

COMMUNITY CONVERSATIONS

ON POLICE USE OF FORCE
POLICIES

October 14, 2020 | 6pm – 7:30pm



English/ Español



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Community Conversation on Police Use of Force

Session #1

PRESENTED BY THE TUALATIN POLICE DEPARTMENT &
THE CITY OF TUALATIN



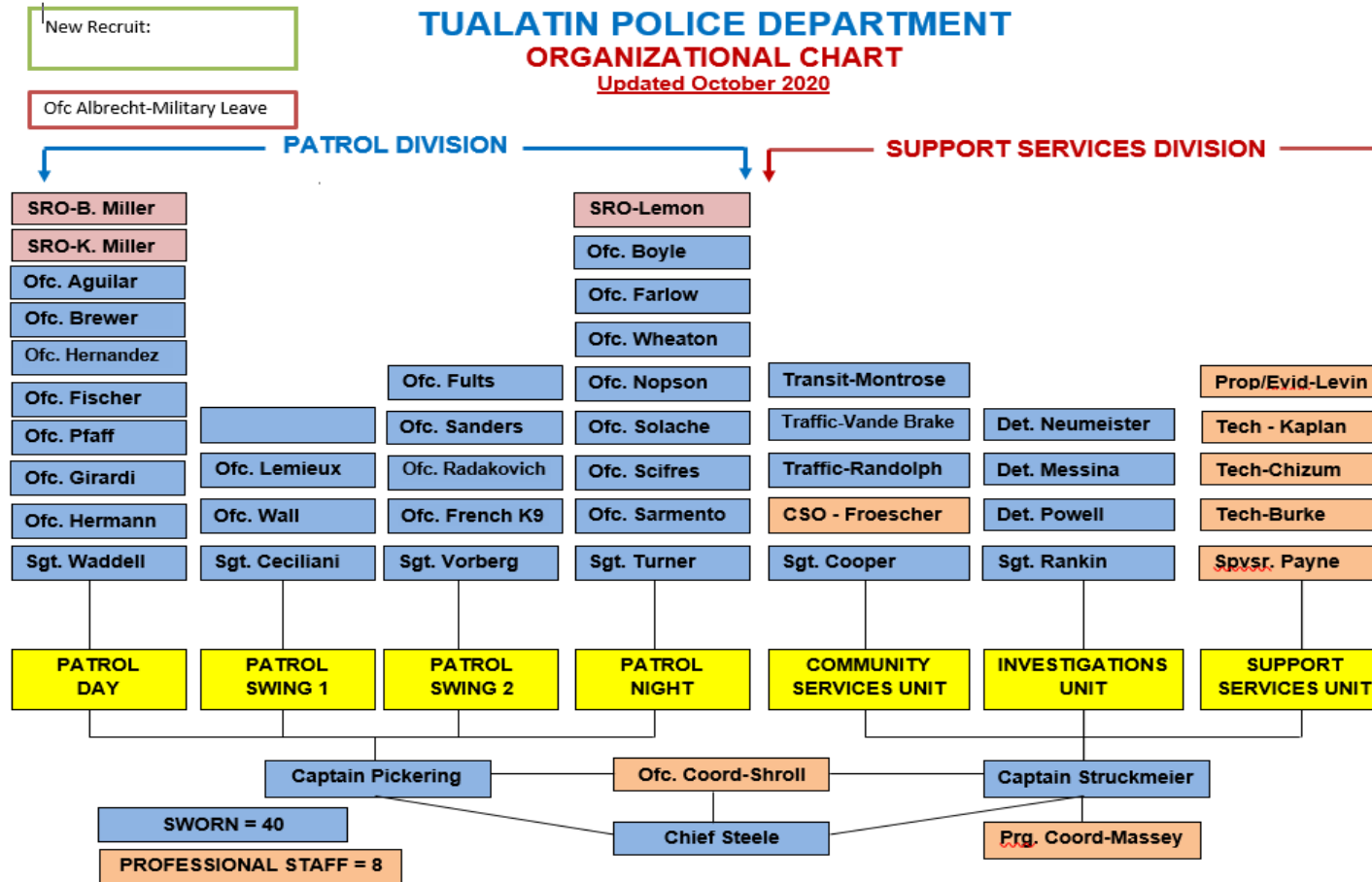
Mission Statement...

The Tualatin Police Department is dedicated to a safe Community and Excellence in Customer Service.

Department Vision and Values...

We are a professional, progressive law enforcement family whose members are our greatest asset. We strive to improve livability for our citizens through public interaction, dedication, customer service, and partnerships with the community. Our family is proud to take care of yours.

Organization Chart



Law Enforcement Authority

State Certification

Law Enforcement Authority

Law Enforcement Code of Ethics

State Certification

Basic certification:

The Department of Public Safety Standards and Training requires that all sworn law enforcement officers and dispatchers employed within the State of Oregon receive certification within 18 months of appointment. Corrections officers are required to receive certification within 12 months of appointment (OAR 259-008-0060).

SUPERVISORS AND MANAGERS

In addition to basic certification, supervisors and mid-level managers are required to complete the supervision course or middle management course, respectively, within 12 months of appointment unless a time extension is granted by DPSST (OAR 259-008-0025). Supervisors and managers should also seek the appropriate level of certification (OAR 259-008-0060).

State Certification

MAINTENANCE OF CERTIFICATION

In order to maintain certification, all active law enforcement officers and dispatchers are required to meet on-going training requirements as specified in OAR 259-008-0064 or OAR 259-008-0065.

Active police officers who hold Supervisory, Management or Executive certification must complete at least 24 hours of department-approved Leadership/Professional training every three years, as part of the on-going training required for all peace officers (OAR 259-008-0065).

Criminal Justice Code of Ethics

The Code of Ethics stands as a preface to the mission and commitment law enforcement agencies make to the public they serve.

Each Tualatin Police Officer has read, acknowledged, and signs the Criminal Justice Code of Ethics annually.

The Criminal Justice Code of Ethics can be located in the preface of the Tualatin Police Department policy manual.

Law Enforcement Authority

Officers are granted authority by Oregon Revised Statutes to prevent and deter crime; arrest offenders; issue citations in lieu of custody; take custody of evidence of a crime, contraband or recovered stolen property; control the flow of traffic and preserve the peace and safety of the public.

Sworn members of this department are peace officers pursuant to ORS 161.015. An officer's authority extends to any place in the State of Oregon.

Legal Aspects of Use of Force

Oregon Law Grants the Authority for Police Officer Use of Force

Legal Aspects of Use of Force

ORS 161.235

Use of physical force in making an arrest or in preventing an escape

Except as provided in ORS 161.239 (Use of deadly physical force in making an arrest or in preventing an escape), a peace officer is justified in using physical force upon another person only when and to the extent that the peace officer *reasonably* believes it necessary:

- (1) To make an arrest or to prevent the escape from custody of an arrested person unless the peace officer knows that the arrest is unlawful; or
- (2) For self-defense or to defend a third person from what the peace officer reasonably believes to be the use or imminent use of physical force while making or attempting to make an arrest or while preventing or attempting to prevent an escape. [1971 c.743 §27]

Legal Aspects of Use of Force

ORS 161.239

Use of deadly physical force in making an arrest or in preventing an escape

(1) Notwithstanding the provisions of ORS 161.235 (Use of physical force in making an arrest or in preventing an escape), a peace officer may use deadly physical force only when the peace officer *reasonably* believes that:

Legal Aspects of Use of Force

ORS 161.239, cont.

(a) The crime committed by the person was a felony or an attempt to commit a felony involving the use or threatened imminent use of physical force against a person; or

(b) The crime committed by the person was kidnapping, arson, escape in the first degree, burglary in the first degree or any attempt to commit such a crime; or

(c) Regardless of the particular offense which is the subject of the arrest or attempted escape, the use of deadly physical force is necessary to defend the peace officer or another person from the use or threatened imminent use of deadly physical force; or

(d) The crime committed by the person was a felony or an attempt to commit a felony and under the totality of the circumstances existing at the time and place, the use of such force is necessary; or

(e) The officer's life or personal safety is endangered in the particular circumstances involved.

(2) Nothing in subsection (1) of this section constitutes justification for reckless or criminally negligent conduct by a peace officer amounting to an offense against or with respect to innocent persons whom the peace officer is not seeking to arrest or retain in custody. [1971 c.743 §28]

Legal Aspects of Use of Force

What is Reasonable?

Legal Aspects of Use of Force

In Graham v. Connor, 490 US 386 (1989), the Supreme Court of the United States issued the seminal case law on what constitutional standard governs a citizen's claim law enforcement officials used excessive force when making an arrest, investigatory stop or other "seizure" of their person.

Legal Aspects of Use of Force

Graham v. Connor, cont.

The Court stated: “Our Fourth Amendment jurisprudence has long recognized that the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it.”

The Court held all claims of excessive force, deadly or not, are properly analyzed under the Fourth Amendment’s “objective reasonableness” standard.

Legal Aspects of Use of Force

Graham v. Connor, cont.

“The test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application.”

The proper application requires careful attention to the facts and circumstances of each particular case, including:

- 1) The severity of the crime at issue,
- 2) Whether the suspect poses an immediate threat to the safety of the officers or others, and
- 3) Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

Legal Aspects of Use of Force

Graham v. Connor, cont.

Reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.

- **Reasonable Officer:** Would another officer with same or similar training and experience facing like or similar circumstances respond the same way or use similar judgment?

This calculus must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain, and rapidly evolving –about the amount of force that is necessary in a particular situation.

Legal Aspects of Use of Force

Examples of circumstances to consider when determining reasonableness include, but are not limited to:

- The number of suspects vs. the officers involved
- Pre-Assault Indicators (specific actions by the suspect; fighting stance, clenched fists, statements)
- Size, age, and physical condition of the officer and suspect
- Known or perceived physical abilities of the suspect (known MMA fighter or other skills)
- Previous violent or behavioral health history, known to the officer at the time
- Perception of the use of alcohol or drugs by the subject
- The availability and proximity to weapons
- Environmental factors
- Injury to the officer or prolonged duration of the incident
- Officer on the ground or other unfavorable position
- Characteristics of being armed (bulges, adjustment of clothing, security touches/indexing)

Legal Aspects of Use of Force

The Tualatin Police Department utilize the Lexipol policy system. The Tualatin Police Department policy manual is updated on a bi-annual basis to stay current with changes in law, practice, and or procedure. Each officer is responsible to reviewing and acknowledging the changes in policy with each update.

Use of Force Policies and Procedures

Use of Force Definition:

There is no universally agreed-upon definition of use of force. The International Association of Chiefs of Police defines use of force as the: “Amount of effort required by police to compel compliance by an unwilling subject.”

Use of Force Policies and Procedures

Generally Recognized Levels/Types of Force

Officer Presence-No Force is Used. Considered the best and most desirable way to resolve a situation:

- The mere presence of a law enforcement officer works to deter crime or defuse a situation.
- Officer's attitudes are professional and nonthreatening.

Use of Force Policies and Procedures

Generally Recognized Levels/Types of Force, cont.

Verbalization- Force is not physical

- Officers issue calm, nonthreatening commands, such as, "Let me see your identification and registration."
- Officers may increase their volume and shorten commands in an attempt to gain compliance. Short commands might include, "Stop," or "Don't move."

Use of Force Policies and Procedures

Generally Recognized Levels/Types of Force, cont.

Empty-Hand Control- Officers use bodily force to gain control of a situation.

- *Soft Technique:* Officers use grabs, holds and joint locks to restrain an individual.
- *Hard Technique:* Officers use punches and kicks to restrain an individual.

Use of Force Policies and Procedures

Generally Recognized Levels/Types of Force, cont

Less Lethal/Serious Physical Control- Officers use less lethal technologies to gain control of a situation.

- *Blunt Impact:* Officers may use a baton or projectile to immobilize, or gain compliance of, a combative person.
- *Chemical:* Officers may use chemical sprays or projectiles embedded with chemicals to restrain an individual (e.g., pepper spray).
- *Conducted Energy Devices (CEDs):* Officers may use CEDs to immobilize an individual. CEDs discharge a high-voltage, low-amperage jolt of electricity at a distance (e.g. Taser).

Use of Force Policies and Procedures

Generally Recognized Levels/Types of Force, cont.

Lethal Force- Officers use lethal weapons to gain control of a situation. Should only be used if a suspect poses a serious threat to the officer or another individual.

- Officers use deadly weapons such as firearms to stop an individual's actions.

Use of Force Policies and Procedures

Tualatin Police Department Use of Force Policy 300

- This policy encapsulates all current legal standards for the reasonable use of force by Tualatin officers
- In addition, the policy includes the current best practices in regards to police use of force
 - Duty of officers to intercede when another officer is using clearly unreasonable force and report the use of force to a supervisor.
 - Prohibits on the use of carotid control holds unless deadly force would be reasonable
 - Officers should use de-escalation tactics when circumstances reasonably permit to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance

Tualatin Police Training

The following information is a brief overview of the training concepts and programs used to train the members of the department in the Use of Force. As stated earlier, each member of the department is required to attend a minimum number of training hours each year.

Use of Force Training Concepts

Defensive Tactics Training:

The Tualatin Police Department trains their officers defensive tactics that rely on instinctual, gross-motor movements rather than specific techniques (not martial arts-based). Techniques rely on fine motor skills and are impossible for the average officer to apply under stress. Our method allows officers to reasonably protect themselves and others

Use of Force Training Concepts

Less Lethal Tools

Oleoresin Capsicum (OC) Spray:

Tualatin officers are equipped with Sabre Red Crossfire brand OC spray. OC spray is designed to give officers a temporary advantage over combative subjects by taking away the subject's primary sense for fighting (sight) and creating physiological effects. Officers are trained on how to properly treat subjects who have been exposed to OC spray and to monitor for possible adverse health issues that may arise from the exposure.

Use of Force Training Concepts

Less Lethal Tools, cont.

Expandable ASP Baton:

Tualatin Officers are issued the expandable batons to be used as an impact device when confronted with combative subjects. Officers are trained in the appropriate target areas (large muscle groups) and to avoid dangerous areas (head, neck, spine, etc.) to lower the risk of serious physical injury or death.

Use of Force Training Concepts

Less Lethal Tools, cont.

Taser (Conducted Electronic Weapon) :

Tualatin Police Officers are issued the TASER device is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to officers and suspects. Officers are trained in the appropriate target areas (large muscle groups) and to avoid dangerous areas (head, neck, groin, etc.) to lower the risk of serious physical injury.

Use of Force Training Concepts

Less Lethal Tools, cont.

40 MM:

Tualatin Officers are trained the use of a 40MM launcher, that fires foam “baton” rounds. The baton rounds are considered an “extended range impact weapon” designed to be used as an impact device when confronted with combative subjects at a safe distance. Officers are trained in the appropriate target areas (large muscle groups) and to avoid dangerous areas (head, neck, spine, etc.) to lower the risk of serious physical injury or death.

Use of Force Training Concepts

Firearms Training Program,

Tualatin Police Officers are issued department owned firearms. Each firearm is owned, maintained and inspected annually by the department. Officers are not allowed to modify or change the firearm for any reason. Officers are required to pass annual qualifications with all firearms that they carry. The Department qualification course is State Certified. Officer train in multiple areas, including safe firearms handling, safe firearms storage, shooting in different lighting and weather conditions, shoot/no-shoot situations, and de-escalation techniques to avoid using the firearms.

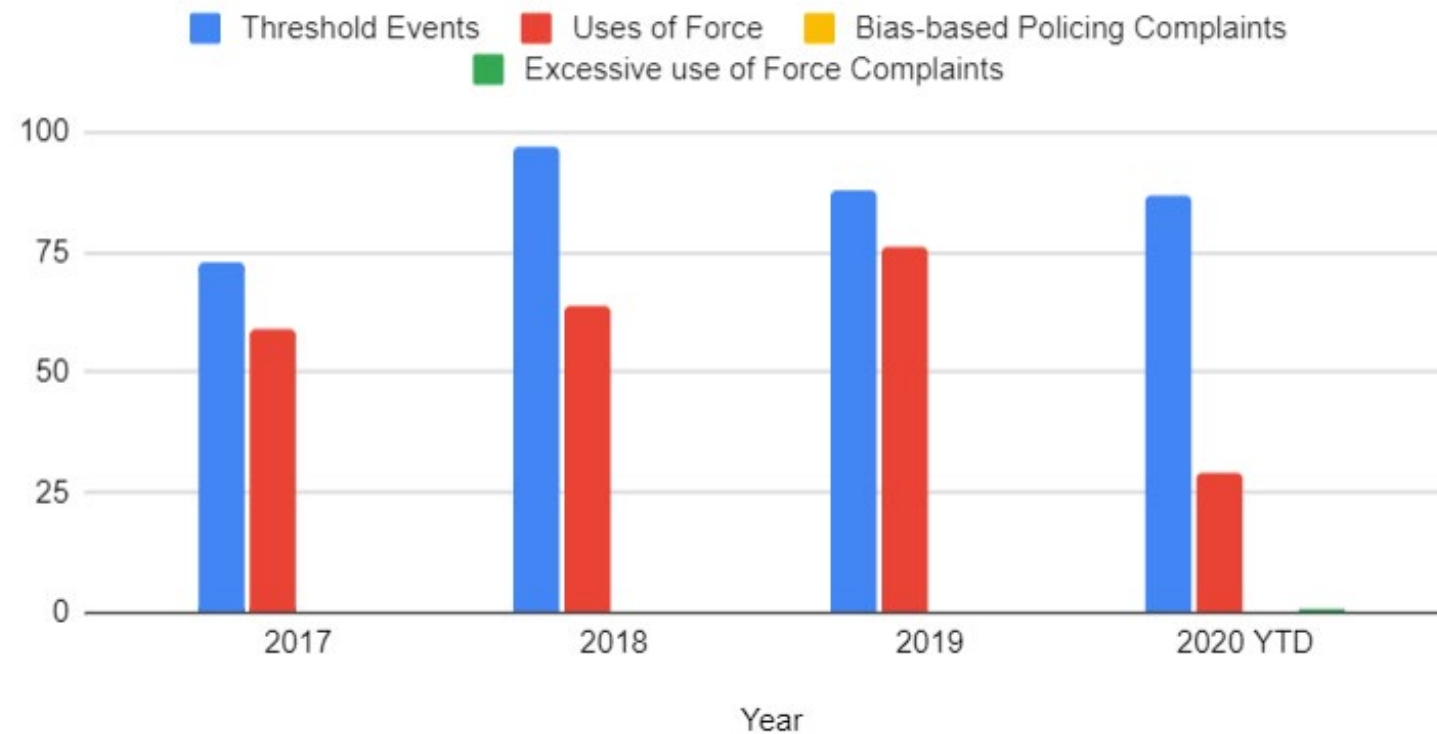
Use of Force Training Concepts

Patrol Tactics/Scenario Training

Every Tualatin officer participates in annual scenario training in Patrol Tactics. The scenario training includes critical thinking training, which places officers in situations and scenarios they may encounter while working. The training is designed to present scenarios where use of force may or may not be warranted. Officers must navigate through the scenarios, under the guidance of instructors from all of the department's training disciplines to ensure that officers are following laws, ordinances, policy and proper procedure when dealing with the situation. These scenarios focus appropriate uses of force if necessary, de-escalation techniques, appropriate aid if force is used, and proper documentation of the event.

Tualatin Police Use of Force Data

Threshold Events, Uses of Force, Bias-based Policing Complaints and Excessive use of Force Complaints



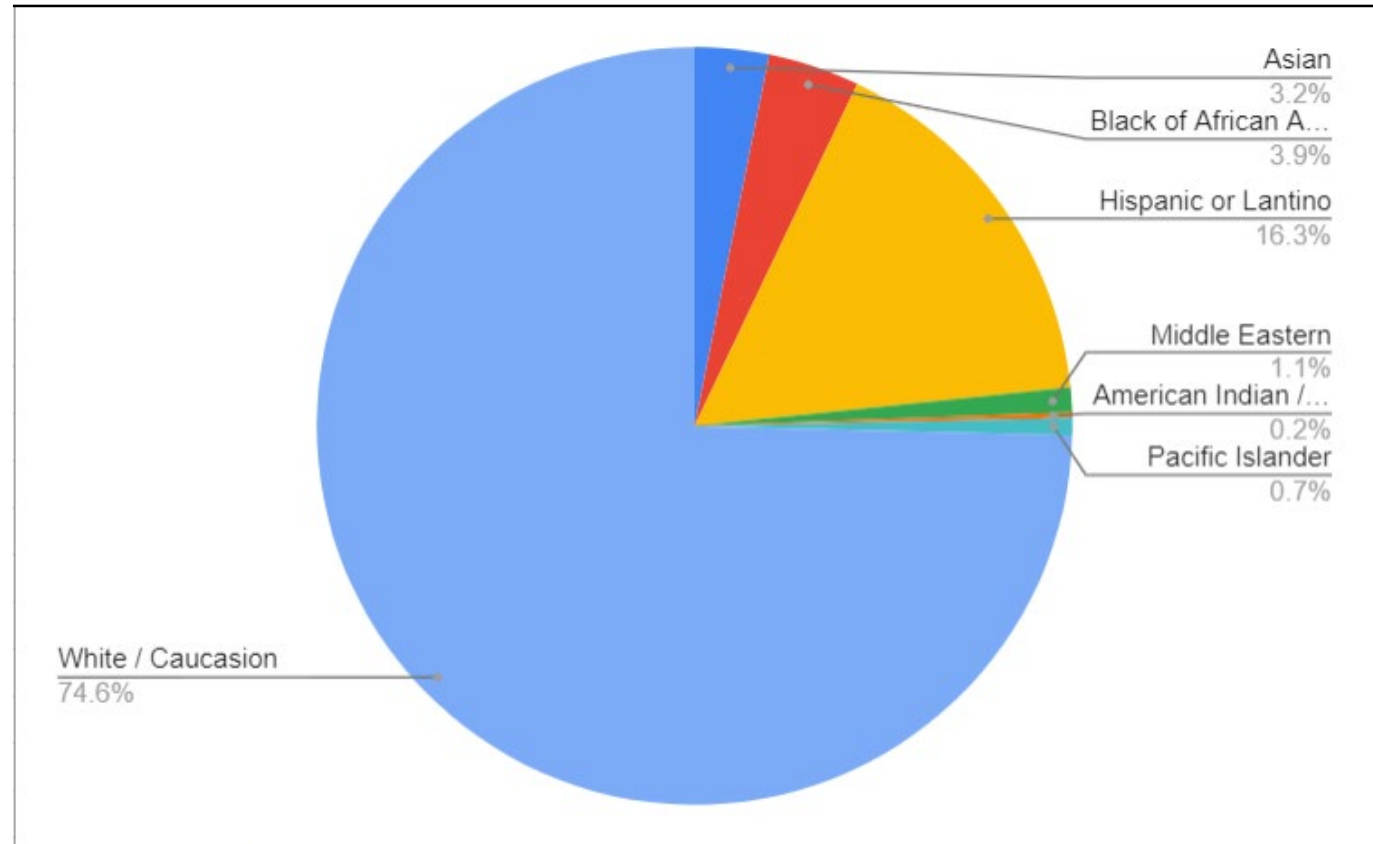
Tualatin Police Use of Force Data

Year	Threshold Events	Uses of Force	Bias-based Policing Complaints	Excessive use of Force Complaints
2017	73	59	0	0
2018	97	64	0	0
2019	88	76	0	0
2020 YTD	87	29	0	*1

* Complainant rescinded complaint after viewing holding cell video of incident during complaint investigation.

Stop Data (01/01/20 – Present)

RACE or ETHNICITY	# of Stops
Asian	141
Black of African American	174
Hispanic or Lantino	724
Middle Eastern	47
American Indian / Native Alaskan	10
Pacific Islander	33
White / Caucasian	3316



Questions?



Contact Us



- **Send us your email address** so you can receive our follow up email with materials from this session and info on Session #2.
- **Send us your questions** before Session #2 so staff can prepare responses.
- **RSVP for Session #2.**

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