 19 and older. I'll second your Motion.

CHAIRPERSON NUNEZ: Let's take a vote y'all.

All those in favor say "aye."

[Hands raised.]

CHAIRPERSON NUNEZ: Opposed?

[Hands raised.]

CHAIRPERSON NUNEZ: Abstentions?

[Hands raised.]

CHAIRPERSON NUNEZ: Thank you. Where do we go from here?

MEMBER VRANICAR: I'll make a Motion to adopt
the language with respect to --

MS. RIVERA: Can you speak closer to the mic?

MEMBER VRANICAR: Okay. This is Marty. I'll
make a Motion to adopt the language that I indicated with
respect to, uh, toll.

MEMBER BURGUAN: And I'll second.

MEMBER SCAFIDDI: Further comment. As that is
written, as it is now proposed, it actually adds, in my
opinion, an additional term for anyone convicting or
pleading to any offense under 186.22 (a) or (b). Okay?
And, um, that will be something that will open up
litigation and clog up our court systems because it adds
an additional five years of information that normally
would not be there right now. So that proposal proposed for this period has never been brought up before on the record, but now, after thinking between three and five, we have that. So I would urge the Members to vote against that proposal.

MEMBER THORNTON: Why -- I understand the position about when someone goes to prison. Why is it necessary that it tolls when someone's on probation?

CHAIRPERSON NUNEZ: Marty, can you respond to that?

MEMBER VRANICAR: I think that, uh, we still have a number of, um, serious crimes that are taken place. The individuals who get PRCS and that system, I think, is still, um, somewhat in its infancy with respects to, uh, tracking those individuals, and I think it's important, especially, in parole -- probation periods, usually typically shorter than parole, and I think an individual who say had a two-year probation period or a two year -- or a three-year probation period and hadn't committed any other offenses, it's still important should he complete probation, that we have information with respect to what he had been engaged in in the past.

CHAIRPERSON NUNEZ: I thought post-release PRCS stands for Post-Release Community Supervision was working
really well actually. We have, you know, low --
consistently low violent crimes, even though we've, um,
diminished the prison population significantly.

Um, so can you repeat the Motion just so we can
very clear about what we're voting? Jeremy, did you have
another comment?

MEMBER THORNTON: Yeah. I guess I should have
explained. The question stems because in San Diego
County, at least, in San Diego County, probation is
pretty much three years across the board, unless it's
DUI, in which case it's five years. But for most cases
it's three years. And individuals do a term in county
jail and then go back home to where -- usually the
location where they got arrested. In addition to the
local police officers, who are on patrol, who know of the
individual, now they also have probation officers showing
up at the house to conduct searches.

So I do -- I don't think the same concerns
exist -- understanding what the concerns are, I don't
think the same concerns exist for probation and parole
because the individuals are on the streets, and, if
they're on the streets, then they can be contacted by law
enforcement officers if they're committing crimes. If
they're in prison, they can't be; right? Because they're
not next to the police and the police aren't patrolling.
So I think if -- I -- I guess to be -- for transparency, I don't intend on supporting a Motion that requires a five-year retention period and consistent tolling, but, if that is something that is going to be put forward, my, I guess, I would urge the Committee Members who support that, that probation be eliminated from that language and that it would just be parole.

MEMBER SGT. MEAD: Sergeant Mead here. There are big gaps when you say probation, parole. A parole officers caseload may include up to 80, 100, 200 people on how often does he visit. Number two, when Prop 47 was enacted, several Prison Gangs told their people to, "When you get out there in the streets, go and get yourself flash incarcerated so you can bring in narcotics and information to our jail systems."

So now we have Prison Gangs having people who are on parole and probation bringing in narcotics and contraband into the jail. So we have to be very careful when you say, "Hey, this guy is on parole and you should know" when there's hundreds of them and one guy is looking at them and the same thing with probation. So that's my comment on that.

MEMBER COOPER: I'd also like to say if the language -- I can barely read it up there, but if we keep it consistent for Marty's Motion for the crimes under
186.22 and the gang-related crimes, same definition we voted on earlier, that it's consistent. So if we're going to say gang -- 186.22 (a)(b) or other gang motivated gang-related crimes, if we use the same -- the same verbiage would be my comment on that.

CHAIRPERSON NUNEZ: We got about two or more so left on this. We're going to open public comment at 11:15. So any other final thoughts before we, uh, vote on this issue?

MEMBER SCAFIDDI: Well, I do. Based upon Sergeant Cooper's comments, are you modified -- are you going to do as modified vote as modified by Cooper's comments, or not? It would be up to the person that first and seconded it I guess; right?

CHAIRPERSON NUNEZ: Yeah.

MEMBER BURGUAN: Well, the Motion was specifically for that language -- the section supports that language.

MEMBER SCAFIDDI: Right. And then Ryan just made some language that could act as a modification. Is that what you're asking for, Ryan, to be modified?

MEMBER COOPER: Yeah. It be modified to not just be A or B from 186 Section, would also add gang related -- other gang-related convictions. The same language we went over earlier on Page 3, Package 1,
Section R.

MEMBER SCAFIDDI: So is that what we'd be voting on then as modified?

MEMBER COOPER: The human trafficking, the ones that don't specifically fall under here, the examples I've given in the past of, um, using, you know, gang members doing the various things.

CHAIRPERSON NUNEZ: So do we need to repeat the Motion, because we have a first and a second right now. Is that necessary or is that modification or amendment to the original Motion?

MEMBER MONTES: Can you -- sorry. Can you guys repeat the Motion --

CHAIRPERSON NUNEZ: Yes. Absolutely.

MEMBER MONTES: -- for me one more time because I'm getting lost with --

CHAIRPERSON NUNEZ: Absolutely.

MEMBER MONTES: So including with all the added language.

CHAIRPERSON NUNEZ: Yeah.

MEMBER MONTES: Yes. Go on.

CHAIRPERSON NUNEZ: Ryan?

MEMBER SCAFIDDI: Marty, that was your Motion.

CHAIRPERSON NUNEZ: Oh, I'm sorry. Marty. I apologize.
MEMBER VRANICAR: Motion is to --

MS. RIVERA: Marty, into the mic.

MEMBER VRANICAR: Excuse me. Uh, the Motion is to adopt a language -- let me find the page -- what page was that again? Oh, 777.5 --

MEMBER MONTES: I'm not hearing anything.

MEMBER VRANICAR: -- uh, Retention Period of Records:

An individual's record shall be retained in a shared gang database for up to five years. If the individual has been convicted of a gang-related crime under 186.22 (a) or 186.22 (b), Ryan's, uh, comment was that that section, the conviction section, would be, um, um, broaden to include, uh, the crimes listed, um, on Page -- Page 3, which, uh, offenses consistent with gang activity, and the listing is therein and, uh, if that person then was convicted of that list of crimes, then the retention period is tolled during the period of probation or parole. That's the Motion as modified.

CHAIRPERSON NUNEZ: Can I ask a -- we're out of time aren't we? Yeah. Because I just want to know, so the tolling is in addition to the original -- the words [unintelligible] this is on top of, this is added --

MEMBER VRANICAR: Yes.

CHAIRPERSON NUNEZ: -- to the. Wow. Okay.
MS. THIND: Okay. So just to be clear, the
Motion is for the following language. This is, um, not
how the code reads -- or the section reads right now, but
this is the proposal.

Marissa, can you hear me?

MEMBER MONTES: Yes, I can hear you.

MS. THIND: Okay. So here's the language:

An individual's record shall be retained in a
shared gang data base for up to five years, if the
individual has been convicted of a gang-related crime
under Penal Code Section --

MS. RIVERA: It's just of a gang-related crime.

MS. THIND: So just take out both Penal Code
Sections? I thought it would be --

MS. RIVERA: No. Ryan modified that.

MS. THIND: So just take out both Penal Code
Sections and just say, offenses consistent with gang
activity?

MEMBER VRANICAR: That's correct.

MS. THIND: Martin, is that -- okay. So the
language would read -- the new language would read:

If the individual has been convicted of a
gang-related crime or offenses consistent with gang
activity, then the retention period is tolled during the
period of probation or parole.
MS. RIVERA: Do we have a second?

MEMBER COOPER: Second.

CHAIRPERSON NUNEZ: All those in favor say, "aye."

[Ayes.]

CHAIRPERSON NUNEZ: Oppose?

[Hands raised.]

CHAIRPERSON NUNEZ: Marissa?

MEMBER MONTES: I oppose for the same reasons that I stated before that, you know, if a person is truly gang involved after they're released from prison, they will subsequently come into contact with law enforcement and placed on database, so I'm opposed.

CHAIRPERSON NUNEZ: Yeah. Uh, abstention?

MS. RIVERA: Did you capture the vote, Tommy?

MR. BIERFREUND: Yeah. I got them.

MS. RIVERA: Approve 39?

MR. BIERFREUND: Uh, approved.

CHAIRPERSON NUNEZ: All right. This is going to now open us up for public comments. Right. It's for the Second Package, uh, which is --

MS. RIVERA: So it will be for the Criteria, Definition of a Gang Member and an Associate, and the Definition of Reliable Source.

MR. BIERFREUND: Has everybody who wants to
speak during this public comment period signed up on the signup sheet?

CHAIRPERSON NUNEZ: Don't be shy.

MR. BIERFREUND: Just like last time the comments made during this, uh, period may address criteria for an individual to be designated as a gang member or gang associate; definition of a gang member or gang associate; and, uh, the definition of reliable source.

Based on the number of speakers who have signed up, each individual will have three minutes to provide their comments. All comments shall be directed to the Committee, and speaker shall not yield their time to another. Speaker shall refrain from making personal attacks while making their comments, and the audience is asked to be respectful of all the speakers. It is the Committee's practice to listen to the speakers and not engage in dialogue. After all the speakers have been heard, the Community Members may respond as appropriate.

Please comply with all these procedures or we'll have to ask you to leave the podium, and we thank everyone for their partition.

All right. So we have Phal Sok, again, from the Youth Justice Coalition.

MR. SOK: Clarification so we have member,
MS. RIVERA: Uh, reliable source.

MR. SOK: Reliable source? Okay. So three things. All right.

Um, this is a little bit hard for me to chew, um, particularly with the conversation that you all were having right now with retention periods and tolling and all that. Um, I work with young people today. I stop a lot of things that go on. We're taking alternatives to schools. We run in it our organization with the kids having been pushed out of schools and the public school system has said, "You are impossible," and we get them graduated and get them to college; and if stuff is tolled during prison parole, I'd still be on the database today, and I just got a pardon from the government office. So that's totally contradictory. So I'm going to leave it at that.

But in terms of people being members, associates, affiliates, there's all kinds of designations. What I'm really apt to say that people should not be designated a member unless they've been convicted of something that's related to a gang. Um, and I'm hesitant to say that because I know I've been through the criminal court process. I know people take plea deals. I know it. I've seen it time and time again.
Um, but I'm really concerned about that because I've seen it happen in immigration proceedings where people are just in the gang database itself and never gone, and I've saw that happen. So the consequences are very, very great and to have a gap in distinction between member, affiliate, and associate, leaves them with some room, if they can get an attorney to help them, because they're not going to have an attorney.

So if they're not listed as a member in the database and they can say, "Hey, I'm just an affiliate. I'm not a member." It gives them some room because they have to deal with the U.S. Government on their own. Right? When they're talking about trying to save their families, take care of their wives, and children, and stuff like that, that's some really crazy stuff. Some of our own members have been deported because of that; they're parents have been gone, and, man, they live on the streets, kids drop out of school, end up in a prison system, all kinds of stuff.

There are serious consequences when your labeling people members and affiliates and all that. Just for me, I was labeled a member when I went to prison. The streets said I was an affiliate. I come home, they're like, "Hey, who are you?" Everything is all confused, but look who I am today. I'm here speaking
at the mic; right? So people can change, people can
grow. Those labels do not define people forever. Like I
said, if you have probable cause to paint this building,
you don't look at one little peck in the corner and say
"Hey, man, this is an ugly painting." Right? That's not
how we should look at people.

So in terms of reliable sources, man, I'm going
to say that we should really, really look really hard. A
lot of information cannot be are trusted. All right?
Family ties is just one thing, you know, all those are
always [unintelligible]. People just living in
neighborhoods, again, identified by some informant, who
knows what getting a plea deal over here, plea deal over
there, walking scott free say, "Hey, that person did it,
he's the gang member."

We really got to think about those things,
though. That information because they may not even work
on it. It's really about accuracy. It's really about
accuracy. We're not here to say [unintelligible] gang
data base [unintelligible]. We say, "Hey, look. Make it
accurate." We just asking for law enforcement
accountability. That's it. That's all that I'm saying.
Screw the cop, that's not what I'm saying. I'm saying,
"Look, lets just be, you know, accountable to the badges
you guys carry." That's all we're asking.
CHAIRPERSON NUNEZ: Okay. Thank you. Anyone else?

MR. BIERFREUND: Thank you. Yeah. Next we have Sean Garcia-Leys, from Urban Peace.

MR. GARCIA-LEYS: So three minutes. This is a lot of time, so I'll try and just hit some big points. First, with regard to the Motion that just passed, I don't think it's considering the five-year path that is set in statute and the reference to the code federal regulations, and I don't believe that what was just passed, uh, would survive court review for that reason.

Second, I think there is direction that, uh, the retention period be based on empirical research. When the author and sponsors when we wrote this bill, that was an intentional use of language and that resolution not only ignores the empirical research, it flies in the face of it.

As for the upcoming discussion. Um, I was reading the news at 4:00 a.m. this morning and something caught my eye, which was a discussion of secret societies, fraternities, or gangs within the LA County Sheriff's Department. Um, I have a cousin who's a sheriff that has a Viking tattoo on his legs. Um, it pointed out in the article that there's been a federal judge who has declared the Vikings a Neo-Nazi criminal.
organization. My cousin swears up and down that that's just crazy, that it's more -- came to a fraternity than anything else. Frankly, I believe him. At least that's his experience with it.

So when thinking about these sorts of criteria, I think if you imagine would we -- if we were to apply this to the Vikings, how would we do it? Um, would all sheriffs symbols be gang symbols at that point? Would the sheriff station be a gang area at that point? Um, so when we think about these criteria playing out in the streets, if we ask ourselves how would this play out with trying to investigate the Vikings, would we put sheriffs that don't belong in the gang database? I think that's helpful.

Um, so on that point, I think a couple things. First, as we said again, we have a 186.30 Gang Registration System. In statute, it should be recognized as being related to this work here. I think anybody who qualifies as a gang member, it has to register with their local department under 186.30 is validly considered a gang member. I think anything that has not happened should have different title; right? This is semantics in some sense, but its semantics that matters in immigration court and in other context.

Last discussion, there was never a reason
explained why calling somebody an associate instead of a member makes the database less useful for investigatory purposes, so long as the same number of people are still in there under whatever criteria. So I think that needs to be addressed. It was not adequately addressed last meeting.

   Um, also as far as defining in the definition section, I think we create needless confusions. If we have a criteria and definition and they are separate, under court review what's the judge look to, the criteria or the definition because they won't be the same. So there's no need for definition that says anything other than, meets the criteria.

   Finally, as far as reliable source, um, this is just a way of washing, uh, things where there's no source documentation. This is better dealt with by a set of hearsay rules that refer to when other criteria are satisfied when, uh, third party is the person who has the evidence. Thanks.

   MR. BIERFREUND: Thank you. Next we have Rekha Arulanantuam.

   MS. ARULANANTUAM: Hi. Rekha Arulanantuam, for ACLU. So I wanted to make a couple points. First of all, the term "gang associate" should under no circumstances include people who aren't involved in
gangs. So the language contributes to or derives a benefit from language. Um, it captures people's whose privacy rights are outweighed that interest in adding their names to the database. For example, like, if a gang member steals something and gives it to his grandma for her birthday, is she now a gang associate?

Um, I also, um, want to reiterate the point that Sean made about not including definitions in the definition section that don't match the criteria. So having a definition that defers from the criteria causes ambiguity, in interpreting the language of the regulation, and, if law enforcement can't agree right now what the term gang associate means, for example, this will just cause confusion.

Um, I also wanted to talk about, um, reliable source. Um, so the preparatory language in the rights specifically state that: Records from CalGang are not intended to be relied upon to inform an opinion of gang membership or substitute actual expertise, regarding criminal street gangs.

So allowing one of the criteria to be, essentially, a source has opined that X is a gang member, completely substitutes the opinion of an informant for actual evidence-based opinion of gang membership made by an expert.
Thank you.

MR. BIERFREUND: Thank you. Next we have Jose Valle from De-Bug.

MR. VALLE: I just wanted, uh, to make a quick comment on what just went through earlier. Anything, uh, you know, for any, uh, crime that's been convicted, you know what I'm saying, and it's not in line with expungement law, it's not in line with CO Water Law, you know what I'm saying, is already cruel and unusual punishment. That's an unconstitutional to have any toll, bridge, or so on and so forth, any type of data based on someone that's already done with their case. Already done with probation and parole.

Uhm, I'm going to shorten this down because I actually have prepared two comments. I'm just going to read this one. Um, hold on one second. Let me prepare myself. Okay. A family member were supporting a Silicon Valley De-Bug, has been incarcerated in Santa Clara County, pretrial going on six years. This individual was an associate, due to the neighborhood he was raised in and his peers, although this person made all the right choices, joined school sports, went to a prestigious high school, attended college, worked full time, and lived independently.

He got his first hung jury not able to convict
him, and the same prosecutor wanted to put him on trial again. He is now on a second trial for the same charges, and he now lost six years of his life. There is no evidence. He wasn't a member of any gang. He did nothing to benefit any gang. He has no criminal history nor did he have any tattoos or insignias. Yet, he is on trial for the second time simply due to a reliable source, an informant that's been involved on the record for at least twenty murders and attempted murders, admitted to participation yet walks free, while others including himself, are facing drastic charges. Some already doing life. Simply for being a gang associate.

So the next story I'm going to read -- I think I have some time how much time I got?

MR. BIERFREUND: About a minute.

MR. VALLE: I got one minute. Okay. A family member of mine received a letter, shortly after being released in prison. After parking with his family to shop for groceries, covert Gang Task Force immediately identified him, called his name, pulled out automated rifles on him, in front of his wife and two children, searched him, including pulling down his pant in a public parking lot, simply for being on the database. Taking his family -- just for similarly taking his family to buy groceries. No charge followed up with
this search, but this incident alone speaks mountains on
the many indignities faced by adults entered into the
database. Even something as simple as going to get
groceries for your family.

    MR. BIERFREUND: All right. Thank you.

    Next we have Christine Clifford from De-Bug.

    MS. CLIFFORD: Hi. I'm Christine -- can you
hear me? I'm Christine Clifford. I'm with Silicone
Valley De-Bug and PACT, People Acting in Community
Together. I live in San Jose. I'm a retired special
education teacher. Almost six years ago, my 18-year-old
was taken into custody and he remains in our county jail
awaiting trial. He wasn't identified as a gang member
when he went in, but, over the course of many years, our
Jail Intel Staff Units have used points, such as who he
speaks with, who he spends time with, shares food with,
and gives books to, and who he's housed with, as evidence
that he is a gang member.

    He has no control over who he is housed with,
but all activity is looked upon as nefarious, and
interactions with others that the Gang Intel has decided
are gang members, makes him an associate in their eyes.
Over these many years I have come to know his cell mates.
I have come to know their families, and I have come to
spend time with them. I sometimes put funds on these
people's books. I sometimes send food and books to them. I provide support and resources for them. I visit, I live near them. By your definition, since I am providing support and benefit and help I am an associate.

This is far too broad of a definition, which can be misused and overused. It is too subjective. You may claim that far more would be needed to call me an associate, but I submit to you were I a young Hispanic male involving myself in providing these resources to someone in jail, the Gang Intel would feel it far easier to place me on the database.

I've had the unfortunate experience of being in a court and hearing a gang expert proclaim that every young Hispanic male on the east side of San Jose considers themselves a gang member by the time they're 15. So please be aware that these definitions lead to broad assumptions and subjective definitions and find themselves labeling entire populations. These definitions have consequences. Similarly, your current definition of a reliable source, seems to fold in just about anyone.

I encourage you to consider a multiplicity of reasons why someone might want to call someone else a gang member. A far more involved system of vetting people is really needed to claim someone's a reliable
source for consideration. Again, this definition is far
too subjective and broad and therefore easily misused, or
used for the wrong reasons. I am not an associate, but
this definition could be used to call me one. I do not
know if any of you are gang members, but under this
definition, I can be called a reliable source and name
you as one. I find this very disturbing. Thank you.

CHAIRPERSON NUNEZ: Thank you.

MR. BIERFREUND: Thank you. And that was the
last speaker Of Public Comment Period No. 2. I'll turn
it back over to Sammy.

CHAIRPERSON NUNEZ: Y'all let's go to lunch.

Let's break for lunch. A lot of things to ponder. Thank
you to the speakers of the audience. Um, all right.

Thank you.

MS. RIVERA: Please come back at 12:35.

[Thereupon the Committee recessed for lunch.]

MS. RIVERA: We are going to start with

Criteria, and we're going to turn it over to Sundeep.

MS. THIND: Okay. So, um, we're going to start
with [unintelligible]. Moving on to, um, Item No. 8, and
we're going to start talking about criteria now; and for
criteria, we decided that maybe we should do more of a
discussion approach. So there's a series of questions to
just kind of, like, see how we feel about things, so we
get as much advice and of your expertise as we possibly can.

So first question is, um, what is the purpose of having a primary and secondary criteria? I know that some of the criteria that was proposed last time was divided into primary and secondary, and without us, um, indicating exactly what the primary and secondary criteria are, let's just talk about, like, the purpose of that. What would it serve if we divided it into that, rather than what we have now, which if you all turn to Page 5, of Package 2 -- or sorry. My apologies, 11 -- 7. We're all wrong. We're all wrong.

[Laughter.]

MS. THIND: And I do have it projected on the screen up there too, but it's -- okay. So with that said, let's turn to the first question:

What would be the purpose of having a primary and secondary criteria if we were to divide them somehow? Talk about it? No? Should we move to the next one?

MEMBER VRANICAR: I'll make the comment. This is, uh, Marty Vranicar. I think that at our last meeting we had -- we had, uh, some discussion, uh, with respect to whether or not, uh, juvenile members, uh, should be treated differently; and I -- I think that, um, some of
that, plus, to address, uh, also the issue of how to
differentiate someone who would be considered an
associate, and I think that that was kind of the driving
force behind coming up with primary and then secondary
criteria.

Um, I think if you looked at secondary criteria,
those are criteria that are perhaps a little bit more,
un, not as straightforward as someone who, you know,
self-admits or is identified as a gang member or an
associate, and secondary criteria kind of served to
corroborate the initial stuff because, uh, many -- many
individuals who are -- who would be identified as gang
members, they were probably -- probably just -- just, uh,
meet the criteria on the primary, but there are other
criteria that in the secondary category; and I think -- I
think it was driven also by the fact that the way you
drafted, um, the criteria, especially with respect to the
use of tattoos, that kind of [unintelligible] thinking
behind, you know, kind of separate.

MS. THIND: Okay. Um, thank you for that. Um,
I guess we can go on to the second question, which would
still going back to the primary and secondary criteria.
If it were to be divided up, what would be the pros and
the cons of doing so, as opposed to keeping it the way it
is and just having eight or more unique criteria?
MEMBER CHIEF BURGUAN: Well, let me weigh in here just for a moment. So Cal Chiefs, through their Legislative Committee, took a look at this and made, um, some recommendations; and Jonathan Feldman from Cal Chiefs is in the audience as well and can maybe speak to a little bit more detail.

But what the Chief's group is talking about and what they are -- what they believe, um, might be worthy of consideration is self-admission in and of itself would result in designation and then break it up into a primary criteria and a secondary criteria, and what they have listed here are seven items into the primary criteria, of which if any two are met, would result in designation; and then it drops down to the secondary criteria, three have to be met to result in designation.

MS. THIND: Any other thoughts on this at the moment, or would you like to take a minute to think about it, or should we move to the next question?

MEMBER SCAFIDDI: May I comment about self-admission?

MS. THIND: Move on?

[Head nod.]

MS. THIND: Okay. Um, okay. So last time, um, I -- we received a comment with the language, um:

All criteria used to designate an individual as
a gang member or a gang associate, shall refer to the
same gang.

As a suggestion to put in -- not as a unique
criteria, but to limit any criteria that's input, limit
it to the same gang for one individual. So I wanted to
see if there were any instances when somebody has been
linked to different gangs, like, that one same
individual? This is more geared towards law enforcement.

MEMBER CHIEF BURGUAN: So is your question are
there examples of an individual person that has -- has
been linked in the system to more than one?

MS. THIND: Yes.

MEMBER CHIEF BURGUAN: So I'd have to refer to
the experts, in terms of what the actual the system
itself says, but I do know within our community, for
instance. Uh, you take San Bernardino, we have a very
unique, uh, set of circumstances because of our housing
dynamic in the city, where we have our local kind of
home-based gang, so to speak, that have been in the
community for many, many years and have a historical
setting in the city itself, but we have a fairly large
population of folks that have come from other areas, be
it Pasadena, Los Angeles, Long Beach, Compton, other
areas of Southern California that have migrated into the
[unintelligible] empire and have settled.
You know, whether they're living with the girlfriend or they're just finding a cheaper place to live in San Bernardino, where they may have membership -- original membership or affiliation with the -- with the group based out of LA, or Pasadena, or Compton, one of those communities, and then in many cases in San Bernardino will start to align themselves with one of the local groups there.

So we do have that dynamic. I don't know if Jim can talk about what that actually looks like in our system itself.

MEMBER CONSIDINE: Well, it's kind of built that way. There's different clicks that are considered different gangs, which is huge in San Bernardino, but, yes, it's not uncommon for somebody to belong to one gang in Long Beach and another one in San Bernardino or Las Vegas, or -- yes, they're transitory but they'll hang or gather with whoever makes them safe. We'll put it that way.

MEMBER SGT. MEAD: Sergeant Larry Mead. I'll also support that. Within LA County a lot of, um, youngsters have migrated up to various areas like Antelope Valley, and you'll find black and Hispanic gangs from LA that are tattooed with their original neighborhood, but then they'll have new tattoos for gangs
that have formed up in the Antelope Valley.

So what you're asking is not uncommon at all and then we can take that whole thing and send it nationwide.

MS. THIND: So would it be then limiting to insert language that was recommended last time as to say, that any information that is entered into the CalGang Database that designates an individual as a gang member or gang associate, shall refer to the same gang. Would that limit -- be limiting to you?

MS. RIVERA: Do you want -- is that in the package now? Do you want to give them a page reference?

MS. THIND: No. It's not. It's just a comment from a Committee Member. I believe it was from Marissa. Um, there was the text that she proposed last time -- actually, I can project it on here. I believe it's in one of her comments. Let me -- criteria -- okay.

Okay right here. Sorry. I am trying to find her comment. Okay. I apologize I don't have it here, but, um, it was something that she proposed as a stand alone to insert into that criteria, and I wasn't quite sure how to approach that situation, what to make of that recommendation, and that's why I wanted to pose it to you guys. Um, so that was --

MEMBER CHIEF BURGUAN: Can you clarify what it was again? I wasn't -- I -- I didn't --
MS. THIND: So the language she said was, um:

All criteria used to designate an individual as a gang member or a gang associate, shall refer to the same gang.

So one gang. So if that individual ended up going down -- later down the road and decided -- well, he -- in Northern California he was a Nortenos, and then he migrated to some area and somehow became a -- this would never happen -- a Surenos.

[Laughter.]

MS. THIND: This would never happen, I know. This is an extreme example, but -- but say that law enforcement documented him as, you know, a gang member or associate of Nortenos and say twenty years down the line -- or maybe even, like, a couple months down the road, they're documenting him to belong to another gang.

This is just an extreme example, but can one individual like that be documented by two different officers during two different stops as somebody who belongs to different gangs, or is it usually just the one? And if we enter languages limiting that scope, that it can only refer to the one gang, all the criteria could only refer to the one gang.

MEMBER CONSIDINE: I don't think we -- you're talking about in each documentation? See it's hard
without her here. If we're doing a gang card on somebody, it would be -- I've never done two gangs on the same gang card. I can't think of --

MEMBER COOPER: You would say if a guy's a member of a certain gang, he might say, "Hey, I also hang out with these guys" because the guys from his gang aren't around anymore, because he's moved or whatever. So he might say, "Yeah. I associate with this other gang, but I'm primarily from Gang A, but I hang out with Gang B." But also I wouldn't want to limit it because there's times when you stop guys that are from different gangs you stop them together, and so you're going to make those guys associates of each other and they're, what, secondary membership of that other gang. So guy from Gang A is now secondary is an associate of Gang B. So I wouldn't want to limit it.

MEMBER VRANICAR: I think, uh, Marissa's comment is probably handled by if you look at Paragraph D on, um, Page 8:

For the purpose of entering an individual into a shared, uh, gang database, a user shall not designate the individual as a gang member or gang associate of a Criminal Street Gang if that Criminal Street Gang does not exist within the database.

And I think that clarifies it. But to limit it
to say that, uh, an officer in a -- in a different county
or a different, um, jurisdiction makes contact with a
gang member, uh, who says now that, "I now belong to" or
"I admit membership in this local gang" that that
criteria -- and meets the criteria and that information
does not get entered into the database, then there's no
history on that individual.

So he could only be designated the first time
under whatever gang he initially -- he initially, uh,
admitted membership or got established in. Any other
contacts with law enforcement, arrests, or otherwise
if -- if he wasn't claiming that particular gang, could
not be entered into the database under her comment.

MEMBER THORNTON: So in a situation where
someone is, uh, in a neighborhood and is caught with --
or not caught with -- is contacted with, consensually,
with gang members and that's FI'd by law enforcement, and
the next week he's in a different neighborhood, where
there are different gang members and he's contacted, I
think if we're not going to include Marissa's limitation,
he could be then documented as a gang associate, even
though he was seen in two different neighborhoods with
two different gang members; and I think that's
problematic because then is he an associate of both
gangs, or is he just someone that is perhaps a good
influence on these individuals and is going from neighborhood to neighborhood, like many volunteers that are probably in this room.

And so I think that maybe why Marissa's limitation may be necessary to prevent those kinds of things.

CHAIRPERSON NUNEZ: Yeah. I think that, you know, a lot of folks relocate either because they get pushed out, they get displaced, gentrified, or for other purposes, not just to advance a gang. They move because they want to uproot themselves and move somewhere else and that has happened a lot.

There's a lot of folks that are moving into, uh, my community that just simply can't afford to live in the Bay Area anymore, for example. So because of the actual outrageous cost of living -- Oakland, for example, is the most expensive place to live. I think that it would be -- I think it would be overkill, again, to actually have them, you know, put into the gang database, you know, under a different affiliation, because they're already in the gang database.

I mean, where do we draw the line? The fact is are we going to add five more years to their actual sentence under the gang database for a total of ten years at that point. You know, they're already in the gang
database. There's already data on them. They're already in the system. It just seems to me like it's really repetitive and a gross waste of resources to actually have to go through the process of trying to re-enter somebody for a whole different gang, uh, membership. It just seems, again, that we're casting a wider net than we should.

MS. THIND: Okay. I think --

MEMBER COOPER: That wouldn't be done. The guy would be in there one time and that's it. He would just have information that he's now associating with this gang or that gang. They wouldn't sit there and send him another letter saying, Hey now we're saying you're -- if we ever come across it, there are times where a guy might be in a database twice, because one agency put him in, another agency contacted him, didn't do a deep enough search to look for the guy, or maybe the birthday was off by a little bit or the spelling of the name.

If we ever -- any time we come across somebody that's got two records, we merge those records together. So he's not going to have separate, I guess, separate entries. The only way that happens the way it's currently set up is, I contact a guy in LA, um, he goes in the database because he meets the minimum criteria, he gets contacted out in San Bernardino, he's not in the San
Bernardino section -- in their node. Um, they would do an entry on him.

So then, in that instance, yes, there would be two records for the guy, but that's just the way that our -- I guess the program is set up currently.

MEMBER SGT. MEAD: Hey, Sammy. An example of that, years ago, there was a Junta in the park, and they call us over and we went and we talked to all these guys; and one in particular I hadn't seen around, turns out that, um, when -- when I looked at his tattoos, they looked fresh, but then there was something under it that was from another gang from the same area, which he was originally from. So all we did was we just updated that he's associating with this new gang, and we kept his original.

MS. THIND: I found Marissa's original language. Sorry. It took me a while. That's what she said. It was only in reference to gang associate:

All criteria used to designate an individual as a gang associate under Subdivision B, must refer to the same gang.

And that B is invalid. That was her criteria and it was referring that. So I would just take that out and just say:

All criteria used to designate an individual as
a gang associate, must refer to the same gang.

MEMBER CONSIDINE: He's tide to a person, not a
gang anyway, so that would be a tough one.

MS. THIND: Yeah. So a member --

MEMBER COOPER: So it would be to a member.

MEMBER CONSIDINE: To a member, not to a gang,
that's how they're an associate.

MEMBER COOPER: Yeah.

MS. THIND: So would there be any value in
adding that language, refer to the same gang member?

MEMBER COOPER: No.

MS. THIND: Or, like, I mean, I don't know
how --

MEMBER COOPER: An associate has to be tide to a
person anyway. We can't just put Jim in there as an
associate, and we don't stop him with anybody. We got to
see him associating, meets the criteria, got to be
physically with somebody and -- that is already in the
system or eligible to be in the system, um, based off of
criteria. So it's not -- to say, "Oh, well, Jim's an
associate of..." you know, whatever gang, but he's got
to be with the person so.

MEMBER THORNTON: And do those members have to
be part of the same gang?

MEMBER CONSIDINE: Well -- we're talking one
MEMBER THORNTON: So an associate is tied to a member, and so if an associate is contacted with several gang members on several different occasions but those gang members are not part of the same gang, is that person put into the database as an associate?

MEMBER COOPER: Depending on whoever that person's tied to. So it might be just -- they might link them all together or it could be -- that doesn't happen very often that I've come across.

MEMBER SGT. MEAD: You know, what you just asked right there, so many examples. Armed robbery, three different suspects, two Bloods, one Crip. The two Bloods are from different gangs -- uh, Blood Sets, and the Crip is from, obviously, a Crip. So what we did was, uh, we typed in, um, associates, went da, da, da, because now they're doing armed robberies together.

MS. THIND: Okay. I guess then that was enough discussion. We can move on to the next question.

Um, there was another comment which was, an individual directs another documented gang member or gang associate to commit a criminal act in the furtherance of the interest of the gang. Would there be any value in adding that as, um, into our criteria?

MEMBER VRANICAR: What page is that on?
MS. THIND: That is just text. Let me see if I have it here.

MEMBER VRANICAR: Is that on 3?

MS. THIND: It's not currently in -- yeah. It's not in the package.

MS. RIVERA: Someone submitted a response --

MEMBER VRANICAR: Yeah. I see.

MS. RIVERA: Yeah so we were seeing if there would be value in adding it in criteria.

CHAIRPERSON NUNEZ: And that's up on the screen?

MS. THIND: It is not, but I'm finding it.

Right here. It's No. 3:

Individual directs another documented gang member or associate to commit a criminal act in the furtherance of the interest of the gang.

MEMBER VRANICAR: That is being proposed as an additional criteria?

MS. THIND: Correct.

MS. RIVERA: Correct.

MEMBER VRANICAR: I mean, we, you know, that is a circumstance that has -- has occurred. Uh, and which, um, there was evidence that the individual, uh, directed another person to or initiated another person in -- directed to commit a criminal act in furtherance of the interest of the gang. I mean, you know, that's one of
the criteria.

It's interesting because under 186.22 (b), an individual does not have to be a gang member to be convicted of that -- of that crime, if it is proven that he had the specific intent to further, um, the interest of the gang. So I think that if you have that situation where a gang member, um, has -- has been responsible for that kind of contact, um, directing another individual, uh, I think that that's -- that should be a valid criteria.

MS. THIND: Um, I would ask, what would an instance where this has happened look like, and is it possible to document something like this if we were to add it as a criteria?

MEMBER COOPER: It can be documented either most likely in an arrest report.

MS. THIND: But how would you know that that individual directed, you know, somebody else to commit a criminal act? Just -- I mean, I'm just saying --

MEMBER COOPER: Some guy's the shot caller for the gang, and let's say it's an associate and he wants to, you know, put some work in, and he goes -- he's told, "Hey go do a drive by." Go rob, you know, drug rip or dope rip or something like that, and this guy's -- this person's ordered to go do that crime. It could be
documented in an arrest report or a follow up investigative report.

MS. THIND: Okay. So are there any -- of course, I would Wordsmith this if we wanted to add this in as a criteria. Are there any suggestions to add it or objections to not adding it? Or revisions?

MEMBER CHIEF BURGUAN: Just to be clear, that's a stand alone criteria; correct?

MS. THIND: Yes. As a stand alone or if you guys see it -- want to add it to another criteria, that's also a possibility. And I'm just referring to the three part of it. The rest, I'm not. So just the bottom, Individual directs another documented gang member or associate.

MEMBER VRANICAR: I mean, as Ryan indicated, that that is going to require some measure of proof, but, obviously, that has occurred and, you know, an individual who -- who basically, would direct or influence, uh, you know, someone who is, uh, an associate or someone who is currently affiliated with the gang to commit a -- to commit a gang crime so that he can be -- he can be initiated or included in that, I -- I think that should be a criteria that, you know, if we establish it, it should be a criteria to enter someone in as a gang member.
Yeah, supporting document. I mean, all of this is, you know, has to be -- has to be supported. But as Ryan indicated, if it was there in the investigative report that we could establish that, then it seems to me --

MEMBER SGT. MEAD: Things like these occur very often. Another incident -- I'd like to give you guys examples of actual things that have occurred.

MS. THIND: I like that because that helps me a lot.

MEMBER SGT. MEAD: Surveillance in the Pasadena area monitoring -- monitoring for hours and then the vehicle goes mobile with four people in it. The third person we've never seen before. Stopped the car, there is a gun in there, and it turns out that the third person is a 15-year-old boy, who's an A student at the local high school. I talked to the kid for three hours. Well, they got him drunk on liquor. The lead guy in there they were going to do a drive by for the initiation in a rival gang, a Blood Gang.

Um, through the courts and his parents and everything else, we didn't document him as a gang member or associate, because that young man was an A student, played music, these clowns snatched him up. Now, under this section right here, we should be able to document
that and show that based on his testimony, et cetera.

But these are examples of things that are actually happening out there in the streets.

MS. THIND: So it sounds like you're opposing, then, maybe because in that one example that you provided, this kid was -- could have been --

MEMBER SGT. MEAD: No. That was the choice on my part.

MS. THIND: Okay.

MEMBER SGT. MEAD: That was a choice on my part.

This young man was an A student, never been contacted, had no record, no nothing anywhere; and we patrol that area a lot, so we know if he's walking around in the streets and had prior contacts. Nothing. This was going to be one of those initiation that would have destroyed him.

MS. THIND: Okay. Thank you.

MEMBER THORNTON: Actually, I -- I think this is a very solid way to document, and I like that it requires the proof, and I think this is kind of is juxtapose to some of the other things that it highlights the weaknesses in some of the other ways people are documented. Because if you have someone telling gang members to go do something for the purpose of the gang, that seems to me very good proof that that person is also
active or wanting to play an active roll in that gang.

Whereas, we look at hanging out in the same neighborhood. Like, this is why I think that these types of activities should not carry the same weight when it comes to labeling someone, a criminal gang member, associate or criminal gang member. Um, so I think it makes sense to include this as a criteria.

MS. THIND: Okay.

CHAIRPERSON NUNEZ: Um, I guess. I'm sorry. I must be confused here. I guess I'm listening to the comments that are made before you took off for lunch, and one of the comments was regarding a personal relationship with an individual, very much who fits the, uh, description you just laid out, regarding a gentleman who was in school, lives in the neighborhood, said he was a member of a gang and essentially been doing, what, six years, I think was the comment, um, and that was somebody else saying -- and I think what happens also a lot when somebody is looking at time, often times they're -- they're going to, you know, um, deflect or, you know, say that somebody else is, um, you know, perhaps making them do it.

I don't know. I don't know the situations in the courtroom how they play out. I don't have those specific stories, but I do remember the story that was
said from the audience earlier, and it seemed very similar to this issue right here where somebody was, um, was, um, is doing time, disrupted their life, and there's no tangible evidence besides somebody saying that this individual, uh, was involved in the crime. Now, I don't know the circumstances, the details of it, um, but I just wanted to remind us that the other kind of -- there's two sides of that coin.

MS. THIND: So the way I'm reading this, it seems like an individual would already -- would be directing somebody who has already been documented in the system to commit a criminal act in furtherance of the interest of the gang.

CHAIRPERSON NUNEZ: No. It means that they would be included in the gang -- the way I'm reading this is criteria for them to be included in the gang database, um, by virtue of this person saying that that person is -- told them to do what they say.

MEMBER THORNTON: No. I'm understanding that an individual who is not currently documented in the gang database, is shown to have told gang members, already documented gang members, to do something for the benefit of the their gang.

CHAIRPERSON NUNEZ: Right. So they would be include in the gang database for that.
MEMBER THORNTON: Those individuals who are
directing known gang members to --

CHAIRPERSON NUNEZ: But Sundeep's question, I
think, if I understood it correctly, was these are
individuals that are in the gang database or are you
saying that folks that are not in the gang database?

MS. THIND: So a person who is not in the
database is directing people who are in the database to
commit some sort of an act that's in the interest of the
gang.

CHAIRPERSON NUNEZ: That results in them being
included until the gang database and/or --

MS. THIND: Just included in the database. Just
included. Yeah.

MS. RIVERA: They could be included, if it was
found out that they were directing documented gang
members.

MS. THIND: This would just be one criteria. If
they met, like, another one, like, a self-admit then,
yeah.

MEMBER THORNTON: I'm assuming that the level --
it seems to me that this is going to require a level of
reliability where that information is coming from, and I
think that's what Sammy is bringing up. Not just
deflecting blame. "Oh, well, so and so told me to do
this because of this reason."

Um, but, I mean -- and I'm assuming because this is a law enforcement tool, they're going to want it to be reliable so they are going to do the leg work on the investigation when it comes to that. I know as a defense lawyer, I would certainly want this information because if my guy's caught doing something but there is an investigation that details that he was coerced into doing it because he was scared, because he was threatened by someone who was very dangerous, I would like this investigation done and like it done well and it seems to be a motivation on both ends to do it.

CHAIRPERSON NUNEZ: Right. Right.

MS. THIND: Should we take a vote on this?

CHAIRPERSON NUNEZ: Let's take a vote.

MS. RIVERA: We need Motions first.

CHAIRPERSON NUNEZ: We do. Of course. We do, yes. Do we have a Motion?

MEMBER COOPER: I'll make a Motion.

CHAIRPERSON NUNEZ: Cooper? Do I hear a second?

MEMBER HUERTA: Second.

CHAIRPERSON NUNEZ: Thank you. Mr. Huerta seconds it. All those in favor say, "aye."

[Ayes.]

CHAIRPERSON NUNEZ: All those oppose say, "aye."
[Silence.]

CHAIRPERSON NUNEZ: Abstain.

MS. RIVERA: Tommy, you got that Sammy abstained?

CHAIRPERSON NUNEZ: What is next?

MS. THIND: Okay. So next we are going to go with our criteria. So what we currently have in our package on page -- Package 2, Pages 7 and 8. We have this following criteria and, um, before we get to the criteria, I do have some statistics.

So what I would like to do here is just kind of go through our existing criteria, like, point by point just to, you know, kind of talk about it. See what our thoughts are on it so we get, like, a comprehensive discussion and -- um, but prior to doing that, um, DOJ team we obtain some statistics in between when the moratorium was lifted by the AG until the present, so as of yesterday, trying to determine exactly how much of the criteria -- like, what percentage of, um, like, what the percent values for the each criteria and how many times it was like entered.

So 30 percent of the criteria is used -- the first criteria is used upon stops. Subject has admitted to, claimed, or expressed being a gang member or gang associate.
Um, and since April, 5 percent of the criteria that was documented pertained to Subdivision 2. Subject has been arrested with offenses consistent with gang activity.

Um, for Subdivision 3, subject has been identified as a gang member by a reliable source. That was cited 2 percent of the time.

And 4, subject has been arrested with or seen associated with documented gang members. That has been used as a criteria 14 percent of the time.

Subject has been seen displaying recognized gang symbols and/or hand signs. That has been documented has a criteria on 2 percent of the time.

For Subdivision 6, subject has been seen at one or more gang locations. This has been utilized 15 percent of the time.

For Subdivision 7, subject has been seen wearing a gang style of dress or accessories. This has been documented 5 percent of the time as a criterion.

And then for the last one, subject has gang tattoos, marks, scars, or branding indicating gang membership. That has been documented as a criterion, 27 percent of the time. This is once again just between the time the moratorium was lifted to present.

Um, so based on that information there, let's go
through each subdivision. Um, I know that A we already talked about and voted on at the last meeting, subject has admitted to, claimed, or expressed being a gang member or gang associate, and we added the gang associate language in. That we voted on already, so I don't think that we need to further discuss that.

So I would move on to Subdivision A 2. Subject has been arrested for offences consistent with gang activity, and I would like to just hear what your thoughts are. If you have any objections, suggestions.

MEMBER VRANICAR: I'll kick this off. What the statistics don't, in my mind, reflect, is -- is that it takes two of the criteria to enter someone in. Okay. So just because, uh, you had, uh, the first one, at 30 percent, okay, then he must have had some other criteria to qualify him.

So I -- I think the proper way to look at those statistics is to -- is to try to determine, um, uh, what was -- was he, uh, documented as a result of 30 percent of the time as admitting gang membership and then the tattoos was -- was the next the next thing that put him over the top, as opposed to just looking at these things in a vacuum and saying, "Oh, he's been identified as a gang member or reliable source 2 percent of the time."

Well, that's just one criteria in a vacuum, and I have
some, uh, a little bit of heartburn just looking at these individual criteria, just based on a review of the percentage of the time that it was used, because that gives the impression, then, that, you know, the reliable source, uh, uh, that gang style of dress, and offenses consistent with gang activity are not criteria that are therefore utilized and perhaps should not be included.

MEMBER THORNTON: The, uh, I think that we need to eliminate, uh, this criteria, uh 5 percent, 1 percent, half a percent. It's all too much. Officers have to show up, it's a chaotic scene, they have to make a split second decision. They don't have time to get all the facts. They may arrest the wrong person, and then we have a process for that. Right? We have a district attorney who reviews to see if charges are done. Then we have a judge who reviews the evidence at a preliminary hearing to see if there's probable cause to continue to hold them.

And so documenting someone as a gang associate, gang affiliate, gang member, based on an arrest alone I don't think is a good criterion. It's -- having had the chance to now review body wear camera evidence, I can appreciate the chaos that parole officers walk into when they show up at a scene. And, um, the idea that someone can be documented gang member based on an arrest, I think
should not be something, uh, we acknowledge and list as a valid criteria.

    I also want to extend this to, um, there are situations where there are stings done and, uh, a prostitute, or a woman prostituting herself, will be arrested. Um, she will be arrested for something that is now going to be an offense associated with gang activity, which I think we can all agree, gangs have involved themselves in human trafficking. Okay. So now that prostitute has that valid criteria. Um, she also is seen with regularly maybe her human trafficker, who is a documented gang member.

    So if this criteria is used because she's prostituting and being victimized, she now can be included in CalGang as an associate or member of a gang, when, in fact, she's a victim. And when we drop the level down for inclusion based on arrest alone, we open the door to over-inclusion and including members that can considered - and not can be considered, I would go out on a limb and say are victims, and including them in databases that are meant to track criminal activity is, um, I think we should strive not to do.

    MEMBER SCAFIDDI: Just to echo on Jeremy's comments, we have to realize, too, that the proof needed to arrest someone is the lowest standard in the law,
reasonable suspicion. You simply just have to take a look at each individual county's DA rejection rates to show how many cases are not filed. And so why put someone use a criteria at the lowest possible level in the law? In fact, every law enforcement officer up here in their career undoubtedly has blue sheeted someone or released them under 836 or 849 (b)(1), (b)(2), or (b)(3) for investigation only. So -- I just think the criteria [unintelligible] for that to have any valid significance to put someone in a database.

MEMBER CONSIDINE: But I think we're going down the rabbit hole. Being in CalGang is just a pointer system. We can't arrest off of CalGang. It's not illegal to be a gang member.

MEMBER SCAFIDDI: I know that.

MEMBER CONSIDINE: I know. But you guys are saying the lowest form. We're saying, if you admit you're a gang member and you do a drive by, we're going to put you in CalGang. If you do a drive by and don't admit it, we're not putting you in CalGang.

That's one criteria. We need two or more as Marty said. We're not taking this and saying each one of these is going to be. We need two or more. Three is awesome; four is even better. We do it all the time, but a minimum of two. And I think that kind of goes toward a
good guideline of, yeah, if a prostitute, she's going to
be an associate of a gang member. So what? If she's a
prostitute, that's not against the law; right? It's just
giving us a place to go look, maybe who her pimp is, let
us work the gang enforcement, the other side of it.

So you're making CalGang's illegal. It's just a
pointer system. It's just a database for us to use as an
investigative tool.

MEMBER THORNTON: I disagree. I understand what
you're saying. There may be no legal significance to it,
especially if officers are abiding by the rules and
they're not disseminating information. I want to assume
all that's true, but I think there is a, um, real -- we
are discounting the alienation that happens, and when you
hand someone a letter that says you are being placed into
a system where that person knows criminals are; right?

Criminal Street Gangs exist, and there are real
Criminal Street Gang Members that do really bad things,
and people on the streets know who those people are;
right? So when you start placing someone who doesn't do
that kind of content, in the same place and in the same
category as those peoples, even though there may be no
legal significance to it, that has a real alienating
effect; and that has a real division where it does seem
like to that person in a community as an us versus them.
And then it has -- it carries over into how that person views law enforcement, and then it carries over into how law enforcement is treated by that individual. And so there is -- I think we have to appreciate that, although it may not have these legal consequences, there are, um, manifestations of this in that person's life and how that person makes decisions for the rest of their life. And we need to be cognisant of that.

And so I disagree. I understand it's a pointer system. I believe you. I believe every law enforcement officer in this room when they say how helpful it is, but to say that it has no affect on that person's life, I absolutely disagree; and I'll tell you because I talk to individuals, some of them real gang members, some of them who aren't; right? But I hear the attitudes that they have toward law enforcement, and it breaks my heart because some of them, I mean, I don't have those attitude; right? Even though I'm in the criminal justice system, I am treated nicely by police officers, even ones in cross-examining; right?

And it breaks my heart when people tell me how they think of police, how they view police, and, if we can avoid it with something like this, I think we should.

MEMBER SCAFIDDI: Just to follow up on that. Thank you, Jeremy. Jim, I totally understood what you
said. My comment was more -- not related to just having
that as a criteria with such a low standard for arresting
someone on the street and not considering rejection of
cases is concerning; and Jeremy made a really good point,
though. At the last meeting, um, where we talked about
that 14-year-old kid, hanging out at the schoolyard in
front of other kids, and he self-admits because he wants
to look tough or whatever it is, and then you have the
low level to arrest someone.

I just wanted to point out that comment. But
mostly what I was talking about is this -- and I think a
lot of people in here that have spoken over the past
several months on these public sessions, they really talk
about in essence this. So you're driving a car, or your
a passenger in a vehicle, and you get stopped. Whether
you rolled the stop sign, or something really minor, and
the officer comes up doing their job or his job or her
job and says, "Hey. Let me see your license,
registration, proof of insurance." And you get it, and
they do a routine 29 check for warrants, or whatever, and
comes back clean, but it also comes back that the person
is in the CalGang data base; right? And now -- you can't
run them on the street?

MEMBER CONSIDINE: No. That's what we've talked
to you guys last time. Right to know, need to know.
There's no reason to be running those people.

MEMBER SCAFIDDI: So you can't run them on the street? They never get run on the street? Never comes up?

MEMBER CONSIDINE: No.

MEMBER SCAFIDDI: So in San Bernardino County, chief and --

MEMBER CONSIDINE: You're just assuming. We're telling you it doesn't happen.

MEMBER SCAFIDDI: Okay. You have, like, a Sids or Safari, where information comes up, prior contacts, whether they're victims, RPs, and things like that?

MEMBER CONSIDINE: That's part of -- if we need to we could look into that.

MEMBER CHIEF BURGUAN: We have an internal RMS system.

MEMBER CONSIDINE: Yeah.

MEMBER SCAFIDDI: Okay.

MEMBER CHIEF BURGUAN: That's different from the CalGang Database.

MEMBER SCAFIDDI: Okay. Does it talk about in the RMS system that gang contacts?

MEMBER CONSIDINE: No. No. That's a cross that we wouldn't dump into RMS. That's public information.

MEMBER COOPER: To clarify, if you are out in
the field and you're using you're MDC or your MDT, or whatever [unintelligible] they call it this week. When -- and you were on the stop, you could log into the CalGang system independently.

MEMBER SCAFIDDI: Right.

MEMBER COOPER: But when I just run a guy, here's his name, his birthday, physical description, they run him for warrants, whatever, nothing comes back as far as gang membership or --

MEMBER SCAFIDDI: Oh, okay. So that's what I was talking about.

MEMBER CONSIDINE: But we don't have that.

MEMBER COOPER: You have to log in separately and you would have to have the right to know and need to know.

MEMBER VRANICAR: Reasonable suspicion.

MEMBER COOPER: Reasonable suspicion these guys are involved in something.

MEMBER SCAFIDDI: So technically they could have access to that subject to audit? Okay. Because what I hear from clients on occasion is this, that contact -- the potential contact is going okay, and, all the sudden they say, "You're from a gang. You're a gang guy." And now there's a prolonged detention, you know, and they're being searched and described earlier, "Let me see your
tattoos. Pull up your shirt." Things like that, and I think that's what leads to the mistrust.

People that are thinking, all right, so they independently pull something up from two years ago, and, now all of the sudden, what was a consensual contact or a real low key contact, becomes more accusatory and things of that nature.

MEMBER COOPER: That's something they can take up with that agency. If they think they're civil rights have been violated, then they can take it up with a personnel complaint or --

MEMBER SCAFIDDI: It's always benign in the daytime, but it's not benign at 10:00 o'clock at night or 1:00 o'clock in the morning.

MEMBER CONSIDINE: Well, yeah. We don't need CalGang to tell us if we're dealing with a gang member. We're pretty good at it. We can usually just tell by their tone of voice, who they are, how they talk.

MEMBER SCAFIDDI: That's how you can tell if it's a gang member? Tone of voice? How they talk?

MEMBER CONSIDINE: It's all in [unintelligible] yeah. We're pretty good at what we do.

MEMBER SCAFIDDI: Okay.

CHAIRPERSON NUNEZ: That's -- that's -- that's --
MEMBER SCAFIDDI: That's not in the criteria, though; right? We're not using that as a criteria?
MEMBER CONSIDINE: That's the next criteria we're going to ask for is tone of voice.
MEMBER SCAFIDDI: Tone of voice is hard pass also for me.

CHAIRPERSON NUNEZ: Let me change my tone of voice real quick when I speak, because I don't want to be considered a gang member, again.

MEMBER CONSIDINE: Hey, Sammy, remember you're the leader here. You're supposed be the grown up.

CHAIRPERSON NUNEZ: Yeah. I know, but I'm still participating voting member of this group. I just find it, again, this is scary to me, when we start saying things about that, like, voice. You're going to start assessing people's accents, and when does this stop?

I mean, I'm sorry I'm just wondering because it's a pointer system. If you're on probation, you live in the neighborhood, you're subjugated to living in a poor neighborhood, and -- and -- and you've actually -- and you're black or you're brown. I mean, the reality is you're going to be -- I would love to see the data, the numbers on this. I would love to see what are the demographics. What are the ages?

I'd like to see more of this data unpacked. I
-- I -- I, frankly, feel like it's important to be informed by the data itself. We're here because there were some serious issues with the gang database. I know we're not here because we like hanging out on a Friday afternoon. There was something that happened here.

There was --

MEMBER CONSIDINE: Less than one percent.

CHAIRPERSON NUNEZ: Let me finish real quick --

MEMBER CONSIDINE: Less than one percent.

CHAIRPERSON NUNEZ: Please. Let me finish real quick. There was a serious egregious, uh, impact that this has on people. I've been in the gang database. I know what happens. I know what happens, and I could tell you right now by being -- and that pointer system points you to whose door you're going to kick in. That's what it points it to. Whether or not you're involved in gang activity anymore, criminal activity, um, I feel as though -- I feel as though, I guess, this is just kind of scary to me that we're, again, because I don't think people have a choice sometimes in where they live. They don't have a choice of, you know, what kind of family they were born into.

Uh, I actually had to -- I actually had to move, not because I was out there advancing the gang. Come on. I'm a grown-ass man. It was because I needed to get away
from the police raiding my house to be honest with you. I mean, that's just the truth. I got tired of people coming in my house, and my children being subject to that for my mistake, and I own it. I got shot, and I shot people, I shot back at somebody who shot me, and it's on the record. I'm sure it's out there.

The reality is, though, if I wouldn't have moved, I don't think I would have survived. I would still be in and out of incarceration. Um, I'm just -- yeah. So anyway. I think that -- I think that it's really -- go ahead.

MS. RIVERA: So I would like to ask you, Sammy, if you could look at the criteria that we have presented, and, if you could say the ones that you would get rid of.

MEMBER SCAFIDDI: But before you guys act, just one last comment because of the public audience, 30 seconds, please.

MS. RIVERA: Okay. We only have 40 minutes to discuss the criteria so, please.

MEMBER SCAFIDDI: It will be quick. And we've all spoken in public here over the last few months and occasionally people misstate things what they mean.

CHAIRPERSON NUNEZ: Well, we're giving our own experiences too. I think it's important to be allowed to bring our experiences in.
MEMBER SCAFIDDI: No. I agree. I agree. But what I'm saying is this, that last exchange, where we talked about we do our job right, we can tell from a voice. That is one of the reasons we're here, because every person out there, almost every person in that audience when that happened, there was a visible reaction. I was looking at them. That's the mistrust that we're talking about.

Those are the comments, and I don't think Lieutenant said that in any mean-spirited way any way, shape, or form, because I know him to be a good man, okay? But that's why these people are up here. That's why they came from all over the state to be here today, and that is exactly why we need to make sure that our recommendations are right. Because it's an intelligence protecting the citizens from gang members, but it's also about the citizens themselves, um, and making sure we have, um, benign clear criteria, so people don't think that they're being jammed up as gang members because they talked a certain way or they looked a certain way, and that's exactly why this Committee is here. That's all I wanted to say.

MS. RIVERA: So --

MS. THIND: Thank you, Michael. So I guess, let's turn back to the question at hand. Let's take a
look at these criteria on Page 8, of Package 2. Go through them. So criteria is 2 through 8 and talk about them and see what we want to include and what we want to get rid of.

So we were on Number 2, subject has been arrested for offenses consistent with gang activity. Offenses consistent with gang activity is the definition that we defined back on Page 3 earlier this morning. So any of those offenses.

MEMBER THORNTON: On Number 2.

UNIDENTIFIED SPEAKER: Excuse me, can you display the criteria of Package 2?

MS. THIND: Of course.

UNIDENTIFIED SPEAKER: Appreciate it. Thank you.

MS. THIND: So actually, in the interest of time, we'll just, um, see which ones, um, you object to, which ones you concur with.

MS. RIVERA: So, Larry, do you want to start first, and we'll just go around and say, yes, to and then say the numbers that you like and no to the ones you don't like; and we'll do that, just a round table, and then we'll open it up for discussion. Just so we can get it on the record, because we are bringing back all this information to the attorney general, so he can make an
informed decision.

    MS. THIND: And also as a reminder, there is a
Subdivision A. All of these criteria are not stand alone.
Two of these criteria have to be met before the
individual is actually input into the system, and the
criteria has to be found only after its coupled with the
officer's reasonable suspicion, training, and expertise
through an investigation.

        So all of that ties this criteria together. So
there is a little Subdivision A above it, just pointing
your attention to that. So this is the entire section
here.

        MEMBER SGT. MEAD: Okay. Um, you know, I looked
at all of these and as far as I'm concerned all of them
are good. Now, 8E. Subsection E. I have a problem with.

        MS. THIND: Okay. Unfortunately, we're not
talking about E yet, but I'll make note of that. Just A,
subdivision A.

        MEMBER SGT. MEAD: I'm good.

        MS. RIVERA: Chief Burgundy?

        MEMBER CHIEF BURGUAN: On those eight, I'm good.

        MS. RIVERA: Marty?

        MEMBER VRANICAR: On those eight, I've got a
couple of, uh, comments, couple of changes. Um, I think
we also have to include individuals who were initiated
into the gang or initiated another person into the gang, um, or is identified as a gang member by physical evidence or authored communications taking credit for gang crimes. But other than that, I'm -- I'm okay with the rest.

MS. RIVERA: Go ahead, Jeremy.

MEMBER THORNTON: So when it comes to the criteria as their listed, um, No. 2 I would not accept. Convicted for offenses consistent with gang activity with supporting documentation, I think, is okay, but as written, no.

Um, reliable source, I think it depends on what we're going to consider reliable source. So I would have to say no to No. 3.

No. 4, no. I think it's too broad; No. 5, I think that's an acceptable way for law enforcement to know; No. 6 if a gang location is, uh, the Hells Angels Motorcycle Clubhouse then I think, yes, but, if it's the local park, then I think there's a problem with that; and too often parks are considered gang locations because they're in poor urban neighborhoods where gang members do frequent and victimize people, and so I would have to say no just because of the definition of gang locations.

No. 7 I think is too broad. I think there's some First Amendment problems there; and No. 8 I do -- I
will say, yes, because I do understand how law
enforcement considers the tattoos and I -- I actually
thought that was a very sensible way to look at tattoos
when they were entering people into the system, so I
agree with eight.

MS. RIVERA: Ryan?

MEMBER COOPER: I'm good.

MEMBER SCAFIDDI: If I can, yeah. No. 1 I would
add as long as there was an addition of trustworthiness,
um, to the admission, and that's going back to Jeremy's
comments a couple sessions ago -- or a session ago. Um,
two, I disagree with. It's too low of a standard to put
someone in there; three, um, if there's -- a reliable
source, if there's an addition of trustworthiness, I'd
add that; four, is absolutely too broad; five, is okay;
six, I think it's, um, vague and -- actually, I think
it's constitutionally vague; seven, I think it's also
vague, and I would also argue, depending on how it's
documented throughout the state, you could have an equal
protection argument through the 14th Amendment of the
Constitution. I'm okay with eight.

MEMBER HUERTA: Okay. I'm -- based on the fact
that there's a -- it requires more than one, I'm okay
with all eight.

MEMBER CONSIDINE: Good with all eight.
CHAIRPERSON NUNEZ: Yeah. I have a problem with a lot of them, but I think that, uh, the ones that I'm more uncomfortable with are No. 4, associating, and No. 6, location, and No. 7, style of dress or accessories.

I think that, um, again, it's very subjective. The world of implicit bias I think we know that, um, at times we make some, uh, judgments based on our own biases. I think that, um, if I can actually even just -- if you can entertain my actual, um, I got a prop here actually.

Can you stand up, Jose? Based on this criteria, Jose would probably be recognized as a gang member, and this is one of the most honorable men I know working in the neighborhood. Based on this criteria, he can be put into the gang database. I think that's a problem for us that work -- that gang intervention workers or things like that. I think it's really, really, really, uh, again, I think, um, it could have, um, it could implicate people that shouldn't be implicated, uh, in my opinion.

Thank you, Jose. Sorry for picking on you.

[Laughter.]

CHAIRPERSON NUNEZ: I like his style, but you know, that's just me.

MS. THIND: Okay. Thank you. I appreciate you sharing your feed back. So in the interest of time,
let's actually move on to the next question, which is, um, age. What would be a reasonable minimum age to enter an individual into a shared gang database?

MEMBER VRANICAR: Where did that come from?

MS. THIND: Oh, and I'm also welcome to any other comments you may have before our next meeting.

Minimum age. Yeah.

MEMBER VRANICAR: Minimum -- where did that come from? I didn't see that question anywhere to be discussed.

MS. REICH: Marty, it's just a question that we're posing. We want to know what this Committee thinks about if there should be an age limit with an individual being put into the database.

MEMBER COOPER: I'll talk about what's going on right now, and I've given the example before. Right now, in our system, the minimum age is 10. Uh, there's nobody that's 10-years old that's in the system right now, but, in the example I gave a couple -- I forget which meeting it was, a kid that was 11-years old, 12-years old, was tagging up this wall in furtherance of this gang, and, without getting into the details of it, it was hate crime type stuff.

He was a third, fourth generation member of this gang. All the family was members of this gang. Um, and
it was important to have something like that. If we
start -- you know, who this kid is when he started off
and start capturing this information. The reason we put
a cap there was because when the audit came out, there
was infants and babies in the system, and whatever, and
all it was was typos on behalf of the officers, or
whoever was doing the inputs, and they put the date of
the contact as opposed to the birthday. So that's why it
was showing up with one and two-year-olds in the system.

So that's been fixed. No future dates have been
fixed, so you can't do -- today's what the 25th, uh,
2018? You can't put 2081 extending somebody's purge
date. So we have it at 10. There's no 10, 11-year olds.
I think there's two, I'm just -- this is just for LA. I
think there's only, like, two people that are 12, 13-years old. It's a very small amount.

One of the guys that I was looking at, um, is
right on the cusp of -- he's an associate and the guys
that he's been stopped with admit that's he's an
associate, he's been hanging out. They're trying to
recruit this kid into the gang. I came across this the
other day. So I'm going to reach out when I get back to
that division, to see if they can go talk to him talk to
the parents, send our juvenile car out there whatever.
But he's dressing down, he's hanging out in a park, where
this gang controls this park, and people don't go there because the gang controls it. Um, he's showing up in photos in social media wearing the gang clothing for this gang. Trying not to say the gang's name but, um, you know, it's important for us to, you know, we do put a limit on it. We're not putting 5, 6-year olds, or anything like that, in the system because they wouldn't meet the criteria.

So right now for our CalGang policy is minimum of 10, but there's -- I don't know if you guys look statewide. Okay. There's no --

MS. RIVERA: No 10 or 11-year olds in our database and very few 12-year olds.

MEMBER COOPER: Just for LA, even the teens are low numbers. We're only looking at anybody under 18 maybe less than a thousand.

MR. BIERFREUND: I think there's 1,037 minors in the system right now.

MEMBER COOPER? How many?

MR. BIERFREUND: 1,037 in the whole CalGang database, across all nodes, people under 18. Less than one percent of the database.

MS. THIND: So with that, Ryan, can I also ask, um, as we can see, gang members do exist as young as 13 or 14 in the system. Would there be a certain age --
would entering a certain age preclude or be preventive, if they were entered into CalGang and notified of such entry? Like, have there been instances where maybe somebody was documented and you went to, like, the parents, talked to the parents or --

MEMBER COOPER: Yeah. I mean, there's times, like, I know Santa Ana Police Department goes out when they have contact with juvenile. They go out and do a home visit, um, with the family. We've -- we've been sending letters prior to Senate Bill 4 -- prior to 458 and 2298 and AB 90. We've been sending letters since, at least, the early 90s, from what I can find from my department.

As far as notification, hey there's programs out there for help, sent to the parents. Now, obviously, we send them to the adults as well. Something that's been brought up and I -- MS is one of the gangs that was found in LA, and there's reports of coming from down in El Salvador of these guys -- these kids getting trained up by MS at 11, 12-years old and getting sent up to the United States, and that's something that we would want to have info on, if we come across somebody that age, um, and they're coming up here to do work, not like a job, but gang stuff. So --

MEMBER SGT. MEAD: To add to what Ryan said. In
the early days when I worked OSS, which was street
detectives, our job was to go out and meet the community.
I mean, literally, meet the community, gangsters
everybody. Uh, it didn't matter what area we worked in.
So when something did go down, um, the community would
come to us and tell us what's happening. Transition to
now, where things are a lot faster, more widespread, um,
makes it a little bit difficult, as far as staffing goes,
and it makes it a little tougher.

Now, as far as 10-year olds, I've seen as young
as 11, and as you say in the system there's a very few of
them in there because cops have this thing that, you
know, anybody that young we'd like to, at least, try to
do some sort of intervention and start with the parents
and then use other resources to try and take them off
that track.

And as far as Ryan had said, the unaccompanied
minors, there's very solid, uh, information, uh,
regarding unaccompanied minors that have no tattoos, no
nothing, but they are doing work for, uh, certain members
of MS-13. They're out there. So you have young kids
that are in the gang, and, um, not documented. But
overall, I'll leave you with this, um, I -- I believe and
I strongly believe, and I told my team anybody that young
is being influenced by someone else that's older, or
whatever, and you need to step back and take a look at
that young person and maybe decide that you want to make
a difference, and then go deal with the parents and let's
get some resources.

CHAIRPERSON NUNEZ: What is the total number?
You had mentioned that 1,037 children are in the gang
database, how many are -- maybe I shouldn't have to speak
into this. I forgot Marissa's not listening.

MR. BIERFREUND: Sorry. What was your question?

CHAIRPERSON NUNEZ: What was the total number of
folks in the gang database?

MR. BIERFREUND: Total number of minors so
people under --

CHAIRPERSON NUNEZ: No. You said 1,037 children
in there; right? And how many adults?

MS. THIND: We didn't tally that result.

CHAIRPERSON NUNEZ: No?

MS. THIND: Not for this -- not --

MR. BIERFREUND: It's roughly 100,000.

CHAIRPERSON NUNEZ: About 100,000?


MS. RIVERA: There's an a report on the AG's
website, and it will give you the demographics that you
wanted. Yeah. But it is from last year. There will be
another one next year --
CHAIRPERSON NUNEZ: Okay.

MS. RIVERA: -- as well.

MEMBER THORNTON: So -- there's a push in the legal field to have 25. That's becoming more and more of when it comes to punishing people, especially, for the rest of their lives, that 25 is becoming the significant age. Now, I think at 25 you're going to have a lot of people that have aged out of the gang, so I don't know if that's a realistic number for CalGang.

If we were to set the number at 18 and only consider adults, we would only lose 1 percent of CalGang, and we would still have 99 percent of the data -- of the individuals currently in there to still track. I think that's a pretty significant number.

Um, if -- I -- personally, I think 18 is fair, and if it needs to consider juveniles because I do know juveniles also are involved in gangs, I'd like it to not go below 16. 16 is an age that's accepted -- well, I shouldn't say accepted -- it's an age that's recognized in juvenile court as where you can have strike convictions at 16 and 17. Um, below that, they don't -- even though it's the same offense, you can't be punished for that kind of conviction later on.

So these are -- that's something already kind of acknowledged by the state that at 15, and 14, um -- I
think something, when it comes to setting the age limit, we have to be cognisant also of we're notifying these people, these children, that they're being put in a CalGang database. There's a significant in that because we're giving them that; right? So they have the ability to address it.

At 12-years old, I don't think somebody really appreciates what that means. In fact, they might think it's cool. At 13, 14, and 15, maybe they do. I would say at 16, and 17, probably. They think it's just -- it's still cool. They don't understand that that has consequences, when it comes to the relationship with police officers, um, when it comes to just living life in their neighborhood.

And so, I think, 18 is the number that I'm requesting, and I'm encouraged that only 1,037 juveniles are, uh, entered in the database. Just based on my experience in juvenile court, I would have thought it was a lot more. Um, so I think only losing one percent would still -- would not cripple the system.

CHAIRPERSON NUNEZ: Is that a Motion?

MS. THIND: Do we want to do any further discussion on this? Does anybody have any other additional comments?

UNIDENTIFIED SPEAKER: Can the public make
comments?

MS. THIND: Not at this moment, but, when we have the comment period, you may. No? Okay. Then I really appreciate the discussion. I thank you for all your comments. Um, let's move into our next topic, and we will be having a third comment period just for the public, and you're welcome to comment at that time on any of this.

Okay. So now we're going to go into talking about the definition of a gang member, and I'm going to pull up comments, but, originally, I would like to point to, um, our Package 2, the definitions that we came up with. So that would be on Page -- Page 2.

CHAIRPERSON NUNEZ: Page 2, Package 2?

MS. THIND: Yes. Page 2, Package 2. Do we -- sorry, Sammy. Do you want -- do you guys want to take a ten-minute break after that discussion? Or power through?

MEMBER THORNTON: Yeah. We can keep going.


Okay. We've defined gang member, as -- and this is in no way is tide to the criteria discussion at all. This is just we need stand alone definitions. Um, so gang member means, a person who collectively identifies himself or herself by adopting a group identity, which
she or he uses to create an atmosphere of fear or
intimidation, frequently employing one or more of the
following: A common name, slogan, identifying sign,
symbol, tattoo, or other physical marking, hand sign or
graffiti.

Let's pull up comments. Okay. So I have one
comment.

MEMBER VRANICAR: Yeah that was -- that was my
comment. Um, I added the phrase, uh, "or is recognized
as such." Gang member means, a person who collectively
identifies himself/herself by adopting a group identity
or who is -- or is recognized -- or who is recognized as
such.

You might have, uh, other members of that gang,
who basically say, "Yeah he's in the gang. He's in the
gang."

MS. THIND: So the comment is --
MEMBER VRANICAR: Or "He's a gang member."
MS. THIND: -- so the comment is right up there.
MEMBER VRANICAR: Yeah.
MS. THIND: So that was one recommendation.
Another recommendation was just an opposition, and then
another member presented that we should not call the term
gang member, that we should add the term "potential" in
front of it or "suspected" in front of it, because it's
not -- knowing with certainty that that person is a gang member or gang associate. So those were the three comments.

So shall we start out with, um, the first, which was Martin's?

MEMBER VRANICAR: I think I was -- my comment was based on the fact that I'm not sure how a person collectively identifies himself or herself as, uh, a member of the association. Is the notion that, uh, um -- and so that's why I had that clarification, "that is recognized as such," because that means if you collectively identify yourself, that means that you've got input from others who validate your own, uh, identification.

MS. THIND: Okay. Other comment on the definition for gang member or adding the word potential or suspected in front of the gang member definition?

MEMBER VRANICAR: And why -- why is this, uh, definition then not tide to criteria -- you're saying that this definition is a stand alone, but, when we get to the criteria, what we say is a gang member -- a person is designated as a gang member if he meets two criteria. So I don't have a problem, myself, with, uh, uh, having "suspected gang member" as a general concept, and then once you meet the qualifying criteria, two or three or
whatever it's going to be, then you know, you're a gang member, as far as the database is concerned.

MS. RIVERA: So that would be different --

MEMBER VRANICAR: Prior to that time, you're suspected.

MS. THIND: Well, I think in either case you would be suspected. Like, if you're a suspected gang associate or a suspected gang member, but I think the reason why I posed it that way because Marissa's criteria last time, she opposed the definition of having -- opposed putting in the definition section the definition of a gang member or a gang associate, but the way regulations are written, you have to have a definition --

MEMBER VRANICAR: Right.

MS. THIND: -- to explain a term that you're utilizing in the regulations.

MEMBER VRANICAR: Right. Right.

MS. THIND: So she wanted just her criteria to define what that is, but we have to have a way of verbalizing that in the definition section, if that makes sense, so that the reading can be guided to -- the reading can be guided within the section to understand that this is what that is, this is what it would be. So if we were to reconcile a way to do that, then this is the time to talk about that.
MEMBER THORNTON: I know that Marissa included it within the criteria, um, or defined it by the criteria, but I think re-defining it here as someone who has been found to be a member in a gang or a gang participant, um, by a finder of fact through criminal process. I -- I think that's what we should stick to and continue to withhold the gang member name tagged to only those individuals that have been convicted or it's been found by a judge in some way, um, to be true -- or a jury.

MS. THIND: So for the purposes of the regulations and entering somebody into this pointer system, would then it be fair to put them in, like, as a suspected?

MEMBER THORNTON: I think -- since we already have the two categorizations of member and associate, it seems to me that, uh, a member can be someone who either through plea -- guilty plea and admission, through that plea or jury trial or court trial, whatever process they chose to take advantage, that person can be designated a gang member; however, in the instance that that hasn't happened, but these individuals need to cataloged in this pointer system, they can be cataloged as associates, using the criteria we kind of just gone over and digested.
And that heightens, because right now it seems to me someone can either be an associate or gang member. I know an associate is always tied to a member in the system, but rather than kind of working within that framework, we have a member and there's been some judicial determination and there's an associate; and it seems to me to be more reliable, in this pointer system, if the source document that they're sending over is a change of plea form -- even though there are problems in the plea system. I understand that, and I wish I could say I wasn't a participant in that, but someone is admitting on a change of plea form, their lawyer is signing it, and a judge is signing off on it, that is a reliable source document --

MS. THIND: Okay.

MEMBER THORNTON: -- within this framework.

MS. THIND: So your recommendation is that that would be -- so if you don't have a conviction or if you don't plea or there isn't some sort of judicial document indicating that, then that would be a member, then an associate would be anybody else who did not undergo a proceeding but the officer suspects?

MEMBER THORNTON: Yeah. With a reasonable suspicion and the criteria we discussed, yeah.

MS. THIND: Okay.
MEMBER THORNTON: So within this definition of member, we curtail it to just judicial findings or judicial system findings.

MEMBER VRANICAR: The problem is that, um, uh, you can been convicted of a gang-related crime without being a gang member. So -- so, uh, because you did a crime and it's proven that you did it for the benefit of a gang, but you never -- you've never been a gang member. So under that criteria, he gets added; right? So it's his bad luck he got convicted, and he gets added as a result.

MEMBER CONSIDINE: So on another note, if you would have held it -- top of the Hells Angels, let's just take them. They're real easy, they wear the colors on their back, and the leader has never been convicted of the 186 charge. We can't put him as a member? And he's the president of the Hells Angels.

MEMBER THORNTON: Well, I understand the problem. Marty, presented an interesting issue, but in that case, I would just encourage -- I think, at least in San Diego County, I know that they're not having a problem convicting leaders of these gangs, um, under 186 and federal indictments now. So if you know who the leader of Hells Angels is and you know Hells Angels is responsible for armed robberies and murders at head shops
ands tattoo parlors that are unregulated, then it seems
to me that he could be arrested.

MEMBER CONSIDINE: No. It's just a pointer
system anyway. But I'm just saying for our hierarchy,
our intelligence world, we'd want to know who the
president is, I mean, at least for documentation on our
end; correct?

MEMBER THORNTON: Yeah. So you can list him as
an associate and I see -- I see no disadvantage -- well,
see this is what I was asking last time, and that's why I
kept asking the question, and it could be that I'm just
extremely dense and I don't understand, and that's very
possible, believe me.

MEMBER CONSIDINE: I don't think so, Jeremy.

MEMBER THORNTON: I don't know. It's a pointer
system and it's effective and people get caught. I still
don't know what the advantage is or why there are two --
why someone -- member and associate, I don't know how
that affects law enforcement. If someone's in the
system, they're in the system, you know what they're
tattoos look like, you know where they live, you know
what neighborhood they hang out with, you know what
they've been convicted of previously, you have all this
information on them. Associate or gang member doesn't
matter because it helps you the same, because you have
the information.

And so if we're going to persist in including all of these individuals, I think it would be fairer if a member have admitted to it in a judicial process and be found guilty of it and that allegation be found true by a judge or jury and an associate found this other way, um, through the criteria we discussed previously. And I think that was Marissa's suggestion last time, and I thought it was, um, a good distinction if we're going to have these distinctions within the system.

MS. THIND: Okay. Any other comments?

MEMBER SCAFIDDI: Can I ask a question? If they're either an associate or classified a gang member. The intelligence -- as long as they're in there, it would still be the intelligence gathering process. It would still be the same; right? Within each process, like, if someone was in there, and let's say they were the sergeant at arms for a motorcycle gang or -- um, that information would be listed whether they're listed as a gang member or not or a gang associate. It would still be accessible for officer safety reasons and things like that, if it was in there.

MEMBER CONSIDINE: Yeah. Associates aren't worked on. They're a much lower classification in CG, CalGang, than a member is. Very much -- they're there,
yes, but the information is not half as detailed as a member.

MEMBER SCAFIDDI: Is that just because -- is that a collection-process issue in the field or is that by design?

MEMBER CONSIDINE: I don't know. I rarely do associates. Members are just a little bit more work, a little bit more meat to putting them in there. You feel a little bit better about it.

MEMBER SCAFIDDI: All right. Thank you.

MS. THIND: Okay. Yeah. Should we continue on to our discussion for associate, what we have for that right now? I mean, Jeremy, did you feel like your question was answered? Because you were trying to get why law enforcement needs to collect information for a member as opposed to an associate. Did you --

MEMBER THORNTON: Well, I mean, I've just accepted I'm not going to appreciate the difference, um --

MS. THIND: Okay.

MEMBER THORNTON: -- as its currently -- I think that's why I'm on board with advocating the, um --

MS. THIND: What your recommendation was?

MEMBER THORNTON: -- the distinction between judicial process, because that's more something I can
wrap my head around. I'm assuming they have valid reasons because why would they do it if they didn't, but I'm just not getting it.

MEMBER SCAFIDDI: Well, it does seem like the information is in there anyway, whatever the classification is, for intelligence gathering.

MS. THIND: Okay. Then should we talk about the definition for associate? I mean, I'm going to take all of your recommendations and, you know, present them to the attorney general. So right now what we have for gang associate means:

Gang associate means an individual, not a gang member, who joins with a gang member on a regular or periodic basis and who contributes to or derives a benefit from the gang, including but not limited to, active involvement in gang activities.

And there were a few comments on this. Marty suggested that we add, you know, gang associate means an individual, not a gang member continuing with the definition -- let me make this bigger -- to add the term "participates in." "Including but not limited to active involvement in gang activities."

And then let's see what the other comments on this are. There was, "Potential gang associate means an individual, not a gang member, who joins with a gang
member on a singular or regular basis and who contributes
to or derives a benefit from the gang, including but not
limited to active involvement in gang activities." That
was --

MS. RIVERA: I think Ryan.

MS. THIND: Ryan's. And then Marissa just said
she opposes a definition for gang associate. And she
said including a gang associate definition, along with
gang associate criteria, is needlessly ambiguous, and
that would have been had we adopted her recommendation.

So those were the three comments. Are there
any -- let's discuss.

MEMBER VRANICAR: I think for the first part,
uh, AB 90 specifically calls out both terms. So, uh,
to -- to get rid of the -- the category of -- of gang
associate and to not include it, uh, I -- I don't think
that the regulation can adopt that on its own.

MS. THIND: Okay. Any other comments?

MEMBER VRANICAR: I think both my comment and I
think Ryan's were an attempt to, um, bring an associate a
little bit closer to -- to, uh, just to avoid the
situation of an individual just hanging out. Someone who
is -- who is, uh, participatory, in some fashion, in the
gang activity that is taken place, as opposed to somebody
who's hanging out in the neighborhood.
MS. THIND: Okay. Then I guess. Thank you for that. We will take all of these recommendations into consideration when we come out with the next draft, since there's no more.

Um, yes. So next we're going to move on to, um the meaty part. Definition of reliable source. So let's keep in mind for the purpose of regulations, we want to be as clear as we can in defining that term at the beginning and for it to apply in the criteria. So right now what we have, um, is on Page 4 -- or sorry. Page 3 of Package 2, and this is just kind of like a combination of everybody's ideas, rather than like a strict case law definition.

So its saying, "A reliable source may be but is not limited to a law enforcement officer, family member, friend, neighbor, associate, crime victim, fellow gang member, or court pursuant to Penal Code Section 186.30. The sources information is deemed reliable unless proven otherwise through the course of investigation, audits, the judicial process and/or testimony."

So that's just what we came up with. Um, in terms of comments, so the first comment proposes adding in an informant and a teacher.

MEMBER CHIEF BURGUAN: And? And a teacher?

MS. THIND: Yeah. An informant and a teacher,
in addition to what we already have here. And then Marissa has proposed an alternative. Sorry. Let me smaller -- let me make this smaller so I can read it off to you, and I'll make it bigger.

A reliable source means, "A source of information reasonably relied on considering the detail, consistency, and corroboration of the information provided. Law enforcement officers shall consider and document why this source is reliable in sufficient detail, so that the reliability of the source may be reviewed. Law enforcement shall consider whether the source has provided reliable information in the past and whether this source has a reason to provide false information, when determining if the source is reliable. Children younger than 14 shall not be used as reliable sources."

So she's put forth that one. Let's see. And then there's another one. She also put forth, "a reliable source may be but is not limited to a law enforcement officer, family member, friend, neighbor, associate, crime victim, alleged gang member, or court pursuant to Penal Code Section 186.30, that has been deemed credible after an evaluation under --" um, she had a criteria for reliable source, pertaining to her source document section. So she cited that, but we're not
discussing that right now.

So I have that, those two there. So what are your thoughts on what we have and what we could possibly add to the definition?

MEMBER THORNTON: I think the presumption of reliability is a difficult concept. And it's kind of -- it's not something -- it's -- it's not something that is typical in the legal -- in court, I guess. Um, that -- there first needs to be a demonstration of reliability before something can be used. Um, and so this presumption of reliability is a departure from things.

And so I know that Marissa was attempting to point to that, um, and embrace that, this is why we think something is reliable. These things have to be established, and I think that approaches a little bit better. Because the language currently has a presumption of reliability unless the opposite can be shown, and the opposite -- the opposite -- it's going to be hard to show the opposite, um, from -- by someone who is trying to demonstrate that they are not a gang member or gang associate. Um, that someone is not a reliable source. It's going to be difficult to show, um, especially if there's the opposite presumption.

So that stands out. I also think there was a mention of 14, the age. You know, I guess I would
caution -- I would limit reliable sources to adults, just as something basic. There's just a lot going on with juveniles and high school and middle school, and, what is reliable one day, may not be reliable the next.

MEMBER SCAFIDDI: I would agree with Jeremy's comments. One of the things we look for as lawyers if you want to bring something before the court, you have to make an offer of proof and you have a formal hearing and things of that nature. One of the concerns -- and I do like a lot of Marissa's language that she has suggested. I would agree with Jeremy, no minors, but one of the things that I would ask for the definition that was a compilation of all the information. I would like to see something that shows, um -- so these are people bringing this information forward, that there be an offer of proof that the information -- the informant has not received a benefit, some type of benefit, from any type of law enforcement agency, whether it be police, or the DA's Office, um, because if someone's got skin in the game and are getting something for it, that's when you -- "I can help you out with this, but I need help here," that's what leads to false information.

So I think there should be something -- maybe that's the offer of proof, you know, you can't be using that data if someone is getting a benefit or, at least,
someone needs to know about it in some way shape or form. Because when people have some skin in the game, they can say whatever they want to get a benefit. So I think that's always a concern when there's a presumption of reliability.

MEMBER COOPER: So you're saying that if we had an informant that was getting -- either a paid informant or working a case off or something like that, that would not be reliable?

MEMBER SCAFIDDI: Yeah. I think that inherently that is unreliable, and you should have a secondary source for that. I think inherently that is unreliable. It's a quid pro quo, and you should have an independent source.

MEMBER COOPER: Yeah. That -- I'm going to disagree on that.

MEMBER SCAFIDDI: Hard no.

[Laughter.]

MEMBER SCAFIDDI: All right. We're broke up.

MEMBER COOPER: For us, if we're going to use the term "informant," it's going to be somebody that we've done a full background check on them, we know everything about them, it's on strict -- very short leash. Um, you know they're vetted, supervisory review, supervisory, you know, meets with the person, all
contacts are basically listed.

    Um, if the guy is going to benefit by saying, "Yeah. This guy is selling drugs, this guy is this, you know, whatever." It's not used very often, the reliable source, as you guys saw. It's, what, 2 percent or something like that, but it is something that, you know, if another police officer informant, a teacher that has firsthand knowledge, it's an option that we can use. We don't want to lose.

    MEMBER SCAFIDDI: Yeah, but -- my -- what I'm talking about, though, how often would that apply to a teacher? What's the benefit that the teacher is getting from law enforcement?

    MEMBER COOPER: The teacher wouldn't get a benefit from it, but, you know, I know the one on here was a crime victim. I had an incident where I had a woman witnessed a murder -- an attempted murder, and one of the guys on the attempted murder was out on bail, confronted her at the gas station, says, "If you testify, you're going to end up in a box," you know blah, blah, blah; and she goes, "I know they're from this gang" because she lives in the neighborhood, whatever, and they used reliable source to update their -- they ended up the arresting the guy, witness intimidation all that stuff. But they did an update on them and they used reliable
source, using her as a reliable source. So I think that's why it's still a good criteria to keep.

MEMBER SCAFIDDI: I mean, in that scenario, though, you can just argue that someone who's a victim under Marsy's Law can be considered reliable source. I mean, if that's the only benefit the person is deriving, is the benefit that everyone would derive under Marsy's Law or Victim Compensation Act, things like that. I mean, I can see that. I mean, that's a different story.

MEMBER THORNTON: You know, these are all factors to consider; right? Someone's paid, I get it. Sometimes there's a really bad snitch in the case and they're getting a good benefit, but they're a really good witness and it's really bad for us; right? They're reliable, but I don't like it.

So getting a benefit is, I think that's something to consider. I think -- the reason I like the factor approach that Marissa was suggesting is -- it's hard because sometimes a really good idea of someone who's probably a gang member in a Criminal Street Gang is a person working at the corner store, who sees who that person comes in with every day, who seen that person with weapons. I mean, I know some of the best witnesses I've ever had to point to another person, are the people working at the corner stores. Um, you know, the
individuals who hang out in front of the stores, who can help.

So the factor-driven definition, I know it's difficult to draft regulation that looks like that, um, but I would say that that is probably the most accurate way to define something, because there are so many different circumstances. Someone could be considered reliable or unreliable, and, when you label it, things like teachers, it's easy for people to have shortcuts, and we don't want shortcuts. So when there's all the factors to consider, I think it's less clean but more accurate.

CHAIRPERSON NUNEZ: I think that, um, there's actually a bill that was passed on racial profiling for a reason. Um, I think that -- at times a reliable source aren't too reliable. Often times the police are called and for a black family having a barbecue, lets say, or folks hanging out at Starbucks trying to wait for their coffee. I just think that, again, you're putting "reliable" in the hands of folks that aren't trained or really understand really what a -- truly an active gang member is.

So I feel, again, that this is uh, um, I find it kind of striking the reliable, because I don't -- I don't -- I know teachers didn't like me growing up, so, I
mean, again, I just feel like it's really -- I don't think -- I don't think -- quote unquote reliable, is not so reliable in my mind, I guess, and that's my fear. That we're going to be putting these folks in a position that could determine who's put into this gang database. So can we move on?

    MS. THIND: We can. So that wraps up our agenda Item No. 8. I believe we are now going to start our third comment period.

    MR. BIERFREUND: All right. Has everybody, uh -- has everyone signed the Public Comment 3? All right. Everyone's signed up. We're now going to start Public Comment Period No. 3.

    The comments made during this period can address the Committee on any items of interest that are within the Committee's jurisdiction but are not on the agenda. Based on the number of speakers who signed up, each individual will have five minutes to provide their comments. All comments should be directed to the Committee. Speakers may not yield their time to another. Speaker shall refrain from making personal attacks while making their comments, and the audience is excepted to be respectful of all speakers.

    It is the Committee's practice to listen to speakers and not engage in dialogue. After all the
speakers have been heard, the Committee Members may respond as appropriate. Please comply with the procedures or we will have to ask you to leave the podium, and once again we thank everyone for their participation.

First person, we have Phal Sok.

MR. SOK: All right. We're getting towards the end of the day; right? All right. Just some comments. Um, there was a question I had earlier regarding process. I know that there was some suggested amendments made. Is there some way we can see that before this is put out? Because this is all we see online. It would be good to know, like, what are you suggesting, to really engage in a discussion about that, to take input from the public's side of things. So that's in terms of one.

The next question -- or the next issue I had raised my hand about is minimum age limit. You know, we worked hard to get SB 1391 to set a minimum age limit for juveniles to be tried as adults. The floor is now 16. Right? A minimum age prosecution for SB 439 is no longer under 12. So we're moving forward. So that's a discussion that we should really have and really think about and give us some thought. I mean, I got in trouble when I was 14, 15, 16, but I'm definitely not 14, 15, 16 today; right? Spent my entire adult life in the prison
system because of that, because of that label.

Um, another thing I want to say might be a little bit controversial but I'm going to be honest with you. A lot of the community wants to see cops in the database. They want to see cops that have shot their family members. They want to see cops that have filed false police reports, done things that you would say are criminal. They want to see cops in that database, too. All right?

In YJC we have a black board. We have two black boards, and we have an alter, and there's a lot of names on there written of names that people have been killed by law enforcement since the year 2000 only through 2015, because that's all we could fit in two black boards, and the names are written very small. That is a lot of names. All right? So families aren't seeing any justice. They're like, where's the accountability for that? I'm just saying cops should be put into the database when they do something wrong too. All right?

Label me a gang member. If they're getting tattoos, if they're in the CDC getting a badge on them, that was a green wall. That was the cop gang. They were taking slamming us on the wall, [unreadable]; right? Those things were happening. What's the difference? Still a person doing something wrong. That's all you're
seeing is that person is doing something wrong, you're a gang member. If a cop does something wrong, maybe he's a gang member too. Cops have gang LASD -- just a big ol' article about it.

So my last comment then, just being up here being a part of this, having done the work behind AB 90 and stuff that brought this together. I'm really going to say that this is an exercise of futility on the public's part. We really do -- or I feel it that way. I've been on many comments, said a lot of things, in the end doesn't see any of its considered, thought about. We don't get any feedback to us, there's no engagement with us. It's us talking to you, and then that. Where's the engagement? Engagement is two ways. It's not one. Bye, bye, wall. Here's your five minutes, take it, and get on.

So I'm going to leave it at that. That's why I feel it's very futile, and, if you want me to bring people that says the same thing, I can bring people over here that are going to say the same thing. We really feel this. So I will leave it at that. Thank you.

MR. BIERFREUND: Thank you. Next is Sean Garcia-Leys, for Urban Peace.

MR. GARCIA-LEY: So since I have a lit bit more time than during the second period, I'd like to expand a
little bit on something I said briefly, which is that, uh, I think the idea that, uh, a reliable source could be a criteria is a mistake and that it should be replaced by hearsay rulings. What I mean specifically by that is, if another person, reliable, assuming they're reliable, says that somebodies a gang member, they should have a basis for making that claim, and that basis should be something that's there as a criteria.

So to have "identified by reliable source" as a criteria, allows people to make baseless allegations. And so that's the concern about that. Um, and the audit does suggest that there are instances where police officers thought they were valid, uh, sources, and so they can just be like, well, you know, walks like a duck, talks like a talk, therefore, that's one of the criteria. I'm the reliable source. So I understand that can be dealt with training, but there's a million ways where that sort of baseless allegations can get through using that criteria.

So instead, if all allegations should have a basis and those basis are criteria, then what that leaves is the question of, what do you do with third-party statements, which is what I meant by hearsay. So if a teacher says, "I know that kid, who sits in that seat, in my fourth-period class, is a gang member because I see
him putting gang graffiti all over his things, and I saw him claiming the neighborhood while punking some little kid," right?

Okay. That sounds good, because now we've got criteria as the basis for the allegation, and then you make the assessment that Professor Montes suggested, as to how you decide whether or not that's there.

As I tried to wrap my head around this, one of the problems is how do we do this without giving officers complete discretion and really what we've come up with is you have to give officers complete discretion, um, but that it should be documented for review. And so in that sense, I don't think that removing the reliable source criteria and adding in a hearsay rule that leaves room for officer discretion in any way inhibits law enforcement, um, but it makes for more accurate criteria.

Also, I'm glad to hear what starts to sound like a weighing of what do we do that solves crimes and what can we do to encourage good policing and protect people's privacy and recognizing that that's a balance and that there's two sides on all these issues in weighing those. But it became very clear to me in the juvenile discussion. What matters is not the number of juveniles. If we had all the juveniles in California in the database, it might actually help solve some crimes. The
issue -- it's not the number out of context.

The real question is how many times has CalGang been queried and a juvenile record came up and that was useful. Now, that may be an impossible number to come up with, a number of times that a juvenile query solved the crime. If we had that number, we could know whether or not we put juveniles in there is a good idea or not. But even maybe as a proxy for that, if -- if CalGang use is, um, uh, recorded, in as much detail as Detective Cooper said, which sounds right to me knowing some of IT guys and looking at police records, it seems to me we should at least know how many times juveniles have been queried, um, and that number would probably be more useful than the number of juveniles that are on there. If our question is does adding juveniles to the CalGang database help solve crimes? Was that the end of my time?

MR. BIERFREUND: You got about minute and 20 seconds.

MR. GARCIA-LEYS: Okay. Um, and then, lastly, I want to say -- okay. So in the statute, it refers to member, associate, and affiliate -- or member, affiliate, associate. That goes back to SB 54 several years ago, and the goal with that language was to be inclusive. The concern was, if gang databases were only defined as databases that talk about gang member, then law
enforcement could say, oh, we just have a database of associates. That's not members, so we're not subject to the law.

So the purpose of listing those three was never to create three individual categories, the purpose of that was just to be as inclusive as possible. And I don't think there's any problem with these policies restricting those to just two or saying there's member category, or a proven member, or adjudicated member, an unproven member, and an associate, and no affiliate, or whatever combination I think should be fine. And I think that's my time. So I'll leave it at that. Thank you.

MR. BIERFREUND: All right. Thank you. And next we have Rekha.

MS. ARULANANTUAM: Rekha.

MR. BIERFREUND: Rekha. Sorry.

MS. ARULANANTUAM: No worries. Rekha Arulanantuam, for the ACLU. So I wanted to talk -- to return to the two-tier system. So the primary and secondary criteria system prioritizes criteria that are more reliable indicators and would prevent privacy violations against those who could be added, um, through just too shaky criteria.

And you said you like examples, and so I have one for you. I've been working with an individual who
was added to the, um, database in August, based on a single field interview, um, which LAPD claims establishes that he has been seen with a documented gang member and has frequented gang areas. So first of all, frequented gang areas, he lives and works in gang areas and he was stopped while driving. So I don't know how he's supposed to get around that.

Um, putting that aside, um, frequent -- seen associating with documented gang members is also shaky. So in this one instance, he was giving a ride to a high school classmate, who he hadn't spoken to in over ten years. It was just single field interview, that's it.

So, um, I also want to talk about the criteria. So the criteria subject has been seen wearing gang style of dress or accessory. Um, that's problematic. There's no differentiation between the attire of gang members and urban youth. We must ensure the criteria doesn't capture everything that black and brown people wear. Um, as the regulations currently read, gang tattoos can be entered as a criteria after they've been purged out, and we know this to be un-reliable.

Um, I want to go back to the definition of reliable source as well. So, um, in the definition it includes a police officer's opinion. So a police officer's opinion that someone is a gang member is
unnecessary. Um, any factual basis for an officer's opinion that someone is a gang member, should be captured with the other criteria. Um, if there's no articular factual basis for the officer's opinion based on recognized criteria for inclusion, then this individual should not be included. Um, it also does not prevent an officer from relying on the same facts already used to satisfy one criteria to form his opinions. Thus it double counts the criteria.

And then this is going to, um, when we talked earlier about, um, adding some of the language about, um, challenging. Uh, so the individual that I spoke to had, um, to try to remove his name from the gang database, visited the police station three times before someone gave him a removal form. And so this is something that DOJ can do. You can put your forms on the website to make it easier for people to find them.

Um, so when an agency adds a person to the database, they should have responsibility to help those people, um, to explain those forms and the processes. So there should be a uniform training, so the agencies don't drop the ball. The individual that I spoke to, um, his request was denied, and so he called the police station two more times. On the third try, he finally got ahold of an officer who told him to go to the public defender's
office. He doesn't have a criminal record. Like, he
doesn't have a criminal offense, so the public defender's
office can't help him either.

   So what does he do? He's going around in
circles trying to figure out how to access the court
system. So there needs to be training on where to, you
know, send people so they know what to do. I think
that's it. Thank you.

   MR. BIERFREUND: All right. Thank you. And
next we have Jose Valle, De-Bug.

   MR. VALLE: And if possible I would like to see
if I could get two appointed times. The only reason I'm
asking for that is for my own comment, and also for an
individual that, uh, was too scared to be here, um, if
that's okay.

   MR. BIERFREUND: Um, that's going to have to go
to the higher ups.

   MR. VALLE: All right. Higher ups, what do you
say?

   CHAIRPERSON NUNEZ: Yes.

   MR. VALLE: Okay. Thank you.

   MR. BIERFREUND: Higher than me.

   MR. VALLE: All right. So I'll start off with
my own. Okay. What we're talking about here is a
two-tier criminal justice system. The have's and the
have not's, American citizens, and those subject to the
13th Amendment, the men, and the three-fifths of a man,
the public, and the gang members, and the humans, and the
subhumans. Without any and all due process protections,
a court hearing, legal representation, it's absolutely
unconstitutional to enter anyone as a gang member or
associate in any type of criminal database.

Now, to the comments on, uh, the criteria.
Number one, law enforcement abuse of Miranda Rights. Uh,
there's law enforcement abuse of Miranda Rights on youth
and adults, so that's entirely subjective and arbitrary.
Number two, adding another web of law enforcement to
individuals already on probation, parole and/or formally
incarcerated, is doing too much. We already have parole
agents. We have police officers, detectives. We don't
need another form of monitoring or what have you.

Number three, this is far too subjective and
arbitrary, Orange County has already shown us enough, as
far as the abuse of reliable sources. Number four, is
racist and bias towards our communities, peers, and
family members. Number five, without due process
protections, this is absolutely debatable and
unconstitutional, and I'm going by the actual criteria's.

Number six, as criminalizing communities that
are alleged gang members, do not own these so-called gang
areas and have been subjected to these gang areas due to historical and generation poverty and inequality. In addition, due to gang suppression efforts and gentrification, to enter a gang member or an associate in more than one gang, is an absolute criminalization of the victimization of gentrification.

And to the comment earlier that was made about the two Bloods and one Crip committing an armed robbery, that's just three individuals committing an armed robbery. That's not benefitting any gang. Lastly, Number seven and Number eight, that's just absolutely racist and criminalizing an entire culture. Um, so I just wanted to put that out.

And then let me read the letter. This person was too afraid to come in today. So I don't know if you want to start that time over.

I'm writing this letter to share my experience of how being labeled as a gang member has affected me in my life. In 2014 I was arrested and charged with a gang enhancement, which now I have a felony and was placed on gang probation. I could not understand how any of this could be. I had no ties to any gang nor was I a part of any gang. I have always worked and cared for my family.

At this time, at the time of my arrest, I was an employee at Kaiser Permanente and was the sole provider
for my children. Because of the incarceration, I lost my job, even though my employer tried to hold my position, I was denied bail, which resulted me losing the job. I also lost my Section 8 housing assistance because of these charges and had to live with different family members.

I spent three months in jail and upon release one of the conditions was having to register as a gang member. It was very hard to find work and resume my normal life. I worked dead end jobs here and there, but, still, that did not really get me anywhere to benefit my family. My life was definitely different but because I knew these charges or that label was not me or the lifestyle I lived, I pushed myself to remain positive, to get myself back on my feet. I completed my probation, and I had my charges dismissed.

I now have a stable union job after four years, and I have a place to live. No more bouncing around. Labels can really hurt someone's chances and close many doors of opportunity. It is not fair to be robbed of who you are really, who you are and looked at for a label that can just be slapped on you because of someone in the law accuses you of being something that you're not.

While being incarcerated, I remember realizing how you have no voice. You can speak as loud as you
want. No one listens and no one cares what you have to say. That's why I decided to share my story, because I want to be able to speak up, uh, and be a voice for those who don't have the opportunity to do so.

MR. BIERFREUND: You still got more time.

MR. VALLE: I think that's it. Appreciate it.

MR. BIERFREUND: Thank you. All right. Next we have Christine Clifford, also from De-Bug.

MS. CLIFFORD: Hi, again, and thank you. You know, the longer I've been sitting here, the more agitated I've become, and I've been trying to figure out why, and I had to look back on my own experiences as an adult. When I was very young adult in my 20s, I was very brutally attacked. I was a victim of violent crime, I was almost killed. I was raped at knife point and almost left to bleed to death in a field. And as I got older after just being furiously angry and wanting this person to spend the rest of their life behind bars, I got to a point what I really hoped for this young man, because he was a juvenile, was that he would be made better by going into this system. And I've come to know over years now of being an adult it probably made him far worse.

I don't know whatever happened to him. I was not allowed to know what happened to him, but I know that the system that he went into probably totally destroyed
him rather than helping him. And now I watch my son go through this same system, and I know it's totally destroying him, and it's totally destroying my family.

And so I think the task of commissions like this and bodies like this, is for us to work together as a community to figure out how we make our systems work better for all of us, not just we checked off a box that we've all gotten together and we've looked at the regulations and we've decided to move forward, but are really including everybody that needs to be heard and are we really listening to one another. It's extremely important that all the communities that are impacted by the regulations that you're about to put into place are really, really vetted, loudly, in this process. And if you feel like you're there already, then I'm sorry that I'm here at the end.

But I hope there's more, um, opening for more discussions as you go forward, because when I hear words like -- I spent my entire career giving standardized tests, and, when I hear words like, "we frequently see," or "we often have," or, you know, "we have very solid information." I always want it backed up by charts and graphs and, you know, percentages. Is this one out of five? Is this two out of a thousand? What are you talking about when you talk about you see this
frequently? "We see this all the time, we see this everywhere."

For all of us, we need to have more solid data when you're going to make pronouncements about entire classifications of people, entire groups of people. Um, so I have a lot of trouble with words like that. And then I just caution us all to really look at your lens when you're talking.

Um, the comment that was made about the criteria of clothing. Um, I had a friend who came back from an event that she was at and she said, "I was in a parking lot. There were people dressed in red. There were people dressed in blue. There was drinking, there was fighting, there was screaming, you know, it was the violent." It was the Cal Berkeley game against Stanford.

[Laughter.]

MS. CLIFFORD: So with a different circumstance with red and blue, you're going to come to a different conclusion and people are going to get arrested, and they're going be called gang members. So, um, please watch your lens and your assumption and our own biases.

And another area with the whole neuroscience. The law is finally aligning with the wisdom of neuroscience that tells us our brains aren't nearly developed at the age of 14 and to call that reliable
source of information when the law clearly, you know, is moving more towards we shouldn't be incarcerating people or trying people or treating people as adults in the criminal system or while they're incarcerated until they're 25, but, to say a 14-year-old is a reliable source of information, seems, you know, pretty silly to me.

So I think that's all I had to say but, I mean, just lastly, I really would look to all the systems that are here for our safety and for our community to help us all get back to a point where we have confidence for one another as we're moving forward. So sell me on how this is going to help me get there. So thanks.

MR. BIERFREUND: Thank you. Next we have Benee Vejar.

MS. VEJAR: Hi. Um, I'm a community organizer with Silicon Valley De-bug, so I deal with a lot with the jail system. We go to board of supervisor meetings, we do a lot of interaction with both inmates and the community. Um, so I'm going to go ahead and read a letter that somebody anonymously wrote because they're too scared to be here, because, you know, what's here.

They said: I wish to remain anonymous because I'm in fear that this letter being public may have a negative affect on my life and parole. I worked very hard
to be on the path I'm on, and I want to keep it that way.
But I strongly agree that something needs to happen in
the face of justice for men and women who went through
what I went through. Here's my story.

A few years ago I was wrapped up in a case for
distribution of Meth for having no priors for anything
like this, not being a drug user, or never selling drugs
in my adult life. I knew, or thought I knew, that the
case would be dropped, and I would be able to continue
down the right path and live my life the best I could.
But, no, that was not the option for me.

You may ask how was I wrapped up in this. It's
as simple as a person being arrested with the said case
and being questioned about other people's involvement.
The first time this person was asked about my
involvement, he stated that I was not involved.
Unfortunately, two weeks later in court, he changed his
statement to, "He was possibly involved."

Why this change happened I don't know. I wish I
knew. Apparently that was enough for them to rip me from
my family and loved ones and involvement in this case, in
which I had no part in. Shortly after the charges of
Intent to Distribute Drugs were dropped, due to no
evidence and simply being wrongly accused and innocent.
By that time it was too late. They had no intentions of
letting me go. They decided on a 7-year, 8-month sentence for gang enhancement and gave me two strikes to top it off.

This was a losing battle. A fight I could not win. Fast forward two weeks before my release, with barely any contact from my counselor throughout my time, I was told I was being released to a county that had absolutely no ties to. I was no longer being released to the county I lived my whole life in, where my family and my loved ones were. I was dropped in a county I had zero ties to. I was left to struggle to find a place to live, a job, I was in panic mode.

I was unable to get an apartment. I was unable to job hunt while incarcerated, obviously. In the home county where I should have been released, I had everything planned for a smooth transition back home and back into life. I had a safe place to live. I had a great job lined up and ready to start on my Monday after being released. It's been a struggle since being released, which is an issue for most parolees, but this could have all been avoided if I was treated like a human being and not a label. In fairness, it was given -- if fairness was given to me.

This is a lot of injustice I have to see during my time of incarceration done to me and others around me.
I hope there are changes made. This cannot continue to happen, not only there injustice happened, during trials and sentences it continues upon release. I hope this reaches fair and hearing ears. We're human. Everyone deserves to be treated fairly and justice should be non -- biased. Innocent until proven beyond a reasonable doubt. Thank you for your time, anonymous.

MR. BIERFREUND: Thank you. Next we have Yolanda Ledasma, from De-Bug.

MS. LEDASMA: Hello. I also have a letter, um, to read from a mom who's regarding her son who's currently incarcerated. She also was too scared to be here to read it herself. It says:

I would like to express my feelings and opinion on my son being falsely labeled and accused as a gang member. He is currently incarcerated and is due for sentencing on January 24, 2019. He has a gang enhancement as part of his charges that I feel should not be imposed. The police/investigators made it sound organized because it was a group, but the majority of the group made my son had never met.

He never in his life had any intentions of being part of a gang nor did he have any tattoos. I feel that it is unfair to have my son labeled as a gang member when it was pure speculation of the police -- on the police
behalf. If you were to know my son, he is someone who was very popular since he lived in different sections of San Jose throughout the years. He has always been liked and well-known kid.

Just because my son had friendships with certain individuals does not make him an affiliate of a certain group or gang. The gang enhancement on his record will now have a permanent affect on not only his life but his reputation as well. His harsh sentence has affected our whole family tremendously. I think the justice system needs to do more thorough investigating in individuals before profiling them. Thank you.

MR. BIERFREUND: Thank you. And last up we have Jonathan Feldman from Cal Chiefs.

MR. FELDMAN: Thank you, guys. I'll go quick because I know everyone wants to get out of here. So quickly on age limits. Same concern we have with SB 1391 and the other bills that have reduced penalties on juveniles. You then make them targets for the gangs. If you're saying, "Hey, you're not going to get charged as an adult for any one of these serious crimes, and the law enforcement can't track you in CalGang," then this is the one that you're going to ask to go do the drive by shooting, go commit the murder, go do the hit, because they're going to be out by the time they're 25, they're
going to have put in work, and they're going to be able
to move up the ranks quickly. You're going to make them
targets.

So setting an arbitrary limit on age is
problematic for that reason, and it discounts the fact
that there are juveniles that are part of the gang. Now,
the numbers that we got it's one percent. So I would say
the law enforcement is using a lot of discretion in
putting any juveniles into the system. It's one percent
of the total database. They're not throwing tens of
thousands of juveniles into the system. They're being
very thoughtful about it. So I would mention that.

As far as retention periods, two things. There
are other state that is have tolling periods in their
retention, so I don't think that we're going to have a
problem there, and, you know, we've talked about
empirical data, asking for empirical data to show the
longevity of gang members. I haven't seen any yet, and
I've been asking for it for quite a long time now. I've
looked for some reports, and I've seen things from, like,
Ohio, where they've studied juvenile gangs in Ohio, and
they've mentioned two years, three years, things like
that. But I would contend that studying gangs in Ohio is
much different than gangs in California. It's very
unique here it's very different here, and I wouldn't
think that research would hold up in a discussion about
gang life in California.

    The additional criteria that Marty mentioned,
that comes out of the power point presentation that we
had the research assistant present to us in Gardena. So
that's being used in other states. I think it would be
helpful here in California, and it's stuff that's already
in place, so let's go ahead and add that.

    Then as far as tiering, you know, I've been
having these conversations with the advocates on the
criminal justice reform side for two and a half years
now. You know, since before the audit came out, since
2298 and 90 and 505 and all these bills came up, and I've
been listening. I've heard these same criticisms. So I
went back to the chiefs in our Legislative Committee and
I asked them, "Can we look at tiering?" You know, there
are a lot of criticisms out there, and how can we take
that into account so that we are working cooperatively
with the other side?

    That's what we did. We've had that
conversation, and we're willing to have that conversation
because we realize that the attorney general is not going
to just take the recommendations that are made here
today. He's going to listen to everyone on each side
when these regulations come out, and that is a priority.
The social justice reform side, it's something that I'm sure he's going to consider, and we want to be part of that conversation as well. So we look forward to everything else moving on from here. Thank you, guys.

MR. BIERFREUND: Thank you. Pass it back to Sammy.

CHAIRPERSON NUNEZ: All right. I think that brings us to our, uh, adjournment. I don't think there's anything left at this point. Just safe travels. Happy Halloween.

UNIDENTIFIED SPEAKER: Next meeting?

MS. RIVERA: Tentatively December 13. We'll send the flier out on Monday, I believe.

CHAIRPERSON NUNEZ: All right. Meeting adjourned, everybody.

(End of Recordings.)
CERTIFICATION AND DECLARATION OF TRANSCRIBER

I, MICHELLE MARIE WILSON, RPR, and a duly designated transcriber, do hereby declare and certify under penalty of perjury that I have transcribed recording(s) which total four in number and cover a total of pages numbered 1 through 181, and which recording was duly recorded at Folsom, California, on the 26th day of October, 2018, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned recording(s) to the best of my ability within the limits of the quality of the recording.

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Dated this 12th day of November, 2018, at Sacramento, California.

/s/ MICHELLE MARIE WILSON

MICHELLE WILSON, RPR