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AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Donna Hom
Budget Director

SUBJECT: Supplemental Report to FY 2013-15
Proposed Policy Budget Related to
Negotiated Settlement Agreement
Remedial Action Plan and Associate Costs

DATE: May 15, 2013

City Administrator
Approval

Date

5/16/13

RECOMMENDATION

- (a) Presentation and the City Council receipt of two Federal Court Orders that set expenditures for salaries and operating expenditures to support the Office of the Compliance Director at an amount totaling \$1,486,110 (Attachment A);
- (b) Presentation and City Council receipt of the related funding strategy to implement the Remedial Action Plan as transmitted to the Federal Court by Compliance Director Thomas Frazier in an amount of \$1,825,000 for the initial compliance effort and an additional discretionary \$1,000,000 set aside for anticipated expenditures. *Note:* This Remedial Action Plan ("Plan") (Attachment B) is a mandatory expenditure for the FY 2013-15 Policy Budget. The Plan was issued on May 1, 2013, after the finalization of the Mayor and City Administrator's FY 2013-15 Proposed Policy Budget on April 17, 2013, and is hereby incorporated as part of the proposed budget action.
- (c) City Council approval of \$368,500 in necessary expenditures to implement the short-term crime fighting efforts (Attachment C), as submitted by Strategic Policy Partners (SPP) firm, which is discretionary but on focus with improving investigations and reducing homicides, burglaries, and robberies.

OUTCOME

This supplemental report advances newly available information that staff had noted was missing from the FY 2013-15 Proposed Policy Budget and becomes part of the FY 2013-2015 Proposed Policy Budget for adoption. Specifically, the two Federal Court Orders and the Remedial Action Plan funding is mandatory and the expenditures to implement the short-term crime fighting efforts is necessary, but entirely at the discretion of the City Council to approve. The recommended set aside in the amount of \$1,000,000 is also discretionary but consistent with the Compliance Director's strong suggestion to set aside dollars for future expenditures. Funds to cover these expenditures are taken from the City's General Purpose Fund Reserve—

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Undesignated Fund Balance portion (Attachment D) and this report will be integrated as part of the adoption of the Proposed Policy Budget.

BACKGROUND

On January 3, 2003, Judge Thelton E. Henderson signed an order pursuant to a negotiated agreement by parties in the Delphine Allen case (NSA) that set forth numerous tasks to be completed by the Oakland Police Department. Upon the issuance of a December 12, 2012 Court Order that established a Compliance Director, on March 4, 2013, Judge Henderson appointed Commissioner Thomas Frazier as the Compliance Director, who is tasked with issuing a Remedial Action Plan to achieve compliance with all outstanding tasks by December 2013 (Attachment B). As part of these actions, two Federal Court Orders were issued to allow for salaries and operating expenditures (Attachment A).

Court appointed Compliance Director Thomas Frazier submitted his first Remedial Action Plan on May 1, 2013 to the Federal Court and it states that subsequent updates to the Plan are expected and that the City should prepare accordingly with a line item in its budget that allows for funding additional action related to compliance. The Plan is available in the following link: <http://www2.oaklandnet.com/oakcal/groups/police/documents/webcontent/oak040879.pdf>

The costs for items outlined in the Remedial Action Plan amount to \$1,825,000. The last section of the fiscal/budget write up strongly suggests that the City set aside funds to cover the cost of additional expenditures. In addition, the City contracted with Strategic Policy Partnership (SPP) to evaluate Police Department operations toward developing a short-term crime fighting strategy that focuses on investigations, burglaries, homicides, and robberies. Attached is a report provided by the Bratton Group (subcontractor to SPP) that provides recommendations on a short-term crime reduction strategy (Attachment C). SPP also proposed additional expenditures that will be invested in the OPD and for improved service delivery in these categories. Table 1 below illustrates the funding by type and total amount to implement these plans.

Table 1: Summary of Proposed Cost Items from Compliance Director and SPP Recommendation

Descriptions	Amount	Comments
MANDATORY EXPENSES		
Compliance Director & Associated Expenditures	\$ 1,486,110	Details are listed in Table 2.
Compliance Director Remedial Action Plan	\$ 1,825,000	Details are listed in Attachment B.
Mandatory Sub-Total	\$ 3,311,110	
DISCRETIONRY EXPENSES		
Compliance Director Set Aside for Additional Expenditures	\$ 1,000,000	Court appointed Compliance Director Thomas Frazier submitted his first Remedial Action Plan and it states that the City should prepare accordingly with a line item in its budget that allows for funding additional action related to compliance.
Strategic Policy Partnership	\$ 368,500	Items that do not overlap with the CD mandatory items and details are listed in Attachment C.
Discretionary Sub-Total	\$ 1,368,500	
GRAND TOTAL	\$ 4,679,610	

In addition to the above expenditures, the Administration offers detail on the recent Court Orders that establish operating expenditures to support the Compliance Director's work. Table 2 illustrates the Compliance Director salary and his staff's salaries as they are known as of the time of this report being issued.

Table 2: Compliance Director Operating Expenditures—Per Federal Court Order

Cost Item Descriptions	Amount	Period Covered
Compliance Director (CD) Salary @ \$270,000/year and funded through December 2014	\$ 540,000	Dec. 2012-Dec.2014
Benefits for CC (Mandated)	TBD	
CD Staff (three staff) (\$100K has been deposited with the Court in March 2013 in accordance with a Court Order)	\$ 900,000	Mar. 2013-Dec. 2014
Project Manager or Administrative Staff	TBD	
Reasonable Travel Costs	TBD	
Moving Costs for CD (Absorbed by Police Department's budget)	\$ 10,000	One-time
Office Space & Parking (Absorbed by Police Department budget)	\$ 36,110	Mar. 2013- Mar. 2014
Total Known CD & Staff Related Costs:	\$ 1,486,110	

PUBLIC OUTREACH/INTEREST

The Compliance Director's Plan is prepared under the Court Order (Master Case File #C00-4599 TEH). The recommendations from Strategic Policy Partner are the result of active engagement with the community and the workforce.

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COORDINATION

The report was prepared in coordination with the City of Oakland Police Department, City Attorney's Office, and Controller's Office.

COST SUMMARY/IMPLICATIONS

The summary of costs associated with (1) Compliance Director and his staff, (2) Remedial Action Plan and (3) recommendations from Strategic Policy Partners are listed in Table 1. As part of the 3rd Quarter Financial Report, the Administration includes an itemized balance of the General Purpose Fund Reserve—Undesignated Fund Balance.

Respectfully submitted,

/s/

DONNA HOM
Budget Director

Reviewed by:
Gilbert Garcia
Director of Bureau of Services
Oakland Police Department

Attachments (4):

- (A)—Federal Court Order Appointing Compliance Director (March 4, 2013); Approving Compliance Director Staffing (April 17, 2013)
- (B)—Oakland Police Department, Remedial Action Plan—First Report
- (C)—Short Term Crime Strategy Report—Rapid and Effective Response to Robberies, Burglaries and Shootings
- (D)—General Purpose Fund Balance, as of May 16, 2013

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City Council
May 23, 2013

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DELPHINE ALLEN, et al.,
Plaintiffs,
v.
CITY OF OAKLAND, et al.,
Defendants.

MASTER CASE FILE
NO. C00-4599 TEH

ORDER APPOINTING
COMPLIANCE DIRECTOR

Pursuant to the December 12, 2012 order, the Court hereby appoints Thomas C. Frazier to serve as the Compliance Director. Commissioner Frazier's resume is attached to this order. He will begin on March 11, 2013, and will re-locate to the Oakland area.

On March 4, 2013, Defendant City of Oakland filed a response detailing the monetary compensation received by the Chief of Police and City Administrator. The City reported that the annual monetary compensation paid to the Chief of Police is \$257,973, including a base salary of \$221,998 and longevity pay, a uniform allowance, and an education premium totaling \$35,975. The City reported that the City Administrator receives annual monetary compensation of \$282,000, including a base salary of \$273,000 and an auto allowance of \$9000. The City did not include in these figures "vacation, executive leave, or other types of leave or benefits that an employee has the option to cash out or use." Defs.' Mar. 4, 2013 Response at 2. The City did not indicate any projected changes to the reported compensation.¹

¹The Court interprets the City's silence on this matter to indicate that the Chief of Police and City Administrator will not receive any cost-of-living or other annual increases over the next three years. See Mar. 1, 2013 Order at 1 ("The filed information shall include any projected increases or decreases over the next three years."). If there are any such increases during the Compliance Director's term, the Court may modify the Compliance Director's salary accordingly.

1 The Court finds good cause for the Compliance Director to be paid more than the
2 Chief of Police but less than the City Administrator. The Compliance Director shall
3 therefore receive annual monetary compensation of \$270,000. The Court finds it prudent to
4 have the Compliance Director's salary paid through the Court. Accordingly, the City shall
5 deposit \$270,000 into the Court's registry by wire no later than March 25, 2013.² The Clerk
6 of Court shall disburse \$20,769.22 to the Compliance Director during the second week of
7 April 2013, to compensate the Compliance Director for his first four weeks of service.
8 Thereafter, the Clerk shall disburse \$10,384.61 to the Compliance Director on a biweekly
9 basis.³ The Court will order subsequent deposits each year that the Compliance Director
10 remains in place. Whenever the Compliance Director's service is terminated, the Clerk shall
11 disburse to the City the balance of funds on deposit in the registry, including any earned
12 interest.

13 As previously ordered, the Compliance Director shall also receive benefits
14 commensurate with those of the Chief of Police and City Administrator, including any leave
15 or benefits that may be used or cashed out. The Compliance Director and the City
16 Administrator shall reach an agreement concerning benefits no later than March 25, 2013.
17 Nothing in that agreement shall alter the Compliance Director's status as an agent of the
18 Court, and not an employee of or contractor to the City. If the City wishes to designate a
19 different individual who will be responsible for reaching agreement with the Compliance
20 Director, it must file a statement with the Court designating that individual on or before
21 March 11, 2013.

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24 ²The Court requires funds to be deposited by wire because of the time required for
25 checks to clear and so that the Compliance Director can be paid within one month of the
26 effective date of his appointment. If the City prefers to deposit a portion of the funds by wire
and a portion by check, at least \$45,000 must be deposited by wire. The City must deposit
the entire \$270,000 – whether by wire or by a combination of wire and check – no later than
March 25, 2013.

27 ³To account for rounding, the Clerk shall include in the last biweekly disbursement for
28 each twelve-month period the remaining balance of the principal deposited for that year's
salary.

1 Any staff for the Compliance Director shall, upon the Court's approval, also be paid
2 through the Court's registry. The City shall pay directly for all other costs related to the
3 Compliance Director's work.

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5 **IT IS SO ORDERED.**

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7 Dated: 03/04/13



8 THELTON E. HENDERSON, JUDGE
9 UNITED STATES DISTRICT COURT

1967-1994

San Jose Police Department

Deputy Chief of Police

Promoted through the ranks from patrol officer to Deputy Chief of Police in 33rd largest police department in the nation, with over 1,400 officers. (San Jose is the nation's 10th largest city.) Served as Commander in each of the department's four bureaus including Field Operations, Investigations, Administration, and Technical Services. Established community oriented policing as a foundation for all services. Served as commander of the Special Operations Division, Mobile Emergency Response Group, and the Research and Development Unit. Served as Special Assistant to the City Manager, including an extended assignment to investigate a large investment fund loss.

Education

Master of Science	Major: Administration of Criminal Justice	San Jose State University
Bachelor of Science	Major: Social Sciences	San Jose State University
National Executive Institute		Federal Bureau of Investigation
Advanced Certificate		California POST

Military

- U.S. Army Intelligence Officer, 1st Lieutenant, Vietnam
- Commanded the 501st Military Intelligence Detachment, Fort Hood, Texas
- Awarded the Bronze Star, the Air Medal, and the Combat Infantryman's Badge

Boards, Appointments

- President, Board of Directors, Police Executive Research Forum
- DHS Fusion Center Management Group
- ODNI Partners Group
- DHS Senior Law Enforcement Interagency Advisory Group
- DOJ/BJA Criminal Intelligence Coordinating Council
- Executive Committee, Interagency Threat Assessment and Coordination Group, National Counter-Terrorism Center.
- Global Justice Advisory Committee, USDOJ
- Chair, Executive Committee, Baltimore/Washington High Intensity Drug Trafficking Area (HIDTA)
- National Community Oriented Policing Resource Board (COPS)

- Board Member, Mid-Atlantic Regional Community Policing Institute
- Member, MD. Lt. Governor's and Attorney General's Family Violence Council
- Former Chair, MD. Governor's Community Oriented Policing Subcommittee
- Former Chair, MD. Governor's Juvenile Justice Subcommittees
- Co-Chair, MD. Governor's Council on Criminal and Juvenile Justice

Professional Organizations

- International Association of Chiefs of Police
- FBI National Executive Institute Association
- Police Executive Research Forum
- National Organization of Black Law Enforcement Executives
- Maryland Chiefs of Police
- Texas Chiefs of Police Association
- Texas Sheriffs Association

Awards and Honors

- 2001 - Edmund J. Randolph Award for Outstanding Service, United States Department of Justice
- 2000 - Brigadeiro Tobias Honor Medal, Police of the State of Sao Paulo, Brazil
- 1999 - IACP Webber-Seavey Award for Quality in Law Enforcement
- 1998 - John Jay College Man of the Year
- 1996 - President's Award, Fullwood Foundation
- 1996 - Make A Difference Award, Baltimore Chamber of Commerce
- 1996 - Outstanding Citizenship Award, Baltimore Commission on Aging and Retirement

Community Service

- Commissioner, Los Gatos PAL Soccer, 500 Youth Players
- Vestry, Episcopal Church of the Redeemer, Baltimore, MD.
- President, Blythewood Neighborhood Association, Baltimore, MD.
- Board of Directors, Chesapeake Bay Outward Bound
- Vestry, St. Luke's Episcopal Church, Los Gatos, CA.
- Rector Search Committee, St. Luke's Episcopal Church, Los Gatos, CA.
- Coach, Towson Recreation Girl's Soccer, Baltimore, MD.
- Advisor, Baltimore Police Athletic League
- Board of Directors, Baltimore Municipal Employees Credit Union
- Advisor, Signal 13 Foundation, Baltimore Police Department
- Board of Directors, Baltimore Council, Boy Scouts of America
- Board of Directors, Baltimore Substance Abuse System
- Board of Directors, Chesapeake Bay Outward Bound

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DELPHENE ALLEN, et al.,
Plaintiffs,
v.
CITY OF OAKLAND, et al.,
Defendants.

MASTER CASE FILE
NO. C00-4599 TEH

ORDER APPROVING
COMPLIANCE DIRECTOR STAFF

On March 4, 2013, this Court appointed Thomas C. Frazier as the Compliance Director in this case and provided that "staff for the Compliance Director shall, upon the Court's approval, . . . be paid through the Court's registry." Mar. 4, 2013 Order Appointing Compliance Director at 3. This Court now approves the following staff for the Compliance Director:

1. Donald Anders, to be paid \$125 per hour, not to exceed 1040 hours per year.
2. Richard Cashdollar, to be paid \$110 per hour, not to exceed 960 hours per year.
3. Ronald Yank, to be paid \$200 per hour, not to exceed 750 hours per year.

These approvals are retroactive to March 11, 2013, the effective date of the Compliance Director's appointment, and the annual caps on hours shall apply from March 11, 2013, to March 10, 2014, and accordingly every year thereafter, unless otherwise ordered. In addition, these individuals will be entitled to reimbursement for reasonable travel costs but not for time spent traveling.

The Compliance Director may also hire a project manager or administrative assistant, as well as subject matter experts as required. These and all other additional staff will be subject to the Court's approval by subsequent order.

1 All salaries and costs will be paid by the City of Oakland through the Court's registry.
2 The City shall deposit \$100,000 into the Court's registry for this action on or before May 8,
3 2013.

4 To obtain payment for his staff, the Compliance Director will submit invoices to be
5 approved by the Court. Within twenty-one days of the entry of each order approving
6 payment, the City must deposit the full amount paid by the order so that the funds on deposit
7 for the Compliance Director's staff is replenished to \$100,000.

8 Whenever the service of the Compliance Director and his staff is terminated, the Clerk
9 shall disburse to the City the balance of funds on deposit in the registry, including any earned
10 interest.

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12 IT IS SO ORDERED.

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14 Dated: 04/17/13



15 THELTON E. HENDERSON, JUDGE
16 UNITED STATES DISTRICT COURT
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**OAKLAND POLICE DEPARTMENT
REMEDIAL ACTION PLAN
FIRST REPORT**

**OFFICE OF THE COMPLIANCE DIRECTOR
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

MAY 1, 2013

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While the vast majority of OPD Officers are dedicated, hardworking men and women doing an extraordinarily difficult job, a few behave in manners that result in citizen complaints and administrative investigations.	
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Office of the Compliance Director

U.S. District Court, Northern District of California

May 1, 2013

This is the first Compliance Director's Remedial Action Plan, Issued as required by Judge Thelton Henderson's Compliance Director Court order dated December 12, 2012. It has been compiled after only six weeks of intensive effort by my staff and me to understand a complex issue that has lingered for over ten years.

In producing this initial product we have reviewed stacks of documents, and have interviewed dozens of people representing the whole spectrum of stakeholders in this project. We feel that we have made an acceptable start, but that the product we present here is far from completed. We have determined to align our future work closely with the Independent Monitor's Quarterly Reports, updating and recalibrating our action plan each time the Monitor completes a measurement and assessment cycle.

The reader will quickly note that this action plan, even in its early stages, goes well beyond the issues contained in the eleven remaining NSA noncompliant items. This authority was specifically granted by Judge Henderson to insure that Oakland has a strong police department, well positioned for the future, at the end of our work here.

Very few of the items we list in this plan can be initiated easily and painlessly. The road ahead will certainly be rocky, and occasionally divisive. However, we feel confident that we can navigate these issues and produce a solid foundation for the future success of the Oakland Police Department.

A handwritten signature in black ink that reads "Thomas C. Frazier".

Thomas C. Frazier, Compliance Director

Golden West Tower Bldg
1970 Broadway Ave., Suite 930
Oakland, CA 94612

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oaklandcompliance@compliance.com

INTRODUCTION

On January 3, 2003 Judge Thelton E. Henderson signed an order pursuant to a negotiated agreement by parties in the Delphine Allen case,¹ hereafter referred to as the Negotiated Settlement Agreement (NSA).² The NSA was a result of multiple Patterns and Practices claims against the City of Oakland and the Oakland Police Department (OPD) stemming from what has become commonly known as "The Riders Case." A total of 119 plaintiffs were associated with the suit in 2000, and ultimately an award of \$10.9 million was paid by the City of Oakland. The NSA outlined major reforms required of the OPD, and the Department was to be in compliance within 5 years. The Compliance Director maintains the highest regard for the purpose of the NSA as outlined in the original 2003 Agreement:

"The City of Oakland...and the plaintiffs share a mutual interest in promoting effective and respectful policing. The parties join in entering into this Settlement Agreement...to promote police integrity and prevent conduct that deprives persons of the rights, privileges and immunities secured or protected by the Constitution or laws of the United States. The overall objective of this document is to provide for the expeditious implementation...of the best available practices and procedures for police management in the areas of supervision, training and accountability mechanisms, and to enhance the ability of the Oakland Police Department...to protect the lives, rights, dignity and property of the community it serves."³

The NSA was updated in February 2004,⁴ and encompassed 51 Tasks. An Independent Monitoring Team (IMT), approved by Judge Henderson, was assigned the responsibility of monitoring the efforts and progress of the OPD toward compliance with all Tasks. At the end of the Court-ordered 5 year period, OPD was not in full compliance with the NSA, and thus Judge Henderson ordered that it be extended. The first IMT filed 14 quarterly reports with the court; the last was filed in January 2010.⁶

In 2010, a second IMT was approved by Judge Henderson. The second (and current) IMT has filed a total of 13 quarterly reports, commencing in April 2010.⁶ An Amended Memorandum of Agreement (AMOU) between all parties was also approved by Judge Henderson. The AMOU reduced the number of actively monitored Tasks from 51 to 22. In January 2012, the Court issued an order extending the authority and responsibility of the Independent Monitor.⁷

¹ Delphine Allen, et al., Master Number C00-4599 TEH (JL)

² <http://www2.oaklandnet.com/oakca1/groups/police/documents/webcontent/dowd022066.pdf>

³ *Ibid*

⁴ *Ibid*

⁵ *Ibid*

⁵ *Ibid*

⁷ <http://docs.justia.com/cases/federal/district-courts/california/candce/3:2000cv04599/41858/675/0.pdf?1327480915>

In 2012 plaintiff's attorneys filed a motion for the court to consider assigning a federally appointed receiver to the OPD, which would place the OPD into receivership. The motion was opposed by the City of Oakland, and ultimately the parties agreed to a concept titled "Compliance Director."⁸ Following an agreement by parties to pursue an alternative to a federally appointed receiver the Office of the Compliance Director was ordered by Judge Thelton E. Henderson on December 12, 2012.⁹

On March 4, 2013 Judge Henderson appointed Commissioner Thomas C. Frazier (Ret.) as the Compliance Director.¹⁰ On March 10, 2013 the Court issued an Order of Clarification regarding, in large measure, the authority and scope of the Compliance Director.¹¹ On March 17, 2013 the court issued an order approving the Compliance Director's staff.

The Compliance Director Court order dated December 12, 2012 addresses the reporting duties of the Compliance Director, and delineates the following requirements:¹²

1. "Within 30 days of his or her appointment, the Compliance Director will file a remedial action plan ("Plan") that both addresses deficiencies that led to noncompliance and explains how the Plan will facilitate sustainable compliance with all outstanding tasks by December 2013 or as soon thereafter as possible.

"The Plan will include:

- a. A proposed budget, to be included as part of the Oakland Police Department ("OPD") budget, that is mutually agreed to by the Compliance Director, the Mayor, the City Administrator, and the Chief of Police for the fiscal year based on proposed expenditures for task compliance.
- b. A plan for the oversight, acquisition, and implementation of a personnel assessment system ("IPAS") that provides a sustainable early-warning system that will mitigate risk by identifying problems and trends at an early stage.
- c. Strategies to ensure that allegations made by citizens against the OPD are thoroughly and fairly investigated.
- d. Strategies to decrease the number of police misconduct complaints, claims, and lawsuits.
- e. Strategies to reduce the number of internal affairs investigations where improper findings are made.

⁸<http://www.oaklandcityattorney.org/PDFS/Riders/Joint%20Submission%20of%20Proposed%20Order%20Regarding%20Receivership%20Motion.pdf>

⁹ <http://www.cand.uscourts.gov/pages/964>

¹⁰ *Ibid*

¹¹ <http://www.scribd.com/doc/135282991/Henderson-April-10-Order-on-Compliance-Director-s-Authority>

¹² <http://www.cand.uscourts.gov/pages/964>

f. A list of persons responsible for each outstanding task or specific action item.”

In addition, the court ordered, in part:

“The above list of requirements is not exhaustive. Likewise, the parties have agreed that tasks related to the following areas are key to driving the sustained cultural change envisioned by the parties when agreeing to the NSA and AMOU: collection of stop data, use of feree, IPAS, sound management practices, and the quality of investigations by the Internal Affairs Division.....The Court agrees that the identified tasks are of utmost importance, but, unless otherwise ordered, expects full and sustainable compliance with all NSA tasks.”¹³

“The Compliance Director will have the power to review, investigate, and take corrective action regarding OPD policies, procedures, and practices that are related to the objectives of the NSA and AMOU, even if such policies, procedures, or practices do not fall squarely within any specific NSA task. The Compliance Director will have the authority to direct specific actions by the City or OPD to attain or improve compliance levels, or remedy compliance errors, regarding all portions for the NSA and AMOU, including but not limited to: (1) changes to policies, the manual of rules, or standard operating procedures or practices; (2) personnel decisions, including but not limited to promotions; engagement of consultants; assignments; findings and disciplinary action in misconduct cases and use-of-force reviews; the discipline or demotion of the OPD officers holding the rank of Deputy Chief and Assistant Chief; and the discipline demotion, or removal of the Chief of Police; (3) tactical initiatives that may have a direct or indirect impact on the NSA or AMOU; (4) procurement of equipment, including software, or other resources intended for the purpose of the NSA and AMOU compliance; and (5) OPD programs or initiatives related to NSA tasks or objectives. The Compliance Director will have the authority to direct the City Administrator as it pertains to outstanding tasks and other issues related to compliance and the overall NSA and AMOU objectives.”

Judge Henderson’s Order of Clarification¹⁴ affirmed, with examples, the information contained in the December 12, 2012 Compliance Director Order.¹⁵

At the time of this writing, the IMT 12th quarterly report states there are 11 NSA Tasks with which OPD remains out of compliance at various levels.

First and foremost, the Office of the Compliance Director considers of paramount importance the need to concentrate efforts on the remaining tasks which are out of

¹³ <http://www.cand.uscourts.gov/pages/964> page 5

¹⁴ <http://www.scribd.com/doc/135282991/Henderson-April-10-Order-on-Compliance-Director-s-Authority>

¹⁵ <http://www.cand.uscourts.gov/pages/964>

compliance. This process includes, but is not limited to, analysis of history, understanding of NSA-AMOU-IMT-Court requirements, factors impacting OPD's inability to come into full compliance, and a study of the future direction of the Department. In essence, where OPD has been, where they are now, and where they are going. The NSA tasks, as negotiated by the parties and approved by the court, shall always be considered a top priority with the Office of the Compliance Director.

Moreover, the Compliance Director has a clear understanding that bringing the tasks which are currently out of compliance (or ruled out of compliance in future IMT quarterly reports) into compliance will not, alone, establish the culture and the contemporary police services the community desires in their police department. Police organizations are complex, intenvoven, sophisticated and demanding institutions which provide services at all hours every day of the week. As such, comprehensive principles, policies, practices and philosophies associated with concepts of training, accountability, supervision and administration must be affirmatively challenged to reflect preferred practices and Constitutional Policing.

This first iteration of the Remedial Action Plan ("the Plan") appreciates, and is dependent upon, a variety of sources to inform its contents as accurately as is reasonable.¹⁶ Those sources include, but are not limited to:

- Membership, supervisors, command and executive personnel of the Oakland Police Department.
- Independent Police Monitoring Team.
- Site visits.
- Community contacts.
- Inspections and analysis.
- Parties to the NSA.
- ACLU and National Lawyers Guild.
- City administrators and political leaders.
- Representatives at Partners Meetings.(Meetings of all stakeholders in the NSA.)
- Local media.
- Investigations conducted by the Internal Affairs Division and the Criminal Investigations Division.
- Civil claims, civil suits, and civil awards.
- Technical Assistance meetings with the Department and the IMT.
- Alameda County Civil Grand Jury reports and Department responses.
- Alameda County Office of the District Attorney.
- Internal Department audits.
- Executive Force Review Boards.
- OPD policies, orders and training bulletins.
- Frazier Group LLC report of Occupy Oakland events and the OPD response.

¹⁶ The Plan will be updated and revised as more information, through a variety of sources, becomes available.

The Compliance Director has a part-time staff of three individuals. Collectively, the Office has 162 years of full-time experience at all levels of law enforcement (Federal and municipal). The Director resides full-time in Oakland, and the Office is located in Oakland as well.

The Remedial Action Plan is a living document. The first iteration connects strategies (as ordered by the Court) with out-of-compliance NSA tasks, and with over-arching policies and practices that weave throughout the organization. The Office of the Compliance Director aspires to be clear that this document is preliminary in nature. Given the extensive time period required to conduct reviews, research and exploration of the Department, the Director believes the provision of strategies rather than finite objectives are most appropriate. As knowledge, discovery and awareness of the Department and of community concerns increase, commensurate revision of the Plan will likely occur. The Compliance Director Order makes clear that a document with substantially more specificity and benchmarking will be forthcoming 30 days after the due date of this Plan.

How the Plan facilitates Sustainable Compliance

The Court has ordered the Compliance Director to provide an explanation for how the Plan will facilitate sustainable compliance with the NSA tasks.

Understanding the organizational history, and the reasons for *why* the listed deficiencies have prevented the City and the Department from attaining compliance with the NSA tasks, are important. However, what is critical to the sustained compliance of the NSA tasks and of preferred practices in law enforcement are age-old, tried and true, fundamental principles. The Plan illustrates the necessity for sustained reform based on *training, supervising, accountability, and professional leadership and administration* in all facets of the Department; from recruiting, background investigations, and hiring of new officers to civilian support services to succession planning to community collaboration, these strategic principles will positively impact every component in the OPD. Policy, mandates, inexorable pride and ethics, quality assurance, performance auditing, and community oversight all aggregate to ensure that, once the OPD evolves to 21st century policing, it will sustain the achievement and continue to remain a contemporary and professional provider of law enforcement services.

INITIAL FINDINGS

This Plan has been produced after only six weeks of review of OPD by the Compliance Director and his staff.

This Remedial Action Plan is organized in a manner that identifies strategies necessary to address defined weaknesses. Strategies include those items from the NSA that are either non-compliant or partially compliant. Additional actions are also included that are deemed necessary to go beyond technical compliance with the NSA, to insure the future health and viability of the organization. Timelines and responsible parties are identified for each task. Finally, a budget estimate for implementation is provided, in accordance with the Court-ordered Tasking.

In preparing the action plan items that follow, we have remained cognizant that OPD is an organization stretched to the limit for both sworn and civilian personnel. Field commanders have told us that they recognize the need for improvements, especially in the training area, but are very reluctant to remove personnel from the street to attend training. This poses a difficult question: How "well" can OPD afford to get? Each officer receiving necessary training means one less officer on the street. We are encouraged that the City of Oakland is now seemingly committed to funding a series of police academy classes over the next two years. They will provide much-needed increases of sworn personnel. However, these increases will come slowly, and OPD has many immediate needs. Balancing these opposing forces will require careful planning and cooperation between the City, OPD, the Independent Monitor, the Compliance Director, and other involved stakeholders.

NOTE 1: "OPD PLAN TO ACHIEVE COMPLIANCE" discussions in the following have been quoted directly from the current undated OPD Task Compliance Plan, as provided to the Compliance Director in March, 2013.

NOTE 2: "MONITOR 12TH QUARTERLY COMMENTS AS TO REASONS FOR NON-COMPLIANCE:" discussions have been quoted directly from the Twelfth Quarterly Report of the Independent Monitor for the Oakland Police Department, dated January 30, 2013.

COMPLIANCE DIRECTOR'S FINDINGS:

Due to the evolving nature of this task recalibration of this Plan may occur subsequent to the publication of any Monitor Quarterly Reports or other significant developments. These Plan updates will include necessary adjustments to Compliance Director recommendations and budget adjustments. This will insure that the Plan remains current and aligned with the Court's desire for rapid progress.

The Compliance Director has divided the items identified by the Court into the following five topical areas:

TOPICAL AREA #1

While the vast majority of OPD Officers are dedicated, hardworking men and women doing an extraordinarily difficult job, a few behave in manners that result in citizen complaints and administrative investigations.

TOPICAL AREA #2

Supervisors fail to enforce Departmental policy by not intervening in or reporting unacceptable behavior that they are either informed of or witness.

TOPICAL AREA #3

Investigations fail to thoroughly and impartially seek the truth in reported allegations of officer misconduct.

TOPICAL AREA #4

Executive leadership has permitted members of the organization to believe that the behaviors articulated in Topical Areas # 2 and #3 are both tolerated and acceptable.

TOPICAL AREA #5

Executive leadership fails to act proactively on issues/processes within their ability to implement that, cumulatively, would have major impact on Departmental effectiveness.

Action Plan

TOPICAL AREA #1

While the vast majority of OPD Officers are dedicated, hardworking men and women doing an extraordinarily difficult job, a few behave in manners that produce citizen complaints and administrative investigations.

REMEDIAL ACTIONS:

GOALS:

- Change the culture of the organization to show that these kinds of actions are not tolerated at a peer level, by supervisors, or by executive leadership.
- Restructure Internal Affairs procedures to insure full, fair, and timely investigation of alleged misconduct.
- Insure that promotion, reassignment, and awards processes fully consider past instances of exemplary conduct, and/or misconduct
- Insure that Departmental training programs stress the concepts of constitutional policing, and of a broad range of appropriate officer responses concerning use of force.

OBJECTIVES:

- Bring Task 5: Complaint Procedures for IAD, into compliance.

MONITOR 12TH QUARTERLY COMMENTS AS TO REASONS FOR NON-COMPLIANCE:

As in our previous reviews, we treated Tasks 5.15 and 5.16 as a single subtask with several elements, specifically that OPD: gathers all relevant evidence; conducts follow-up interviews where warranted; adequately considers the evidence gathered; makes credibility assessments where feasible; and resolves inconsistent statements (compliance standard: 85%). During the previous assessment period, we deemed the Department in compliance with *all* of these required elements 88% of the time. Of the 25 investigations we reviewed for this reporting period, we deemed 18, or 72%, in compliance with *all* of these required elements.

In nine cases, investigators conducted follow-up interviews with officers or civilians to seek clarification. However, in three cases, we believe that additional interviews should have been conducted. In one, a union steward alleged that a supervisor interfered with an internal investigation. The investigator noted that the complainant, who is also an OPD employee, "...refused multiple requests to be interviewed by IAD or answer follow up questions." We noted a similar case during our last review process. IAD can – and *should* – compel employees to cooperate with an investigation, particularly employees who initiate the complaint process. In another case, a use of force allegation stemming from an Occupy Oakland protest, discrepancies between a sergeant's and an officer's statements regarding the actions of a complainant and the level of force used should have been explored in subsequent interviews. In the third case – a complaint of demeanor during a motor vehicle accident investigation – the complainant provided the names of two potential witnesses. These witnesses were not contacted before IAD reached a determination regarding the allegation. Consequently, we also determined that, in these latter two cases, inconsistent statements went unresolved.

In three cases, credibility assessments were problematic. In one, an Occupy Oakland case that was investigated by an outside contractor, credibility assessments simply were not completed.¹⁷ In another investigation involving an allegation of excessive force stemming from an Occupy Oakland protest, the Chief appropriately changed a not sustained finding to sustained, based on the officer's history and the fact that he appeared to intentionally turn his PDRD off several times during the incident. While the Department ultimately came to the correct conclusion, the officer's credibility should have also been questioned based on the evidence at hand. In another case, an investigator concluded that an officer became "obviously upset and appeared to take on a defeatist attitude; he was admitting to things that did not happen." We have repeatedly cautioned IAD about including such speculative comments in investigative summaries. However, if IAD elects to include statements like this, investigators cannot later deem the officer credible without any notation of this previous conclusion.

¹⁷ When we inquired regarding the lack of credibility assessments in this case, IAD advised that it also noted that the assessments were missing, and provided an updated investigation. IAD sent a two-page memo containing credibility assessments to the Chief on November 8, 2012.

Task 5.18 requires that OPD resolve each allegation in a complaint investigation using the preponderance of the evidence standard (compliance standard: 90%). During the previous reporting period, OPD complied with this subtask in 88% of the cases we reviewed. During this reporting period, OPD complied with this subtask in 20 cases, or 80%. One of the noncompliant cases involved uses of force and their subsequent investigation, stemming from an Occupy Oakland protest. Two of the allegations were appropriately sustained. We believe another allegation – that a supervisor intentionally omitted certain details in his reports – could have also been sustained. The investigator wrote such phrases as, “there are circumstances to suggest that [] did so intentionally” and “may have intentionally omitted.” He arrives at his not sustained finding, however, because he believes there is no “clear evidence.” This standard is higher than the preponderance of evidence standard, which we believe was met as it pertains to this allegation.

In another case, an allegation was inappropriately administratively closed rather than adjudicated according to the preponderance of the evidence standard. It involved an allegation of inappropriate pointing of a firearm during the execution of a search warrant. A third-party complainant alleged that officers pointed an “infrared” dot at an infant while clearing the house. IAD administratively closed the case because OPD firearms are not equipped with laser sights, and since ATF agents were also on the scene, their firearms must have been involved. However, just prior to the case being closed, an IAD officer called ATF and learned that they also do not have any weapons equipped with laser sights. Despite having this information, IAD administratively closed the case as having no jurisdiction.

Compliance Status:

Phase 1: In compliance

Phase 2: Partial compliance

We noted six cases in which the recommended findings of the investigator were overturned during the review process. In five cases, this was appropriate and resulted in compliant cases as it pertains to this task. However, in one, a case involving an allegation of a dispatcher failing to report to work after being medically cleared for duty, the investigator also laid out a convincing case for sustained truthfulness charges. The Chief changed the finding “after consulting with the OCA (Office of the City Attorney).”

OPD is not in compliance with Task 5.18.

OPD PLAN TO ACHIEVE COMPLIANCE

OPD RESPONSIBLE PARTY: Deputy Chief S. Whent

OPD will provide training to IAD (e.g., analyzing statements and evidence, interviews and interrogation, and POST Internal Affairs training, interview techniques, investigative analysis, etc.). This training is on-going.

Providing similar training to newly promoted investigators.

OPD has made appropriate staffing changes at the investigative and command level and will continue to monitor staff performance.

OPD to provide continued training on investigation process and protocols to ensure that investigations and findings are based on thorough, fair, unbiased, and timely.

We expect to return to a level in compliance or near to it once the vast numbers of Occupy investigations are complete. This task will likely never be 100% due to the subjectivity involved.

COMPLIANCE DIRECTOR'S COMMENTS:

The OPD has commented that they have been in compliance with Tasks 5.15 and 5.16, as documented in many previous IMT quarterly reports. OPD believes the organization is presently out of compliance with Task 5.18 in large measure due to the Occupy Oakland events of 2011 and 2012. The volume, nature, and challenges of the complaints alleged against Department members and Department policy/actions was an anomaly.

Regarding credibility assessments, a variety of methods were analyzed to determine which were most appropriate to the NSA Task, e.g. standard jury instructions regarding weighing credibility of testimony. At the present time, the overwhelming numbers of statements are automatically deemed credible unless provable information to the contrary is known. In addition, Internal Affairs has recognized possible disparity when evaluating citizen versus officer credibility, and they have also determined to assess and emphasize

the officer's history. The Department has also recognized that noncompliance can be attributed, in part, to administrative investigations which are completed outside of the Internal Affairs Division, at what is called the "Division level." Division level investigations are typically done within the division where the Department member works, such as patrol. The Division level administrative investigations are often lower-tier allegations.

OPD has indicated the efforts to come into compliance with the Task have included reorganization of the entire command staff and a substantial amount of internal training. Efforts have included holding supervisors accountable for their responsibilities, and providing scenario-based training to all Department supervisors and command personnel. Current focus within the Department is on diligence and thoroughness when interrogating and interviewing Department personnel. Due to their training emphasis, the OPD believes they have demonstrated an approximate 30-40% increase in their capacity to conduct appropriate IAD investigations.

Executive Leadership must send a clear message to the rank and file that misconduct by one reflects poorly on all. Community support is contingent on mutual respect, and must be a key component of everyday interaction at the individual officer level. Positive discipline begins with executive leadership, i.e., leadership by example and appropriate behavior modeling. Negative discipline must be as lenient possible and still effect the desired change in behavior, yet severe enough that others will recognize that this type of misconduct is not worth the imposed sanction.

Selection, Training, and Supervision of Internal Affairs members will take months, if not years to accomplish. Sergeant promotional list members are prime candidates for assignment to Internal Affairs. These candidates will get invaluable experience not available in any other assignment or any other time in their careers. Thoroughness and the ability and need to probe deeply and effectively are requisite skill sets for future commanders and executive leaders.

- **Bring Task 16: Supporting IAD Process – Accountability, Into compliance.**

MONITOR 12TH QUARTERLY COMMENTS AS TO REASONS FOR NON-COMPLIANCE:

Task 16.1 requires that supervisors and commanders, as well as other managers in the chain of command, are held accountable for supporting the IAD process (compliance standard: Yes/No); and Task 16.2 requires that if an IAD investigation finds that a supervisor or manager should have reasonably determined that a member/employee committed or violated a Class I offense, the supervisor or manager is held accountable, through OPD's administrative discipline process, for failure to supervise, failure to review, and/or failure to intervene (compliance standard: 90%).

To assess Task 16 during this reporting period, we examined 95 Daily Incident Log entries from July 1, through September 30, 2012; a random sample of 84 IAD cases (investigated by both IAD and via Division-level investigation, or DLI) that were approved by the Chief between July 1, through September 30, 2012; and the 20 sustained Class I investigations that were approved by the Chief between July 1, through September 30, 2012.

During this reporting period, there was an increase in the number of sustained Class I investigations, compared to previous reporting periods. However, only nine (45%) of the 20 investigations sufficiently addressed the role of the subjects' supervisors or managers in the sustained misconduct. Task 16 requires, in part, that a supervisor or manager shall be held accountable, through the Department's administrative discipline process, for failure to supervise, failure to review, and/or failure to intervene.

Of the remaining 11 cases in our review, seven involved Occupy Oakland and related protests. In each of these, officers were sustained for their improper use of force. However, despite the requirement that investigations include a member/employee accountability section, the investigations contained limited or incomplete analyses of the actions of the supervisors who should have supervised the officers, intervened in the use of force, and reported the actions. During protests, OPD assigns squads of officers to interact with the crowd, and each squad is supervised by a sergeant. However, none of the seven Occupy Oakland-related cases included an analysis of the accountability of any supervisor above the rank of sergeant, leading us to question where the other

officers, supervisor, or commanders were while the sustained misconduct occurred. In one case, a lieutenant was found to have made improper command decisions during a protest; however, the investigation did not include any review of the demonstration response planning by OPD command. In more than one case, high-ranking supervisors – including captains – were involved in the situations that lead to the sustained use of force. In these situations, if citizens had not made complaints, the misconduct would not have been reported or investigated; and officers would not have been disciplined for their misconduct.

The remaining four investigations that did not sufficiently or completely analyze the role of the supervisor involved: the improper detention of a subject and (sustained) allegation of racial profiling; a vehicle pursuit where the officer intentionally struck the subject; the use of a canine where improper commands were given; and the use of a force in striking a mental patient. In each of these cases, OPD did not sufficiently analyze the role of the supervisor in the misconduct. It was not until each of the four cases made it to the Force Review Board that the Chief of Police identified the supervisors' misconduct.

Based on our review, OPD is not in Phase 2 compliance with this Task.

Compliance Status:

Phase 1: In compliance

Phase 2: Not in compliance

OPD PLAN TO ACHIEVE COMPLIANCE

OPD RESPONSIBLE PARTY: Deputy Chief S. Whent

The Department has consistently done a good job at holding people accountable where necessary. Occupy was a challenge to the Department in every possible aspect, including IA investigations. The Department will give additional scrutiny to any lingering Occupy investigations. It is expected that compliance will improve to pre – Occupy compliance levels.

As with Task 5, the OPD believes they are out of compliance with Task 16 due to the volume and challenges of complaints made as a result of Occupy Oakland events of 2011 and 2012. Prior to the necessity to investigate the hundreds of complaints, the OPD had

been in compliance for many quarters. OPD believes they have consistently done a good job at holding people accountable where necessary, as it relates to this particular task. Occupy Oakland was a challenge to the Department in every possible aspect, including IA investigations.

The Department acknowledges that IAD struggles with making determinations about the role of a sergeant as it relates to the alleged misconduct of an officer. This was especially applicable with the Occupy Oakland complaints, in that the volume of complaints has made it difficult to 'explore' the burden that sergeants should have borne. In addition, the IAD has been challenged to develop a preponderance of evidence to sustain allegations involving supervisors.

The Department will give additional scrutiny to any lingering Occupy investigations. It is expected that compliance will improve to pre - Occupy compliance levels going forward.

COMPLIANCE DIRECTOR'S COMMENTS:

The Department historically has not consistently held members accountable for their actions, both in terms of effective disciplinary investigation, proper finding, and appropriate discipline. Several cases are being reviewed by the Office of the Compliance Director at this time, and appropriate findings and recommendations are forthcoming.

"Occupy" is not a blanket excuse for lingering NSA-related or other issues. However, the Compliance Director does acknowledge that the events of "Occupy" placed a significant burden upon an already ineffective IAD system.

- **Bring Task 40: Personnel Assessment System (PAS) into compliance.**

MONITOR 12TH QUARTERLY COMMENTS AS TO REASONS FOR NON-COMPLIANCE:

Comments:

In the last two reporting periods, we found OPD to be in partial Phase 2 compliance – following two reporting periods of non-compliance – as a result of persistent problems in accurately recording the number of arrests made by individual officers.

Although the specific problems were identified, the Department "resolved" this issue through a process of entering data by hand. As noted in our previous reports, this temporary fix is significant, but it does not stabilize the system to assure ongoing quality in data collection and storage. The Department is moving toward implementing a new computer system that will address these problems. The new system should support achieving compliance with this requirement.

Discussion:

General Order D-17, Personnel Assessment Program, which incorporates the requirements of Tasks 40 and 41, was recently revised (July 11, 2012), supporting continuation of a finding of Phase 1 compliance with this Task.

As noted in our last report, major data problems were addressed by reverting to entering arrest data manually rather than automatically from the Alameda County data feed. Plans exist to automatically enter data into the County system from electronic reports completed by officers but have not yet been implemented, although that had been expected. When they are, Oakland will join most other police departments in the County that have reliable systems for automatically uploading arrest data. The issue of continuing instability of the system, therefore, remains. OPD again reports that the problem is expected to be resolved soon. We will continue to review the status of change in data collection and storage processes.

Tasks 40 and 41 are divided into 33 practice-related subtasks that include 12 additional lower-level provisions. As with all previous reviews, we requested and received material for each of the Tasks and subtasks. Our data request allowed for the replication and extension of the data analysis reflected in our earlier reports.

PAS records for the quarter of July 1, through September 30, 2012 indicate that data were entered for all of the fields required by Task 40 – including the arrest data. The required data for the quarter included reports of 776 uses of force. This is a decrease of 23% from the last reporting period. The data for the current reporting period indicate that there were 3,516 arrests – down slightly from 3,639 the previous reporting period.

A further breakdown of the types of use of force shows that, for this reporting period, there was one Level 1 (down from three in the last reporting period); five Level 2; and 29 Level 3 uses of force. The table also shows a decrease of 23% in Level 4 uses of force, to a total of 741. This is on top of a 9% reduction in the prior quarter and represents the lowest level since this our tenure began. The data count for the current reporting period and the five prior reporting periods is presented in the table below.

OPD Performance Activity Comparison by Quarter						
Performance Activity	April 1 to June 30 2011	July 1 to September 30 2011	October 1 to December 31 2011	Jan 1 to March 31, 2012	April 1 to June 30, 2012	July 1 to September 30, 2012
Level 1 Uses of Force	4	6	3	4	3	1
Level 2 Uses of Force	21	19	48	28	14	5
Level 3 Uses of Force	37	38	108	50	31	29
Level 4 Uses of Force	1154	1066	797	1034	962	741
Unintentional Firearms Discharge	0	0	0	0	0	0
Sick Leave Hours	9378.39	10406.31	12084.56	12734.56	11229.36	9634.3
Line of Duty Injuries	40	52	43	47	50	46
Narcotics Related Possessory Offenses Arrests	426	482	445	641	452	508
Vehicle Collisions	15	11	7	13	15	15
All Vehicle Pursuits	82	117	89	77	99	83
All Anest	3374	3470	3402	3656	3649	3516
Anests including PC 69, 148(a), 243(b)(c) & 245(c)(d)	63	61	61	58	72	56
Anests only for PC 69, 148(a), 243(b)(c) & 245(c)(d)	17	16	24	38	24	8
Awards	160	70	65	66	99	121
Assignment History	9498	9498	9498	9414	9588	9720
Case Evaluation Reports	629	321	193	209	191	453
Report Review Notices—Positive	2	0	1	6	7	12
Report Review Notices—Negative	0	0	0	1	0	0
Canine Deployments	92	112	71	96	93	63
Financial Claims	0	0	3	0	0	0
Internal Affairs Complaints	286	386	316	404	375	465
In-Custody Injuries	70	56	97	75	39	24
Civil Suits (Tort Claims)	32	7	22	11	7	11
Criminal Cases Dropped	0	0	0	20	87	300
O.C. Checkouts	42	41	34	55	29	15
Officer Involved Shootings	7	4	2	4	3	2
Rank / Class History	2336	2336	2336	2286	2272	2338
Training History	14159	21017	21084	26100	11255	5182
Supervisory Notes	3589	3338	3281	3568	3139	3072
Anest Made Against OPD	0	0	0	0	2	1

The PAS Administration Unit continues to audit the database to assure its accuracy on a nearly daily basis. That has allowed the Department to identify and rectify data problems on a regular basis.

Undoubtedly, those functions will increase in number and complexity as system use expands. The audit function is important since risk management data comes from several sources. The function will be especially important as the Department moves forward with new technology. With that, we will focus attention on assuring that audits take into account the original recording of data in the field and not simply on summary reports moving forward into the database.

OPD continues to pursue significant upgrades, including new software, to its early warning system database. We look forward to this long-awaited progress. We noted in our previous reports that, along with the Department, we recognize that the current approach to data management is not a permanent fix, as it leaves the system fragile and unstable. Additional work needs to be done. OPD is in partial Phase 2 compliance with this Task.

Compliance Status:

Phase 1: In compliance

Phase 2: Partial compliance

OPD PLAN TO ACHIEVE COMPLIANCE

RESPONSIBLE PARTY: Deputy Chief S. Whent

A new technology database with servers and licenses necessary.
Cost: \$2-3 million.

An RFQ was completed in May 2012.

City Council approved contract amount in December 2012.

Completion of RFP by fall 2013 (tentative).

Financing, selection, contract negotiation, and Council action completed by January 2014.

Expected full completion and operation system in 2014 –15.

Concurrently, OPD will continue to evolve its use of the IPAS data for risk management factors, identifying problem officers, and take necessary action if needed (e.g. discipline, counseling, etc.).

COMPLIANCE DIRECTOR'S COMMENTS:

The Compliance Director Court Order, dated December 12, 2012 requires: "A plan for the oversight, acquisition, and implementation of a personnel assessment system (IPAS) that provides a sustainable early-warning system that will mitigate risk by identifying problems and trends at an early stage."

OPD acknowledges this NSA Task has been challenging. At the present time, efforts are underway to effect improvements in the IPAS system. The first effort is to attach use-of-force (UOF) reports to the system. At the present time, the IPAS system allows access to "pointer" information about a Department member's UOF; however, no information is available beyond compressed summary data. The effort is to allow the user—typically a supervisor or command officer—to access the actual written reports as well. The Department will also try to enter archived reports into the system. This aspect of Task 40 has been discussed with the IMT subject matter expert, who seems to be comfortable with the effort. In the end, if UOF reports can be attached and accessed within the IPAS system, then other categories of reports will also be included.

The second effort regards permitting access by a supervisor to all subordinate personnel in the Department. At the present time, a supervisor may only access the personnel assigned to them, e.g. perhaps 6 officers on a patrol team. This prohibits temporary, interim, or relief supervisors from accessing or entering information necessary to perform their duties.

OPD believes that, if these two efforts are successful, they should be in compliance with the Task. However, one substantial obstacle is the procurement of UOF/arrest reports. The county jail facility at Santa Rita utilizes a process that does not assure OPD timely and complete transmission of copies of arrest reports, and thus, some are misplaced or lost. Audits are currently in progress, and if the loss of this data is significant, it is highly likely the IMT will not find OPD in compliance.

The City and the OPD are in the process of seeking a vendor to begin the process of implementing an IPAS2 technology system. In addition, OPD anticipates that reports will be authored in patrol cars and the concern about lost or misplaced UOF/arrest reports will be negligible.

The proposed OPD timeline is very optimistic, and contract issues with Sierra Systems are still preventing contract signing. Failure to reach agreement on this contract will substantially delay the process.

COMPLIANCE DIRECTOR'S FINDINGS AND ACTION ITEMS:

One of the recurring themes throughout the remaining non-compliant issues is the City's/OPD's acquisition and integration of new technologies. There are three main areas of concern: (1) the radio system, (2) The Mobile Data Terminal (MDT) system, and the integrated Stop Data program, and (3) the PAS system acquisition and use. During the next month my office will be looking to identify a subject matter expert that has strengths across the wide range of issues from system design and contracting to specific hardware and software issues to help us through these complex and interwoven issues.

The City has been in lingering negotiations with Sierra Systems for the design of the new IPAS system for well over a year. We will work with the city to develop a reasonable decision date for the Sierra negotiations. If no contract is negotiated by that date, we will press the City to cease these efforts and begin talks with an alternate vendor.

- **Bring Task 41: Use of Personnel Assessment System (PAS), into compliance.**

MONITOR 12TH QUARTERLY COMMENTS AS TO REASONS FOR NON-COMPLIANCE:

Discussion:

As noted above, OPD revised and issued Departmental General Order D-17, Personnel Assessment Program. The risk management process is operating under the revised policy. Based on the policy and the related training that is ongoing, we again find OPD in continued Phase 1 compliance with this Task.

For this reporting period, we continued our examination of the stages of the PAS process consistent with this Task. We examined the threshold analyses that were performed for the period of July 1, through September 30, 2012. This included a review of peer-based

threshold analyses completed by the PAS Administration Unit and the identification of officers meeting the single-event threshold.

During this reporting period, 64 officers were initially identified as meeting a total of 89 PAS thresholds. In all, 44 of the thresholds exceeded dealt with complaints, and 29 involved use of force. Twenty-seven of those involved Level 4 uses of force. Consistent with established practice, some were not selected for review based on recent review history. That left 49 officers for notification for review. We reviewed notification memoranda and other PAS activity review and report documents, as well as the use of PAS for reasons other than threshold-initiated reviews. In accordance with this Task requirement, we reviewed PAS processes for the system's use in placement of officers on special assignment, transfer of officers, and commendations. An important function of PAS is to regularly provide supervisors with relevant information on officers. To consider that function, we also verified reports of regular quarterly PAS command reviews of officers by supervisors in select OPD units, including IAD and the Training Section.

The PAS process also calls for follow-up reports of officers under supervision or monitoring, as well as reports of officers not discharged from the process by the end of one year. We reviewed the reports that were completed during the current reporting period. Our examination included reviews of dispositions or follow-up reports on 42 officers. These meetings all document supervisory reviews of officers who have been selected for some form of action as a result of PAS reviews.

Our reviews of the risk management process focus on the selection of officers for review and the process of review by supervisors, and then the consideration of those reviews up the chain of command. For this reporting period, we examined the reports of 71 officers completed and/or signed during the quarter under review. In all, 22, or 31%, of those reviewed resulted in monitoring or intervention. Of those, 10 involved recommendations by the first line supervisor for "no action" were overturned in subsequent reviews up the chain of command.

As we have noted in the past, the important issue here is the degree of tolerance of risk by management in the Department. The reviews up the chain of command and the resulting changes in outcome, and returns for further consideration, suggest a significant effort is being

made to reduce risk and hold supervisors, and the officers they review, to high standards. During and after the current site visit we held productive discussions with OPD regarding continuance assessment and reassessment of risk using PAS. The review outcomes discussed here are consistent with those discussions and should also come to be reflected in the first level reviews by supervisors. The work on a new database provides another opportunity for the Department to examine these issues.

For the reporting period ending September 30, 2012, OPD concluded a total of 113 PAS reviews. Reviews are included in the table below only after they are signed off through the level of the PAS Review Panel. The table below tracks the review process and shows that supervisors recommended that no action be taken in 100, or 88%, of the 113 reviews for the current reporting period. The table also shows that commanders disagreed with lower-level recommendations and prompted additional monitoring and supervision in 5% of cases. Deputy Chiefs also disagreed with the commanders' decisions in almost 10% of their decisions, and the PAS Review Panel suggested revisions in 6% of the findings of the Deputy Chiefs. These figures suggest increased scrutiny of reviews across the levels and show adjustments in level of tolerance over time. This is desirable direction for movement in the risk management process, and is consistent with discussions with OPD. The value of the data in the chart below is in tracking data over time, and using it to increase the rigors of the review process as it serves the goal of risk reduction.

	PAS Reviews Completed	Supervisor Rec- do		Recognition		Supervisor Rec -		Supervisor Rec-		Commander rec		Dep. Chief Concurs w		PAS Panel Concurs w		Pending	Number of personnel
	actions	%	%	Monitoring	%	Intervention	%	Concurs w Supervisor	%	Commander	%	DC	%	DC	%		that exceeded a threshold
2011																	
January	11	9	82%	0	0%	2	18%	0	0%	10	90%	11	100%	10	90%	0	11
February	9	8	89%	0	0%	1	11%	0	0%	9	100%	9	100%	8	89%	0	5
March	17	10	59%	1	5%	4	24%	2	11%	17	100%	17	100%	17	100%	0	11
April	12	11	92%	0	0%	0	0%	1	8%	12	100%	12	100%	12	100%	0	18
May	10	6	60%	0	0%	2	20%	2	20%	10	100%	10	100%	10	100%	0	7
June	8	6	80%	0	0%	1	10%	1	10%	8	100%	8	100%	8	100%	0	7
July	11	7	63%	0	0%	4	36%	0	0%	9	90%	10	90%	10	100%	0	16
August	2	2	100%	0	0%	0	0%	0	0%	2	100%	2	100%	2	100%	0	23
September	19	13	68%	0	0%	5	26%	1	5%	18	94%	18	94%	19	100%	9	16
October	12	10	83%	0	0%	2	17%	0	0%	11	92%	11	92%	12	100%	0	26
November	16	11	69%	1	1%	2	13%	3	19%	15	94%	10	63%	12	75%	0	47
December	22	16	73%	0	0%	6	17%	0	0%	21	95%	19	86%	22	100%	0	14
Total	149	109		2		29		10		142		137		142		9	201
Average	12.4	9.1	77%	0.2	1%	2.4	0	0.8	6%	11.8	96%	11.4	94%	11.8	96%	0.8	16.0
1012																	
January	7	5	71%	0	0%	2	29%	0	0%	7	100%	7	100%	7	100%	7	14
February	5	4	80%	0	0%	1	20%	0	0%	2	40%	2	40%	2	40%	0	59
March	19	12	63%	0	0%	4	21%	3	16%	15	95%	17	89%	18	95%	33	7
April	25	17	68%	0	0%	5	20%	3	12%	25	100%	25	100%	25	100%	22	41
May	27	17	63%	0	0%	2	7%	0	0%	26	96%	25	92%	17	100%	14	55
June	43	41	95%	0	0%	1	5%	0	0%	41	95%	42	98%	43	100%	15	17
July	66	61	92%	1	5%	3	5%	2	30%	65	98%	65	98%	64	97%	0	18
August	32	29	90%	1	0%	2	6%	0	0%	27	84%	26	51%	27	84%	0	35
September	15	10	67%	1	0.1	3	20%	1	7%	15	100%	11	73%	13	87%	1	16
Total	239	196		3		24		9		226		220		226		100	265
Average	53.1	49.6	80%	0.7	0%	5.3	10%	2.0	10%	50.2	90%	49.3	90%	50.2	90%	22.2	58.9

In the last reporting period, we began reviewing the PAS histories of officers who had either a Level 1 use of force or been arrested for a criminal offense in the past year. For the period under review, only one officer met these criteria for examination by virtue of participation in an officer-involved shooting. The officer exceeded a threshold for complaints, but was not selected for review because most of the relevant activity had been considered at the review prompted by the OIS.

Our most recent report focused on three issues relevant to the functioning of the risk management system: the limited information used in reviews by supervisors; the extent to which reviewed cases resulted in monitoring or intervention; and the effectiveness of risk reduction efforts when officers continued to exceed thresholds. Regarding the first issue, we are aware of the efforts to make the complete use of force reports – rather than just summaries – available to supervisors, and we will continue to review the

effectiveness of that process. With regard to the frequency of monitoring or intervention resulting from reviews, this reporting period appears to reflect a positive direction that we will continue to monitor. Finally, we will also return to examining PAS histories of officers identified with major events such as Level 1 uses of force as cases become available.

The direction of the outcome of risk management reviews is encouraging – even though we recognize the need for strengthening the contributions of supervisors to this process. The clarity brought to the process as reviews move up the chain of command is also consistent with the Department's efforts to improve its use of risk management as part of the routine function of organizational management. Sustaining these efforts and their results will continue to support movement toward compliance with this Task.

Compliance Status:

Phase 1: In compliance

Phase 2: Partial compliance

OPD PLAN TO ACHIEVE COMPLIANCE

RESPONSIBLE PARTY: Deputy Chief S. Whent

The Department is in the process of revising DGO D-17 and its monthly Risk Management Meetings. Deputy Chief Whent went to Detroit and met with members of the monitoring team and Detroit PD's early intervention system for technical assistance. The new policy will alter the thresholds that trigger review. Additionally, many simplifications will be implemented in the policy. The bureaucracy of the current system contributes to minimizing its effectiveness. The new Risk Management Meeting will help insure commanders are monitoring high risk activities and those persons under their command who are engaging in those activities at significantly higher, or lower rates than their peers.

COMPLIANCE DIRECTOR'S COMMENTS:

Executive staff at OPD has visited the Detroit Police Department, in the company of the IMT, to study their use of an electronic system as it relates to a risk management strategy. One particular area of concern has been the use of hard thresholds when identifying OPD personnel who may require remedial supervision. It has been

agreed to with the IMT and the OPD that thresholds should be based on percentages when measured within a Department member's peer group, e.g. patrol teams, undercover personnel, investigative personnel. A beta test of the new methodology using percentages is in-progress. As Risk Management meetings commence in the month of April, much discussion about establishing and utilizing valid threshold measurements will be discussed.

The OPD has expressed the need for funding as IPAS2, CRIMS, and RMS continue to mature in the Department.

The Monitor has questions about the hard numbers versus standard deviations on reported misconduct. The statistical variances are in dispute at this time, and will require future discussion, analysis, and agreement. Of particular concern are Sergeant's recommendations of "no action" that are overturned by Command.

COMPLIANCE DIRECTOR'S FINDINGS AND ACTION ITEMS:

In the near future the Compliance Director will host a meeting involving the Monitor, OPD and the OPOA to discuss this issue of appropriate threshold methodology. The result will hopefully be consensus on this issue.

TOPICAL AREA #2

Supervisors fail to enforce Departmental policy by not intervening in or reporting unacceptable behavior that they are either informed of or witness.

REMEDIAL ACTIONS:

GOAL:

- Executive leadership in the Department must clearly demonstrate to first line supervisors and middle management that their responsibilities to lead and supervise their subordinates is their first and most important responsibility, that they will be held strictly accountable for intervening in prohibited behaviors they observe, and for timely reporting all such infractions whether observed or reported to them.

COMPLIANCE DIRECTOR'S COMMENTS:

The Compliance Director Court order dated December 12, 2012 addresses the reporting duties of the Compliance Director, including the following:

“Strategies to decrease the number of police misconduct complaints, claims, and lawsuits.”

This is a classic “three legged stool” of policy, training, and accountability. From the Chief down through the Command ranks, these requirements must be articulated, trained, modeled, and enforced. Institutionalization will occur only after a lengthy period of time with all components effectively implemented and enforced.

Accountability will be addressed later in this report by increasing numbers of Sergeants to meet span of control criteria. Training at all levels of the Department will similarly be addressed in multiple areas of this Plan.

OBJECTIVES:

- Bring Task 20: Span of Control for Supervisors, into compliance.

MONITOR 12TH QUARTERLY COMMENTS AS TO REASONS FOR NON-COMPLIANCE:

Task 20.2 requires that relevant squads – that is, Patrol squads, Problem-Solving Officer units, Crime Reduction Teams, Neighborhood Enforcement Team, Gang/Guns Investigation Task Force, and Foot Patrol – are actually supervised by their primary, or assigned, supervisors (compliance standard: 85%); Task 20.3 requires that a supervisor's span of control for the Department's relevant squads – that is, Patrol squads, Problem-Solving Officer units, Crime Reduction Teams, Neighborhood Enforcement Team, Gang/Guns Investigation Task Force, and Foot Patrol – does not exceed a 1:8 ratio on a day-to-day basis (compliance standard: 90%); and Task 20.4 requires that the Department's Area Commanders make backfill decisions and that these decisions are

consistent with policy and operational needs (compliance standard: 90%).

In February 2012, OPD implemented a new, tiered system of supervision in the Bureau of Field Operations (BFO), using relief sergeants; this change will affect significantly the way in which we assess Tasks 20.2, 20.3, and 20.4. For this reason, we did not assess these subtasks in the ninth and tenth reporting periods.

During the last reporting period, we were prepared to examine the available data, but the Department did not provide materials we requested that were required to conduct our assessment. Thus, we continued to withhold our compliance findings for these subtasks.

During this reporting period, we are again deferring our assessment for these subtasks because of the Department's plans to restructure BFO (in February). As a result, OPD again maintains our compliance findings from the eighth reporting period. Therefore, OPD is not in compliance with Task 20.2; and is in compliance with Tasks 20.3 and 20.4.

OPD is in partial Phase 2 compliance with Task 20.

Compliance Status:

Phase 1: In compliance

Phase 2: Partial compliance

OPD PLAN TO ACHIEVE COMPLIANCE

RESPONSIBLE PARTY: Deputy Chief E. Breshears

The Department will promote the necessary number of sergeants and commit to staffing sufficient sergeants in patrol so as to adequately meet the requirements of our tiered supervision system. OPD to continue to monitor Task compliance daily, during the observation period, with monthly reports generated for broader review by the Monitor and Assistant Chief.

Despite three planned police academies in FY 12-13 and 13-14, due to non-discretionary time off requirements and staffing levels, we require the need to maintain the tiered model to sustain compliance and ensure that there is a consistency of supervision.

The Department does not believe compliance is possible using the Monitor's new methodology unless a significant number of new sergeants were promoted. Even if that were to occur, employee leave makes it unlikely that every squad would always be in compliance.

The Department further believes acting sergeants should count toward compliance when the following conditions are met:

- The acting sergeant is eligible for promotion because he/she is on an active promotional list, or
- When a commander (with bureau chief approval) is mentoring/developing an officer by placing him/her in an acting sergeant assignment – this is an effective way to cultivate future leaders.

COMPLIANCE DIRECTOR'S COMMENTS:

The OPD has had exceptional difficulty coming into compliance with this NSA Task. Efforts are in progress, whereby police officers are selected as "acting sergeants" and are responsible for the direct supervision of patrol officers. Some acting sergeants are assigned to the same personnel long-term, while others serve on a short-term basis. The IMT measures compliance against the requirements of the NSA, whereby full time sergeants should be utilized to supervise Department personnel on a consistent basis. OPD believes that additional 8-10 sergeants would likely allow the Department to establish a deployment structure that would meet the requirements of the NSA.

After much discussion for many quarterly reporting periods, the OPD and the IMT agree that, unless more sergeant full-time-equivalent (FTE) positions are approved by the manager and council, OPD will likely remain out of compliance.

COMPLIANCE DIRECTOR'S FINDINGS AND ACTION ITEMS:

Full time Sergeants must be promoted to ensure the level of accountability necessary to maintain adherence to policy and gain

compliance with the NSA requirement. The City must recognize this fact and authorize an appropriate number of Sergeant promotions. Experienced supervision is key to long term stability and policy adherence.

Rotation of Sergeants through key positions in the Department (Internal Affairs, Investigations, and Special Operations) is necessary to ensure career development for future leadership and effective management of the agency.

- The current Sergeants Promotion List contains persons qualified for promotion. Promote qualified persons ASAP. OPD will never fully satisfy the requirements of this Task until all available Sergeant positions are filled with qualified, full-time personnel.
- **Bring Task 24: Use of Force Reporting Policy, into compliance.**

MONITOR 12TH QUARTERLY COMMENTS AS TO REASONS FOR NON-COMPLIANCE:

Comments:

We found OPD in partial compliance with Task 24 during the last reporting period, as the Department was not in compliance with the requirements that OPD personnel on the scene of the incident report all uses of force on the appropriate form, and document every use of force and/or the drawing and intentional pointing of a firearm.

Discussion:

As previously reported, OPD published Departmental General Order K-4, *Reporting and Investigating the Use of Force* (February 17, 2006), which incorporates the requirements of Task 24. OPD revised DGO K-4 on August 1, 2007. On April 15, 2009, OPD issued Special Order 8977, amending DGO K-4. The revised policy also incorporates the requirements of Task 24. On November 23, 2010, OPD issued Special Order 9057, amending DGO K-4 to extend Level 1 and Level 4 reporting timelines. As the Department has trained at least 95% of relevant personnel on these policies, we find OPD in continued Phase 1 compliance with this Task.

During our August 2012 site visit, we again met with OPD command personnel and OIG to discuss ongoing problem areas in use of force

**District-Based Investigations
in Oakland**



**Rapid and Effective Response to
Robberies, Burglaries and
Shootings**

May 2013

The Bratton Group, LLC

District-Based Investigations in Oakland Rapid and Effective Response to Robberies, Burglaries and Shootings

This memorandum outlines a plan for District Investigations Units (DIUs) in each of the Oakland Police Department's five districts. The purpose is to establish a district-based entity that can swiftly and effectively respond to and investigate robberies, burglaries and shootings/assaults at the district level.

Introduction

The Oakland Police Department is moving to a Neighborhood Policing Plan with the city divided into five districts, each commanded by a captain. The district captains will be the principal crime fighters in the Department, each taking responsibility for crime in their respective districts and each being held accountable for designing and directing responses and strategies to counter crime conditions. The key to this new district-based structure is geographic accountability for each captain – and for their subordinate lieutenants, sergeants, and officers – for a specific piece of ground with its specific crime and disorder problems, its familiar community members, and, to a significant degree, its specific cast of criminal characters.

From the crime-fighting point of view, an important goal is to use the new district-based structure to dramatically increase the focus of crime-fighting efforts in identifying, pursuing, apprehending and ultimately convicting and incarcerating chronic criminal offenders, who frequently repeat the same types of crimes over and over again until they are arrested by the police. The policing terms for these criminals and crimes are “pattern criminals” and “pattern crimes.” Robbery and burglary, both which have been rising rapidly in Oakland, are classic pattern crimes, and enforcement against both would benefit from an increased focus on pattern crimes as they develop in the five districts. Swift, focused local response, coupled with cogent analyses of developing patterns and targeted follow-up investigations, will have a significant impact on these crimes as focused police action leads to more apprehensions, removing the most active criminals from the scene and serving as a

deterrent to others inclined to become involved in crime. Shootings can also be pattern crimes, although of a different kind, linked less by modus operandi, and more by locations and acquaintance patterns and the relentless pattern of vendetta and retaliation.

In Districts 4 and 5, which are currently operating on the district model, captains have tried to respond to local crime patterns by using the resources available to them. Unfortunately, their current resources are usually not equal to the task. In District 5, the Crime Reduction Team or CRT (currently a sergeant and six officers, although expected to increase to eight officers) is focused on identifying and arresting local shooters, but, as the Bratton Group team has observed in earlier reports, the CRT is available only four days a week limiting its effectiveness. It is also not truly an investigative unit, although the District 5 CRT personnel have written and executed warrants and performed other investigative functions. Captains have also enlisted Problem Solving Officers (PSOs), within the constraints of Measure Y, when a particular crime problem has developed on a PSO beat. PSOs are also only available during certain hours and days of week. Neither of these approaches is particularly effective against pattern crimes because neither can deliver swift response to these crimes as they occur nor focus on the investigative elements of the crimes effectively. If the district captains are going to have the capability to control and reduce crime in their respective districts they will need the assistance of local investigators assigned to a District Investigation Unit (DIU) that works primarily on robberies, burglaries, and shootings that occur within the district boundaries.

As part of the current reorganization, OPD has established an enhanced CompStat process. At biweekly meetings, run by Assistant Chief Toribio and Deputy Chief Bershears, district commanders are being called to account for the crime efforts in their districts. In other departments where CompStat has been implemented, the CompStat meeting discussions often turn to the investigative follow-up of cases in which perpetrators have not been caught by uniformed patrol. For the CompStat

process to work effectively there must be identifiable supervisors responsible for local investigations who can be called to account at CompStat. Establishing DIUs in the districts will provide investigative capability at the local level and a means by which the CompStat process can drive forward the investigation of local crimes by sharing accurate, timely information on crime patterns and successful strategies that have led to the arrest and incarceration of local criminals.

Current Investigations

Virtually all current investigations in Oakland are conducted by the centralized Criminal Investigation Division (CID). The Division, commanded by captain, has four sections or units, each commanded by a lieutenant. Major Crimes Section 1 is responsible for all homicides and gun assaults, as well as suspicious deaths and officer-involved shootings. As the Bratton Group team has observed in a previous report, the section's workload, which last year included 131 homicides and 847 gun assaults, is too large to be conducive to productive assault investigations. While there is some logic to grouping homicides with gun assaults because most homicides result from gun assaults, the large number of incidents in Oakland – which, between homicides and shootings, approaches 1,000 incidents – argues for a more decentralized system for handling shootings, allowing the centralized investigators to concentrate on homicides and on those serious assaults in which the victim has sustained grave injury and is likely to die. The Bratton Group team envisages a centralized homicide unit that works on homicides and serious assaults only, while coordinating with District Investigation Units to share information about shooting cases being investigated at the district level that might be germane to homicide cases. It so happens that homicides and attempted murders are precisely the cases on which the charging district attorney assigned to CID concentrates his attention, so a reduced workload for Major Crimes Section 1 would focus the section's attention on the very cases that are most likely to be charged.

Major Crimes Section 2 is assigned all robberies and all non-gun assaults. Currently staffed by a lieutenant, a sergeant and eight investigators, this unit is not in a position to respond swiftly to robberies as they occur. As the Bratton Group team has observed in an earlier report, 1) the unit's daytime and weekday working hours, 2) the elimination of overtime for robbery investigations, 3) the extended time (usually several days) for a fresh robbery report to reach the unit, and 4) the urgency of processing in-custody arrests before the 48-hour time limit expires all undercut the unit's ability to work on the not-in-custody robberies. Robbery investigators acknowledge a current workload of about 30 robbery cases each. Investigating robbery, a crime that is often solved by eyewitness identifications, requires a quick response to victims and witnesses before memories fade and interest on the part of victims wanes. As for the non-gun assaults, there is only one investigator in Major Crimes Section 2 assigned to them citywide. The Bratton Group team envisages a small, centralized CID team that works on in-custody robbery cases and on any citywide robbery pattern that may emerge, with the bulk of robbery and assault investigations being conducted by the District Investigation Units.

The Field Services/Theft Unit comprises a range of functions, including managing all CID personnel assigned to task forces with Alameda County and the federal government. It also includes nominal burglary, elder abuse, financial crime, and auto theft functions, but it is acknowledged that these are not really investigative units but rather charging units who process arrests made by patrol personnel. The single investigator assigned to burglary does not even work at this task full time, and, given the roughly 13,000 burglaries in the city in 2012, this investigator would have no hope of investigating even a small fraction of them. Burglaries, in effect, are not investigated in the City of Oakland. Yet burglaries are the most invasive and violating of property crimes because most people regard the safety of their home as a critically important part of their sense of wellbeing. As will be discussed further below, under the heading *Investigating Cases and Managing Evidence*, OPD evidence

technicians have processed hundreds of burglary scenes and recovered prints that may be of value at many of them, yet there is currently no concerted effort to use this evidence to identify pattern burglars active throughout the city. The Bratton Group team envisages burglary investigators in each of the five districts who would begin to identify pattern burglars and who would manage the flow of the most important and promising fingerprint evidence for analysis by Criminalistics.

District Investigation Units

The Bratton Group team proposes that each of the five districts be staffed with a District Investigative Unit (DIU) comprising an investigative sergeant, three experienced investigators, and three to five police officers. The sergeant would be responsible for assigning all cases and overseeing all investigations. Each of the investigators would be assigned to focus on one of three specialty areas: robbery, burglary or shootings/assaults. Each of the experienced investigators would have one to two police officers working with them in their specialty areas. When possible, the sergeant and the investigators might also enlist the District CRT and the District PSOs to assist with case investigations or in case-related operations. The officers assigned to the DIU would work staggered hours that would ensure a working presence for the DIU in the afternoons and evenings seven days a week. Although each DIU would establish specialty teams for robbery, burglary, and assault, the investigators and officers from these separate teams would cover for each other in the event of a breaking crime, when no team members specializing in that crime are available, and would do the preliminary investigative work on the case. Preliminary investigations done by other than the designated robbery, burglary or assault investigators would be documented on *Investigative Action Reports (IARs)* and passed on to the specialist investigator as soon as possible.

The investigative sergeant in each district would serve as the point person for all investigative activity in the district, reporting to the district captain and representing district investigations at the CompStat meetings. Working with the

investigators assigned to the DIU, the sergeant also would be responsible for coordinating with centralized CID, with the evidence technicians who process crime scenes, and with the Criminalistics Laboratory. In addition, the investigative sergeant would be responsible for maintaining a list of outstanding Raimey warrants in the district, keeping patrol officers, CRT officers, and the PSOs informed about who is wanted in the district and for what crimes.

Once this system is established, the DIUs can function as a training ground and career path for Department investigators with police officers who have worked with the DIUs becoming DIU investigators and experienced DIU investigators eventually moving to centralized units and homicide cases. The Department should establish a one-or-two-day basic investigations course of training for police officers who will be working with the DIUs. The course would familiarize the trainees with DIU procedures, basic interviewing techniques, collecting and managing evidence and case management. A sample DIU case management system, that can be adjusted for use in Oakland and adapted to Oakland computer systems and databases, is attached to this report.

Investigating Cases and Managing Evidence

The DIUs would respond to crime scenes, interview victims, canvass for witnesses, and gather evidence. They would work at identifying crime patterns, modus operandi, and repeat criminals active in the district. As mentioned above, it is hoped that the robbery and burglary units could sometimes be supplemented by CRT officers and also by problem solving officers whose beats are subject to robbery and burglary patterns, without violating either the spirit or the letter of Measure Y. The DIU supervisor would review all cases for solvability factors, close some cases without further investigation, and prioritize cases for investigators in each specialty area. Although some cases would be closed, the DIU's swift response to crime scenes and the more timely interviewing of victims and witnesses would likely identify significantly more cases with workable leads than the centralized units have

done in the past. Because each unit is working in a manageable area instead of citywide, the DIUs are also more likely to identify patterns and learn the identifying characteristics and modus operandi of the local criminals, whether robbery, burglary or shooting suspects. In addition, actively working cases in the field, debriefing people arrested by uniformed officers and developing informants can often result in solving crimes that initially had few leads.

The DIU investigators will require significant support from the Department, the crime scene technicians, and the Criminalistics division. In robberies, a key piece of evidence is often the criminal's appearance and the ability of the victim to identify the assailant. It is therefore important to provide searchable digital photo files so that robbery investigators can quickly assemble photo arrays to show to victims and witnesses in a timely fashion after the robbery has occurred. The Bratton Group team has learned that this is rarely done now because the Department's system of electronic access to the photo files of the Alameda County Consolidated Arrest Report System (CARS) is extremely slow, and it takes far too much time to assemble photo arrays. Digital photo file systems are not expensive compared with many other forms of police technology, and it is strongly urged that the City of Oakland and the Department develop the capacity to readily consult and use this important evidentiary tool.

In burglary, a key piece of evidence is often fingerprints left on surfaces in a burglarized property. The OPD evidence technicians regularly dust for latent prints at burglary scenes. An evidence tech interviewed by the Bratton Group team estimated that he alone responds to 200 to 300 burglaries a year and finds prints of apparent value in many cases. Most of these prints are never examined or entered into the Automated Fingerprint Identification System (AFIS), which might be able to provide matches with previously arrested persons. The fingerprint section of the Criminalistics Division is understaffed and devotes most of its time to working on homicide cases that require intensive work because a print match may be the only

path to solution and/or decisive evidence of guilt. Yet, in several pilot programs in which fingerprints taken at burglary scenes were entered to AFIS, the system yielded matches in approximately half the cases. There is, therefore, a significant body of evidence in burglary incidents that is going unused. The Bratton Group team observes that burglary fingerprint comparisons often do not require the numerous print comparisons required by homicide investigations. Yet a suspect identified by a single latent print may provide investigators with a lead as to who a pattern burglar is, and their guilt may be established by other means, such as their possession of stolen property or their sale of stolen property to a third party. The Bratton Group team recommends a new protocol for prioritizing AFIS comparisons for latent prints lifted at burglary scenes. DIU sergeants and their respective burglary investigators would identify cases in which prints of possible value have been found, in which identifiable property has been stolen, and/or in which links have been established (based on modus operandi and other evidence) to a pattern of other burglaries. The DIUs would submit fingerprints from those cases to Criminalistics, where the latent prints would be determined to be a value or not for AFIS comparison, and the lifts of value would be promptly searched in AFIS. Given the scale of the burglary problem in Oakland, the Department should consider hiring one or two additional fingerprint analysts to work exclusively or primarily on burglary prints so this rich source of evidence and investigative leads can be effectively tapped.

Shootings in Oakland often involve uncooperative victims who refuse to give evidence against the assailant, and these cases often are filed or closed out by centralized CID without further investigation. Local investigations of these crimes, conducted by investigators more familiar with the local shooters, local gangs, and local vendettas would likely result in more solvable cases and more cases with leads, even when the victim is uncooperative. Local investigators, using evidence from eyewitnesses and their own knowledge of the patterns of shootings and retaliation in the area, should be able to develop suspects in a larger number of cases. Evidence from shell casings may provide significant support in these investigations.

Experience in other jurisdictions has shown that an individual weapon may be used in multiple shootings, either by the same shooter or by people who are sharing a weapon. Ballistic analysis can establish links between shootings and provide maps of shooting patterns that chart how a firearm has been used across a geographic area and across a period of time. It may be the case that a gun used in a shooting was also used in a homicide. As the Department moves forward with its Ceasefire program to try to reduce violence, and especially gun violence, an analysis of links between firearms and crimes and firearms and gangs would be extremely useful in identifying targets for the Ceasefire effort and in directing and coordinating enforcement actions related to Ceasefire. For all these reasons, the Bratton Group team recommends a more comprehensive effort to analyze shell casings found at shooting scenes and to connect them to other casings found at other crime scenes. The actively used firearms in Oakland – the ones being used in multiple shootings – should be well documented, and firearms and shells recovered by the police should be compared to database of firearms and shell casings linked to other crimes. Once again, an increase in staffing at Criminalistics for this specific purpose is recommended.

Crime scene technicians in Oakland work without direct supervision and therefore with little systematic organization. They are nominally supervised by a coordinator, a police officer who is also a full-time evidence technician, but the primary function of the coordinator is to organize and oversee the work schedule, not to prioritize or evaluate the quality of the work. The evidence technicians are supervised on a daily basis by patrol shift sergeants, who have little knowledge of their work. After reporting for work to a patrol sergeant at a line-up, evidence techs respond to radio calls almost at will, with no one actively prioritizing calls. There are no run numbers assigned to the calls, and it is not possible to determine with exactitude how many scenes have been processed by each technician each year. As the Bratton Group team understands the situation, the only way to determine if a scene has been processed is by whether or not a check box on the incident report has been checked.

The Bratton Group team suspects that a good deal of time and energy is being wasted by technicians to process scenes that will never be further investigated or to process scenes of less importance instead of scenes where physical evidence might be of greater use to investigators. In addition, the technicians have no real advocate in the Department, for needed equipment or policy changes, other than the coordinator whose status as a police officer limits his influence.

The evidence technician unit is being transferred to the Central Investigation Division. The Bratton Group team recommends that the Department use the occasion of the transfer to revise systematically the management of the evidence technicians, appointing a genuine supervisor, preferably a sergeant, and establishing a systematic dispatch protocol that both prioritizes and tracks all crime scene runs. The evidence technician supervisor would coordinate with the DIU sergeants in the five districts to help establish priorities on which scenes should be processed and which scenes should be processed first.

Coordinating the DIUs with Centralized CID

The establishment of District Investigation Units will result in some reconfiguration of the Criminal Investigations Division (CID). As already mentioned in this memo, the Bratton Group team recommends that the Major Crimes Section 1 significantly reduce the scope its investigations, to focusing on homicides and assault cases that have resulted in grave injury and in which the victim is likely to die, with the gun assault or shooting cases assigned to the DIUs. Likewise, much of the workload for what is now Major Case Section 2 would also move to the DIUs. Although the DIU sergeants would report and work closely with the district captains, the Bratton Group team recommends that they also have a reporting requirement to a designated lieutenant in CID. This CID lieutenant would schedule weekly meetings with the DIU sergeants from the local districts to discuss current cases and compare notes about pattern crimes and trends. This meeting would help bring to light any robbery or burglary patterns that are spanning two or more districts and any

shootings that may be related to homicides under investigation by Major Crimes Section 1. The meeting would also help to identify any bottlenecks in the analysis of evidence as discussed above, with the CID lieutenant acting as the primary point of contact with Criminalistics in speeding evidence analysis on critical cases.

Appendices

- 1. District-Level Investigation Case-Management System**
- 2. Draft Chief's Memorandum**
- 3. Initial Findings and Preliminary Recommendations (Part 1)**
- 4. Initial Findings and Preliminary Recommendations (Part II)**
- 5. CompStat Meetings and Reporting Requirements**
- 6. COMPSTAT REPORT MOCKUP (Not real data)**

OAKLAND POLICE DEPARTMENT STANDARD OPERATING PROCEDURE

CASE MANAGEMENT OF DISTRICT-LEVEL INVESTIGATIONS

INTRODUCTION

Case management is a key component of the successful and expeditious investigation of past crimes at all levels within a police department. This standard operating procedure outlines a case management system for district-based investigations. Investigative supervisors should provide guidance and support for every case, and monitor the investigative progress in each case according to the schedule described in this procedure and be prepared to discuss the status of active investigations in detail at CompStat.

To assist detectives to track and organize their assigned cases, as well as to enhance the ability of investigative supervisors to manage investigations, the following case management forms will be utilized:

**INVESTIGATION ASSIGNMENT INDEX
INVESTIGATOR INDIVIDUAL CASE LOG
INVESTIGATION CASE FOLDER
INVESTIGATIVE ACTION REPORT**

Specific directions regarding these forms are discussed below.

PROCEDURE

Whenever there is a notification that a burglary, robbery, aggravated assault or other serious incident has just occurred and may require further investigation, or whenever a **Crime Report (CR)** referring an incident for further investigation is received at the **District Investigation Unit (DIU)**, the following procedure will be complied with:

DISTRICT INVESTIGATIVE SUPERVISOR

- 1) In crimes that have just occurred and when investigators are on duty, assign an investigator, subject to availability, to respond to the scene to assist patrol and determine if further investigation is required.
- 2) **Review** all new crime reports and determine which reports require further investigation.
- 3) **Enter** crime reports requiring further investigation on the investigation **Assignment index**, assigning a **DIU** unit case number starting with (0001) at the beginning of each year. This will be the **DIU TRACKING #**. As soon as the assigned investigator is determined, his/her name should also be entered on the index.

NOTE: An investigation can be assigned and given a DIU Tracking # prior to the actual delivery of the Crime Report. Delivery of the completed Crime Report should not delay the investigator case assignment process.

- 4) Additional entries on the investigation Assignment index are CR #, Date Assigned, Date of Incident, Beat, Type of Crime (Use name of crime, i.e., Burglary, Robbery, etc. not Penal Code Section), Complainant's last name and Location of Occurrence. All should be entered when available.

NOTE: One and only one investigator will be listed as the case officer for each case.

ASSIGNED INVESTIGATOR

- 5) Within 5 working days of being assigned to investigate a crime, prepare and submit an **INVESTIGATION ACTION REPORT (IAR)** detailing the investigative steps taken for review by the DIU supervisor. The IAR will describe, in chronological order by date, investigative actions taken in furtherance of the investigation. IARs may be used to document a single investigative step or to document chronologically a number of investigative steps taken on different dates. All IARs should include the date submitted to the supervisor.
- 6) **INVESTIGATION ACTION REPORTS** should be submitted to the DIU supervisor, and a copy should be maintained in the **INVESTIGATION CASE FOLDER** that should also contain the investigator's copy of the original crime report, all IARS prepared by the assigned investigator and by any other officers/investigators who assisted in the investigation. Other reports pertinent to the case, including evidence tech reports, laboratory reports, photo arrays utilized, etc. should be stored in this case folder.
- 7) **INVESTIGATIVE ACTION REPORTS** will be numbered consecutively based on the CR#. Thus for example for CR # 2013-1241, the first IAR would be number 2013-1241-1, the second would be 2013-1241-2, etc.

5-DAY REVIEW

(5 days from initial assignment)

INVESTIGATIVE SUPERVISOR

- 8) Record review of IARs by signing a copy and recording the submission on the investigator's **INDIVIDUAL CASE LOG**.
- 9) Review progress of case in light of initial investigative steps and subsequent developments. If necessary, discuss strategy to be followed for on-going investigation.
- 10) Indicate review of IARs as soon as possible and return the case folder to the assigned investigator.

NOTE: If case is closed at this time, make entry of how closed and date closed on both the **INVESTIGATION ASSIGNMENT INDEX** and the **INVESTIGATOR INDIVIDUAL CASE LOG**.

11) File **INVESTIGATION CASE FOLDERS** as follows:

OPEN CASES - clearly marked designated file drawer.

Cases will be filed under the assigned investigator's last name in chronological order by "Investigator Unit Tracking Number."

CLOSED CASES - clearly marked designated file drawer.

All closed cases will be filed in *Closed Case* file drawer in chronological order of **Year** and **CR#** not separated by Investigator.

15-DAY REVIEW

(15 days from initial assignment)

INVESTIGATIVE SUPERVISOR

12) Record review of new **IARs** by signing and recording them on the submitting investigator's **INDIVIDUAL CASE LOG**.

NOTE: Fifteen days is the date of second review and minimum due date of the second **IAR** updating investigative steps taken. Reports should be prepared in a timely manner as the investigation progresses. There may be multiple action reports submitted as part of /or prior to the second review.

13) Review progress of case in light of prior directions and subsequent developments.

14) Determine if case should remain open or be closed and discuss strategy to be followed for on-going investigation.

15) Determine proposed time frame for closing the case (subject to change, depending on investigation).

NOTE: If case is closed at this time - make entry of how closed and date closed on both the **INVESTIGATION ASSIGNMENT INDEX** and the **INVESTIGATOR INDIVIDUAL CASE LOG**.

28-DAY REVIEW

(28 days from initial assignment)

DISTRICT INVESTIGATIVE SUPERVISOR AND CID LIEUTENANT

- 16) Record review of new IARs by note in the **INVESTIGATION CASE FOLDER** on the submitting investigator's **INDIVIDUAL CASE LOG**.
- 17) Review progress of case in light of prior directions and subsequent developments.
- 18) Determine if case should remain open or be closed and discuss strategy to be followed for on-going investigation if case is to remain active.

NOTE: For any cases remaining open for more than 28 days, an investigation management plan should be developed.

NOTE: If case is closed at this time – make entry of how closed and date closed on both the **INVESTIGATION ASSIGNMENT INDEX** and the **INVESTIGATOR INDIVIDUAL CASE LOG**.

- 19) Instruct investigator on specific time frame for closing of case (subject to change, depending on further developments).
- 20) After initial 28-day review, continuously monitor the progress of active investigations by reviewing **INVESTIGATION CASE FOLDERS** a minimum of once every 28 days.
- 21) Indicate these reviews in the \Investigation Case Folder.

District Captain – CID Captain

- 22) Investigation of cases that remain active 3 months from the date of original assignment must be personally reviewed by the District Captain and/or the CID Captain
- 23) Notation of the review of these cases should be made in the **INVESTIGATION CASE FOLDER**.

ADDITIONAL CONSIDERATIONS

INVESTIGATOR INDIVIDUAL CASE LOG

- The investigative supervisor will prepare an **INVESTIGATOR INDIVIDUAL CASE LOG** for each Investigator they supervise. All cases assigned to an investigator will be entered on that investigator's Log.

- The dates that IARs are submitted shall be recorded in the investigator's log.
- When appropriate, final dispositions shall enter in the investigator's log.
- Detectives should maintain their own copy of their **INVESTIGATOR INDIVIDUAL CASE LOG** to assist them in recording and tracking their active and closed cases.

INVESTIGATIVE ACTION REPORTS

- **INVESTIGATIVE ACTION REPORTS** will be prepared in a timely fashion to document significant investigative steps taken on an assigned case or on cases that an investigator is assigned to assist.
- Detectives should visit the location of occurrence as soon as possible and before the 5-Day Review.
- The *closing IAR* should contain the reason for closing the case. This may involve a brief synopsis of the case but will not require repeating a detailed account of all investigative steps previously documented.

CASE CLOSING DISPOSITIONS

The following are the classifications that must be used to describe how closed cases are noted on the **INVESTIGATIVE ACTION REPORT**

1. **ARREST**
2. **EXCEPTIONAL CLEARANCE** - Strict criteria for exceptional clearance are probable cause exists to arrest perpetrator but an arrest cannot be made for a valid reason, i.e. death of perpetrator or the perpetrator is in jail for extended period for other crime and District Attorney determines additional prosecution not necessary. Other reasons for extraordinary clearance must be documented on closing IAR
3. **UNFOUNDED** - Investigation determines the reported crime did not occur.
4. **CLOSED/INACTIVE** - All reasonable investigative efforts have been exhausted, and the case is filed closed pending further or future developments
5. **REFERRED** - Case referred to another investigative unit, i.e. Major Crimes for follow-up. Enter where referred to in closing investigation action report.

OAKLAND POLICE DEPARTMENT

DISTRICT INVESTIGATION UNIT

DISTRICT-LEVEL INVESTIGATION CASE MANAGEMENT SYSTEM

Our Department's reorganization implements a Neighborhood Policing Plan and divides our city into five districts, each commanded by a captain, responsible for the delivery of all police services within the geographical boundaries of each captain's district. There will also be a significant change in the way investigations are conducted as we implement District Investigation Units (DIUs) with investigators and investigative supervisors assigned to each district to provide timely response to, and follow-up investigation of, crimes reported at the district level.

Experience has shown that most of the crime that occurs at the neighborhood level is committed by people that live in, or frequent neighborhoods, close to where they commit crime. This is especially true of the pattern crimes of burglary and street robbery. In these crimes, it is often the same individuals or groups that break into homes, commercial premises and cars to steal property; there may be a another group of individuals who specialize in robbing people, forcibly stealing property from them and sometimes shooting, and/or causing serious physical harm, to victims in the process. In Oakland, criminals who specialize as burglars or robbers in their local neighborhoods are responsible for a disproportionate amount of crime, often using the same method of operation (Modus Operandi). These pattern criminals will continue to commit crimes until those crimes are effectively investigated, and the criminals are apprehended, or discouraged by law enforcement, assisted by law-abiding citizens in our communities. It is also true that many of the shootings and serious assaults in our city are a result of disputes between individuals or loosely associated groups or gangs from the neighborhoods where they occur.

As you know, the Department is reengineering our CompStat process, and District Investigation Unit supervisors will play a key role at CompStat in managing the investigative process and providing timely accurate information on the status of investigations into crimes and criminals at the district level. The District Investigation Units will be accountable to, and managed by, the district captain. They will also have a second reporting relationship to Criminal Investigation Division supervisors who will provide training and assistance to DIU investigators and continue to coordinate and investigate serious crimes, such as homicides, grave injury assaults, sexual assaults and those pattern robberies, burglaries and other crimes that transcend district boundaries.

Burglary and robbery investigative teams will be implemented in each district comprising experienced investigators who will be paired with experienced patrol officers who have in-depth knowledge of the neighborhoods in their assigned districts. These investigators will be trained, managed and led by experienced investigative supervisors. Their primary duties will be investigating, arresting and delivering for prosecution the individuals committing robberies, burglaries and shootings/assaults. The District Investigations Unit will maintain a dedicated focus on the crimes of burglary and robbery, two investigators assigned to investigate all burglary crimes exclusively and two investigators assigned to investigate robbery cases exclusively. These investigators may sometimes be required to respond and preliminarily investigate other serious crimes, outside of their specialty area, while on duty. There will also be investigators assigned to investigate local shootings and assaults resulting in less than grievous bodily harm. In every case, only one investigator shall be designated as the assigned case officer with primary responsibility for the follow-up investigation of cases assigned to them.

The following Standard Operating Procedure shall be used to manage the the investigative process conducted by district-based investigators, under the supervision of the district investigative supervisor. Investigative supervisors are responsible for insuring that the investigators they supervise, including officers temporarily assigned in that capacity, know and follow the steps outlined in the Case Management procedure.

The thorough investigation of designated crimes is the mandate of all Oakland detectives. Successful investigations, especially those involving the arrest of pattern criminals, help us achieve our mission, i.e., the prevention and reduction of crime and the improvement of the quality of life in our neighborhoods. This procedure is designed to assist supervisors and investigators to organize and direct their investigations so they can be more effective in their work.

**Howard A. Jordan
Chief of Police**

Initial Findings and Preliminary Recommendations

Introduction

The Bratton Group spent three days in Oakland from March 5 to March 7 making a preliminary assessment of anti-crime strategies and practices in the Oakland Police Department (OPD). The consultants met with the OPD command staff and with the managers of the Ceasefire Project. We individually interviewed members of OPD's top management, including Assistant Chief Anthony Toribio, Deputy Chief Eric Bershears, Acting Deputy Chief Anthony Rachal, and Gil Garcia, the director the OPD Bureau of Services. We also met with Captain Steve Tull and Captain Ersie Joyner, who are to command District 4 and District 5 respectively under the OPD's new organizational structure, as well as with Captain Johnny Davis who commands the Criminal Investigations Division (CID). The consultants attended a Wednesday meeting of OPD's CompStat and talked informally with vendors and City of Oakland IT personnel who provide technological support to the CompStat process. We held a focus group with Problem Solving Officers (PSOs) and supervisors from the 4th and 5th districts. Before departing on Thursday, we met with Chief Toribio and Chief Bershears to brief them on their preliminary observations and findings.

The OPD is in the midst of a reorganization that will ultimately decentralize police operations to five districts, a course that The Bratton Group consultants strongly endorse. To combat crime in Oakland, and to do so constitutionally and in conjunction with local communities, it is critically important to decentralize the watch commander system and to establish local districts that can serve as centers for both community connection and crime fighting. The current plan is to initiate the decentralization in two districts in east Oakland (an area currently policed by Bureau of Field Operations 2 or BFO2) and to eventually expand to three additional districts in Bureau of Field Operations 1 (or BFO1). The Bratton Group consultants urge that the expansion to the three remaining districts be accomplished as soon as possible and not be delayed for an extended test period in District 4 and District 5. It is important to get the district system up and running and subject to CompStat review.

OPD CompStat

The OPD CompStat process itself requires significant revision. It currently takes the form of a presentation rather than an inquiry. Ersie Joyner, the captain presenting on Wednesday, March 6, was well-informed and obviously takes an activist approach to his command responsibilities, but CompStat is meant to accomplish more than a mere recitation of district initiatives and conditions. The purpose of the CompStat process is to provide vigorous strategic oversight of a police department's

crime fighting efforts through an intensive and probing dialogue between the department's top commanders and its field managers, including patrol, investigations, and special unit commanders. Field managers should come to the meeting with a thorough familiarity with the crime patterns and crime conditions in their areas of responsibility, which is achieved by reading the incident reports about individual crimes. The exchanges at CompStat should be focused on the specifics of crime patterns and individual crimes and the measures being taken to counter them. The department's primary questioner should be conversant with the current crime picture and be ready to ask a series of follow-up questions to ensure that every reasonable effort is being made, that every solid lead is being followed, and that the department's various components are responding swiftly to emerging crime patterns and problems.

We intend that half of the Bratton Group four-person field team will be working intensively on CompStat for the remainder of our engagement. We will be coaching Chief Eric Bershears, who has been tapped to run CompStat going forward. We will be reviewing all the supporting data materials for CompStat to ensure that they are optimally organized and presented. We will be making a series of recommendations for the structure and agenda of the meeting itself, including the following:

- The meeting should not be directed and controlled by the presenting captain but by the department's designated questioner (Chief Bershears). The chief should control the mapping and other display materials.
- The district commanders should not be informed in advance as to which district(s) will be subject to review at a given CompStat. All commanders should be prepared to be questioned at each session.
- Relevant investigative supervisors should be available at each meeting to answer questions about investigative follow-up on individual cases and investigative response to identified patterns. Relevant special unit commanders should also be available. We recommend a two-podium system at CompStat with the district commander at one podium and the investigative or special commander at the other.

Crime Issues

The Bratton Group team has been asked to help the OPD with three central crime issues: 1) murders and shootings, 2) robberies, and 3) burglaries. It is clear that the incidence of all of these crimes has risen steeply since 2010, as police staffing has declined by almost 25 percent. At 126 incidents in 2012, homicides are up 24 percent since 2011 and up 40 percent since 2010. The homicide rate per 100,000 of population is 31, more than five times higher than the national average and more than four times the average in other California cities. Robberies have risen from about 3,000 to more than 3,700, and burglaries have risen from fewer than 8,000 to about 10,500. The department is struggling to staff investigative units with

adequate personnel. The murder case clearance rate is hovering at about 30 percent in the past three years. It does not appear that robberies and burglaries are being investigated promptly and consistently. There is reportedly only one burglary detective for the entire city and 8 centralized robbery detectives supervised by a lieutenant and 1 sergeant.

Deferring any discussion of the homicide and shooting issues to the following section, the Bratton Group team preliminarily recommends the decentralization of robbery and burglary investigations to the police districts being established under the reorganization plan. The idea would be to assign one investigative supervisor and at least one robbery detective and one burglary detective to each district (with additional detectives possibly assigned in districts having higher incidences of robberies and burglaries). The investigative supervisor would be running robbery and burglary units comprised of detectives and police officers whom they would train to conduct robbery and burglary investigations, including identifying patterns, responding swiftly to crime scenes, interviewing victims, canvassing for witnesses, showing photo arrays, following up on physical evidence such as latent prints, and tracking the criminal populations that would be likely suspects in many of these crimes. In essence, the OPD would be leveraging their scant detective resources by using police officers to perform much of the legwork and field investigation. We believe that detectives deployed in districts to work on robberies and burglaries in the ways described above would be far more effective than an understaffed centralized unit trying to deal with local robberies and burglaries, which, for the most part, are pattern crimes committed by the same locally based criminals. We believe that this restructuring would lead to a significant drop in both crimes, as pattern robbers and burglars are apprehended.

There are not abundant resources currently in the districts to staff these robbery and burglary units. District 5, for instance, has a single crime reduction team (CRT) of one sergeant and six officers (down two officers from an eight-officer authorization). This team works four days a week from 12:00 noon to 10:00 pm, hardly enough time on the street to make much of a crime reduction impact in a 24-hour crime environment. Ideally the district should have three CRT teams, as well as the robbery and burglary teams referenced above. District 5 does have seven Problem Solving Officers (PSOs), whose use and deployment is limited by Measure Y. The Bratton Group team will further investigate district staffing and deployment in an effort to identify possible methods for optimizing district resources within staffing and budget constraints.

Homicides, Shootings, and Ceasefire

The OPD has brought Ceasefire program to Oakland. Ceasefire, which has met with significant success in other cities, melds police enforcement actions with outreach to the very criminal groups that are causing the violence, shootings, and homicide. The outreach, which offers services of various kinds, comes with the overt threat that

individuals and groups who fail to avail themselves of the outreach opportunities will be met with the full force of the law. Ceasefire moves forward in increments, targeting what Ceasefire organizers call “the first and the worst,” i.e., those who committed the most recent violent acts and those who have committed the most egregious. The very week of The Bratton Group’s visit, the OPD conducted a takedown of two criminal groups, the Case Gang and the Money Team, who qualified as the first and the worst. This was the first such takedown under the Oakland Ceasefire and had been preceded by a “call-in” where persons with identified ties to groups responsible for violent crime in the past were “called in” to meet with the police. They were warned that any future violent crime will not be tolerated and that, if and when it occurs, vigorous enforcement and prosecution involving local, state, and federal resources will result, including incarceration in prisons outside California. At the “call in”, on a more positive note, these same persons also are offered services, contacts, and opportunities to steer them away from the violence related to criminal gangs.

In successive visits, The Bratton Group team will support the Ceasefire project by looking for ways to strengthen the OPD’s response to homicides and shootings, particularly on the investigative front. The team will be looking closely at investigative protocols, procedures, staffing, working hours and other factors to increase the efficiency and effectiveness of OPD homicide and shootings investigations.

Additional Issues

The Bratton Group team made a second visit to the Oakland Police Department (OPD) from March 26th through March 28th. Two team members focused on refining the CompStat process, working closely with Chief Bershears on the finer points of preparing for and running the CompStat meetings and keeping the meetings on target with respect to the central purpose of CompStat, which is to ensure a swift and focused response to crime as it develops in Oakland’s neighborhoods. These two team members also met with five of Oakland’s eight captains to discuss expectations for the captains who will command the five districts and who will be leading participants in CompStat, as well as meeting with a group of patrol sergeants.

The other two Bratton Group team members focused on broader operational issues, and especially on investigations, as they worked to frame out a set of recommendations for moving some investigations, and particularly robbery and burglary investigations, to the district level. They conducted lengthy interviews with Lt. Drennon Lindsey of Major Crimes Section 1 (homicides and gun assaults), Lt. Oliver Cunningham of Major Crimes Section 2 (robberies and non-gun assaults) and Captain Ersie Joyner, the commander of District 5. They also conducted a focus group with patrol lieutenants, who will be asked to play critical roles in the reconfigured district-based system. The entire team attended CompStat on

Wednesday, March 27th and met with representatives from Forensic Logic, the data company that prepares the CompStat report and other data instruments for the OPD.

CompStat Readiness

The team believes that the OPD and Chief Bershears are on track to initiate the reinvigorated CompStat on April 24th. The team has made recommendations for revising the CompStat data report for greater clarity and also to include arrest and enforcement data. Forensic Logic has agreed to make these changes prior to the week of April 21st. The team has also prepared a draft announcement concerning the reinvigorated CompStat for distribution by Chief Jordan. The team believes that it is important to mark a clear departure from past CompStat practice and thinks that a formal announcement will help establish this departure. Chief Bershears has proved a keen student of the CompStat process, and The Bratton Group team believes that he will be able to direct the CompStat meetings going forward. As currently scheduled, Bratton Group team members will attend the April 24th CompStat meeting and the next biweekly meeting on May 8th. Team members will also return for the June 19th meeting. As always, the critical question with respect to CompStat will be the response of the district captains and other unit leaders to the challenging new format and the relentless focus on detail that is envisaged for the reinvigorated CompStat process. Having met with the captains, Bratton Group team members can report that several of the captains seemed ready for the challenge, while others were more circumspect and suspicious.

Investigations Issues (Robbery and Burglary)

As noted in The Bratton Group's first report, homicides, robberies and burglaries have all risen steeply since 2010, and these surges probably are not unrelated to a parallel decline in sworn personnel since 2009. It seems clear that, with the current staffing and current configurations in investigations, robberies and burglaries are not being adequately investigated. The Bratton Group team believes that a decentralization of both robbery and burglary investigations to the district level could dramatically improve this situation by bringing investigative resources into the field more quickly and ensuring sharper focus on, and quicker identification of, local crime patterns. We have already noted that, under the current configuration there is only one burglary detective for the entire city, a thankless assignment in a city that recorded about 11,000 burglaries in 2012.

Robbery investigations are better staffed, with a lieutenant, sergeant and eight investigators assigned to Major Crimes Section 2 (MCS2), which handles robberies and non-gun assaults, but Bratton Group team members encountered a number of bottlenecks and other problems that may be undercutting effective robbery investigations.

First, MCS2 is reportedly absorbing a \$480,000 funding cut which has had the effect of suspending all call-outs of robbery investigators in the off hours. This means that robbery investigators will rarely be on the scene of any robbery and will be leaving the task of questioning victims and witnesses, in the immediate aftermath of the crime, to police officers, who are largely untrained in investigative practice.

Second, there is apparently a lag of as much as three days before reports of robberies (in the form of the pink copy of the report or "the pink") reach MCS2 for assignment to investigators. This lag is largely caused by the need to enter robbery reports into the database maintained by the Records Division. Yet, Forensic Logic representatives told The Bratton Group team that any entry made by police officers into databases tied to the Forensic Logic system should be available for others to review within 20 minutes. The lag in relaying robbery reports, therefore, may be repairable with changes in entry protocols.

Third, even without the lag at the Records Division, heavy caseloads and the burden of processing in-custody arrests often delay the response of robbery investigators to not-in-custody cases. The MCS2 lieutenant acknowledged that it might be as much as five to seven working days before an investigator would contact a victim in a given robbery.

Fourth, and this issue applies to all CID personnel, investigators work hours that are precisely the opposite of when robberies occur. There are three shifts: 8am to 4pm, 9am to 5pm, and 10am to 6pm, with no weekend shifts. Investigators are simply not available to respond to robberies in the evening hours and on weekends as they occur.

The consequence of all these constraints probably is reflected in the results for the weekend of March 23rd and 24th when there were 56 robberies and attempted robberies, yet no one had been taken into custody in connection with any of these crimes by the following Tuesday.

The Bratton Group team envisages an investigative component at each district, managed by a supervisor with investigative experience and staffed by at least one robbery investigator and one burglary investigator. Each of these investigators would be assisted by police officers who would be trained and participate in the investigative process at the district level, forming district robbery and burglary units. These units would be responding to crime scenes, interviewing victims, canvassing for witnesses, and gathering evidence. They would work at identifying crime patterns, modus operandi, and repeat criminals active in the district. It is hoped that the robbery and burglary units could sometimes be supplemented by problem solving officers whose beats are subject to robbery and burglary patterns, without violating the either the spirit of the letter of Measure Y. The Bratton Group team is developing a more complete description of the envisaged units and a draft set of protocols under which they might operate. Bratton Group team members will

be in Oakland the week of April 14th to conduct further research on investigations in Oakland, including crime scene forensics and the Criminalistics Division.

Investigative Issues (Homicide and Shootings)

The Major Crimes Section 1 (MCS1) may have an adequate number of investigators to investigate the 131 homicides that occurred in the city in 2012. Unfortunately, their 2012 caseload was substantially larger than just the homicides. They were also assigned 847 gun assault cases, 913 other shooting incidents, and 8 officer-involved shootings (OIS), including one fatal OIS. The Bratton Group team also understands that Major Crimes Section 1 is charged with investigating cases of alleged criminal activity by police officers during the Occupy Oakland protest. It appears that the entire homicide unit is in a virtual training mode because many of the investigators assigned to the unit have no previous homicide investigations experience, and some have no previous investigations experience of any kind. This situation is a consequence of the transfer of sergeants, who formed the bulk of the homicide unit previously, to the patrol force to meet span-of-control requirements (1 to 8) set by the Negotiated Settlement Agreement monitor.

It should be a top priority in 2013 to significantly lighten the caseload of MCS1 so that investigators can concentrate their full attention on homicides and the most serious assaults. The Bratton Group team would recommend that MSC1 be assigned only homicides and assaults in which the victim is seriously injured and likely to die. The OIS cases and the Occupy Oakland cases should be transferred to Internal Affairs, which, according to the Department roster, has 15 sergeants on staff. Some responsibility to investigate other assaults might be transferred to the district investigative teams and some to a reconfigured unit in CID. The goal should be to raise significantly the closure rate for homicides, which has hovered at 30 percent or less in the past few years.

Initial Findings and Preliminary Recommendation (Part II)

April 5, 2013

The Bratton Group team made a second visit to the Oakland Police Department (OPD) from March 26th through March 28th. Two team members focused on refining the CompStat process, working closely with Chief Bershears on the finer points of preparing for and running the CompStat meetings and keeping the meetings on target with respect to the central purpose of CompStat, which is to ensure a swift and focused response to crime as it develops in Oakland's neighborhoods. These two team members also met with five of Oakland's eight captains to discuss expectations for the captains who will command the five districts and who will be leading participants in CompStat, as well as meeting with a group of patrol sergeants.

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Investigative Issues (Homicide and Shootings)

The Major Crimes Section 1 (MCS1) may have an adequate number of investigators to investigate the 131 homicides that occurred in the city in 2012. Unfortunately, their 2012 caseload was substantially larger than just the homicides. They were also assigned 847 gun assault cases, 913 other shooting incidents, and 8 officer-involved shootings (OIS), including one fatal OIS. The Bratton Group team also understands that Major Crimes Section 1 is charged with investigating cases of alleged criminal activity by police officers during the Occupy Oakland protest. It appears that the entire homicide unit is in a virtual training mode because many of the investigators assigned to the unit have no previous homicide investigations experience, and some have no previous investigations experience of any kind. This situation is a consequence of the transfer of sergeants, who formed the bulk of the homicide unit previously, to the patrol force to meet span-of-control requirements (1 to 8) set by the Negotiated Settlement Agreement monitor.

It should be a top priority in 2013 to significantly lighten the caseload of MCS1 so that investigators can concentrate their full attention on homicides and the most

serious assaults. The Bratton Group team would recommend that MSC1 be assigned only homicides and assaults in which the victim is seriously injured and likely to die. The OIS cases and the Occupy Oakland cases should be transferred to Internal Affairs, which, according to the Department roster, has 15 sergeants on staff. Some responsibility to investigate other assaults might be transferred to the district investigative teams and some to a reconfigured unit in CID. The goal should be to raise significantly the closure rate for homicides, which has hovered at 30 percent or less in the past few years.

FROM: CHIEF HOWARD JORDAN
TO: ALL DEPARTMENT PERSONNEL
SUBJECT: **COMPSTAT MEETINGS AND REPORTING REQUIREMENTS**

Date: XX/XX/2013

OVERVIEW

The core mission of the Oakland Police Department is to reduce crime, fear and disorder in our city. I am proud of the work the men and women of all ranks in this Department are doing as we seek to accomplish this mission. In order to continuously improve our ability to deliver police service, we have re-engineered our CompStat process and will soon begin conducting our refocused biweekly CompStat meetings. The OPD CompStat process is designed to empower District Captains and patrol and investigative unit supervisors to take the lead in devising and implementing effective crime reduction strategies and tactics in their areas of responsibility.

CompStat evolved from crime strategy meetings beginning in 1994 in the NYPD under the leadership of Police Commissioner William Bratton. In a short time, the process developed into one of the most significant factors in that city's dramatic reduction in crime. Initially, CompStat meetings were conducted with virtually no technology. Crime was tracked by hand counts and plotted on flip chart maps with acetate overlays. The important ingredient were the people who were engaged in the process and the process itself, an intensive forum where crime patterns and conditions were closely examined and strategies and tactics were developed to counter them. CompStat brought supervisors from patrol, investigations, narcotics teams and other specialized units together with command staff to ensure a coordinated effort in our primary business of fighting crime.

From that beginning, CompStat has been greatly enhanced and widely adopted. High-tech crime mapping is now commonplace, and progressive police departments throughout the country have implemented similar crime strategy meetings with positive results. I am very confident of the capabilities of all ranks in our Department and I believe that well-run CompStat meetings will help us to reduce crime, especially violent crime, in our city. The four principles of CompStat are:

1. Accurate and Timely Information
2. **Effective Tactics**
3. **Rapid Deployment of Personnel and Resources**
4. **Relentless Follow-Up and Assessment**

Accurate and Timely Information: Effective crime fighting begins with officers and supervisors *of all ranks knowing the details of crime: the where, when, how and*

eventually the who of crime. This information will be generated from multiple sources, primarily from crime reports, but also including, but not limited to, crime maps, field interviews, statistics, CAD/RMS data and the debriefing of arrested subjects.

Effective Tactics: District Captains will be responsible, as much as possible, for sharing information across ranks and units and for the development and coordination of effective tactics and strategies to deal with crime and the conditions that contribute to crime. Tactics must be comprehensive, flexible and adaptable to changing trends. The tactics must be collaborative, and not only between units in the DPD. When appropriate, they may involve other law enforcement components such as the District Attorney's Office, the Alameda County Sheriff's Office, Parole, Probation, the FBI, the DEA and our various federal partners. District Captains should also continuously seek, encourage and facilitate input from subordinates when devising crime solution and crime prevention strategies.

Rapid Deployment of Personnel and Resources: Once a tactical plan to reduce a spike in a particular crime has been developed, the deployment of personnel and resources must be rapid and focused. The response to pattern crime, especially shootings, robbery and burglary, demands that patrol and special units know complete details of these pattern crimes, coordinate their resources and expertise and proceed with a sense of urgency.

Relentless Assessment and Follow-Up: All plans must be relentlessly followed-up and assessed to ensure that the desired results are being achieved. Action items from the prior CompStat meeting will be a key component of each bi-weekly session.

PROCEDURE

CompStat Meetings will be held biweekly on the same day of the week and at the same time; i.e. the second and fourth Wednesday of every month at 1000 hours. The primary interviewers conducting the Compstat meeting will be Assistant Chief Anthony Toribio and Deputy Chief Eric Breshears. I also intend to be an active presence at each CompStat meeting. As part of our re-engineered CompStat process, we are transitioning away from formal presentations by the Captains to a more focused question-and-answer, information-exchange format. The Chiefs will direct questions to the District Captain and the members of his/her team at the podium. The Captain will provide a comprehensive analysis of crime issues in his/her District AND the specific details of his/her plans to reduce these crimes. CompStat meetings will be focused in depth on our primary business of delivering police service, especially reducing crime and addressing quality-of-life issues. The meetings are designed to improve communication, coordination, strategic planning and accountability at all ranks in our Department. The exchange of information and

the identification of best practices designed to fight crime are also essential elements of the CompStat process.

The following personnel/units will attend and play key roles in the CompStat process:

- Chief of Police
- Assistant Chief
- Deputy Chiefs
- District Captains and at least one supervisor from each District
- Captain, Criminal Investigation Division
- Homicide Lieutenant
- Robbery Lieutenant
- Patrol and investigative unit supervisors who have direct knowledge and roles that support crime fighting
- All other OPD Captains including Training, Internal Affairs and Support Operations

The above supervisors and all patrol supervisors should be prepared to discuss in detail crimes that occur in their respective areas of responsibility. In addition, all supervisors attending CompStat should come to the meeting prepared to contribute to the process if called upon and ready to discuss their respective units' activity and/or functions.

Investigative Unit supervisors should be prepared to discuss and respond to questions about the progress of investigations and/or other enforcement activities, especially investigations or activities focused on trends or pattern crimes identified in the CompStat report. They should also be ready to discuss the status of pending cases and their recent and current proactive activities to identify and capture suspects, especially those involved in violent crime.

Crime Analysis personnel will attend and provide mapping technology illustrating locations under discussion where crime has occurred, arrests have been made or calls for service have originated.

THE COMPSTAT REPORT

Crime Analysis personnel will prepare weekly crime reports that will provide accurate timely information for the bi-weekly CompStat meetings. These reports will be used to identify crime trends and performance data (i.e., enforcement activity) to serve as for the basis for discussion and to help identify issues that may require tactical and strategic planning.

The following procedures will be complied with to ensure that the CompStat Report is prepared and distributed on a weekly basis. Accurate and timely data are critical elements in this process:

CompStat Weekly Reporting Period: The CompStat weekly reporting period starts on Monday at 0001 hours and ends on Sunday at 2400 hours. Discussion at CompStat meetings will focus on all crime and enforcement activity occurring prior to the previous Sunday at 2400 hours. The weekly CompStat Report will consist of six pages: five single-page summaries that track crime and enforcement data for each of the five Districts and one page that provides a citywide recap of this information.

Shooting Information: For the purpose of the CompStat process, shootings will now be classified into three separate categories: shooting incidents, shooting victims and confirmed shots fired as follows:

- **Shooting Incidents** – A shooting incident is recorded when a shot is fired from a weapon, other than a BB gun or pellet gun, and the shot strikes a person, or persons, breaking the skin of the victim(s). There must be at least one victim struck to record a shooting incident for CompStat reporting purposes.
- **Shooting Victims** – This category records the number of persons who are actually struck by a shot as defined above under the shooting incident heading. Every CompStat shooting incident must have at least one shooting victim and may have multiple shooting victims.

Note: Shooting incidents as described above will also be counted as assaults or, if victims die, as homicides. For example, if four persons are standing on the corner and the occupants of a passing car fire several shots striking two people, this incident would be reported as one shooting incident, one assault and two shooting victims. If one of the two people shot were to die, the incident would be reported as one shooting incident, two shooting victims, one homicide and one assault.

- **Confirmed Shots Fired** – This category records incidents in which shots have been fired but no person(s) have been struck by a bullet.

Note: For the purposes of CompStat and deployment, Confirmed Shots Fired incidents will be mapped separately from the other two shooting categories.

Although the CompStat meeting will be biweekly, a weekly CompStat Report will be prepared by the Crime Analysis Section and copies distributed by 1200 hours on Tuesday of every week.

Crime reports are counted only once, according to the top charge only. For example, a home invasion armed robbery should be counted once as a robbery, not once as a robbery and once again as a burglary. Shooting incidents and shooting victims are not Penal Code crime classifications and should be additionally counted as either an assault or, if the victim dies, a homicide.

Arrests, like crime reports, will be counted by top charge only. A person arrested for multiple charges will only be counted as a single arrest based on the highest charge. For example, a person arrested for both rape and burglary, occurring during the same incident, will be counted as a rape arrest only.

Lieutenants and Sergeants shall ensure that officers prepare and submit crime reports prior to the end of their tours and that these reports are reviewed for accuracy, completeness and correct crime classification by a supervisor.

As an integral component of the CompStat process, District Captains must read and analyze crime reports daily. CompStat relies upon the "turf-based" accountability of commanders who take ownership of the crime problems in their respective areas of responsibility. These commanders then formulate plans to reduce these crimes and improve the safety, security and quality of life of the people we serve. CompStat is not just a MEETING. It is a continuing PROCESS that should take place throughout the intervening two weeks between each meeting. We will be continuously improving the quality of our crime reporting and intelligence gathering, sharpening our focus as we devise effective tactics, responding swiftly to conditions in the streets as they develop and assessing our successes and failures to improve our overall effort against crime.

Keep up the good work and stay safe.

Howard Jordan
Chief of Police

The Data on the Following Sample Reporting Mock-up is filled only; It does not represent actual data and is only intended to show the format of the report and content areas.

ATTACHMENT D

Appendix B: General Purpose Fund Balance Projection Summary

	May 10, 2013 Audited & Proposed	May 16, 2013 Audited & Proposed
Gross ending Fund Balance	\$ 84,600,000	\$ 84,600,000
Outstanding Encumbrance, Early Recog. RPTT & Property Sales Used to Balance the Budget	\$ (17,982,521)	\$ (17,982,521)
Net Available Ending Fund Balance:	\$ 66,617,479	\$ 66,617,479
7.5% Mandated Reserved Level (Designated Fund Balance)	\$ (32,261,671)	\$ (32,261,671)
Council Approved Action since July 2012-April 2013 & Recognized Revenue (\$2.48M)	\$ (3,087,987)	\$ (3,087,987)
General Purpose Fund Balance Projection with Known Council Actions	\$ 31,267,821	\$ 31,267,821
PROPOSED USE OF THE FUND BALANCE:		
Reverse \$14.28 M Transfer from the Fund Balance in FY 2012-13	\$ 12,882,521	\$ 12,882,521
Projected Revenue Growth by June 30, 2013 (Q2 report)	\$ 14,120,000	\$ 14,120,000
Projected Operating Surplus (Q 3 report)		\$ 6,200,000
Reverse Land Sale Subject to State Review	\$ (32,500,000)	\$ (32,500,000)
Pending Litigation Settlement	\$ (4,300,000)	\$ (7,000,000)
Police Overtime in FY 2012-13 (per 2nd Qr report)	\$ (7,700,000)	\$ (4,400,000)
Use for FY 2013-15 Budget Balance Measures (updated 4/14/2013)	\$ (10,810,930)	\$ (10,810,930)
Subsidize Head Start Partial Cuts (34 families, Eastmont Ctr)	\$ (300,000)	\$ (300,000)
Compliance Director's Salary (Court Order 4/17/13, thru Dec. 2014)	\$ (540,000)	\$ (540,000)
Compliance Director's Staff & Exp. (Court Order Dated 4/17/13), \$450K/yr X 2 (Dec. 14)	\$ (945,110)	\$ (945,110)
Compliance Director's Remedial Action Plan (May 1)	\$ (1,825,000)	\$ (1,825,000)
Additional Set aside for Remedial Action Plan Cost		\$ (1,000,000)
Recommendation from Strategic Policy Partners		\$ (368,500)
Restore Graphic Design Specialist (Part-Time)		\$ (160,000)
Set Aside for Public Safety Radio Replacement and Upgrade		\$ (2,500,000)
Projected Balance as of June 30, 2013	\$ (650,698)	\$ 2,120,802

Notes:

¹ Some additional fund balance will be required for NSA/Compliance Director-Court Order implementation (\$TBD).

² Fiscal impact of additional State actions regarding DDF/Controller's Office review have a potential fiscal impact (\$TBD).