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CITY OF OAKLAND

AGENDA REPORT

TO: HONORABLE CITY COUNCIL

FROM: Deanna J. Santana

SUBJECT: Transfer of OIG and Complaint Intake
to the City Administrator's Office

DATE: June 25, 2013

RECOMMENDATION

Accept this informational report on the status of Council's direction to transfer the Office of Inspector General (OIG) and Internal Affairs' Complaint Intake Functions from the Oakland Police Department (OPD) to the City Administrator's Office (CAO).

Note: The information contained in this report is the most up to date at the time this report was written on June 8, 2013. The Administration is prepared to share any new updates verbally on the status of information provided on the date of the meeting.

OUTCOME

Council and public will receive a monthly report on the current status of implementing the City Council's direction with respect to the transfer of the Office of Inspector General (OIG) and Internal Affairs' Complaint Intake functions from the Oakland Police Department (OPD) to the City Administrator's Office (CAO).

While Council's direction for the civilianization of the complaint intake was for the process to be completed by October, as has been stated before, the complete transition and civilianization of positions are contingent on the approval of the Federal Compliance Director who is charged with collaboratively working with the parties of the Negotiated Settlement Agreement. As also stated prior, the Administration is compelled to adhere to the Federal Orders relative to the NSA and directives issued by the Compliance Director.

BACKGROUND

Over the past years, the Mayor and City Council have considered various organizational changes that are targeted to result in structural changes that maintain compliance with the Negotiated Settlement Agreement (NSA) and improve quality control measures. Two key functions have been identified during this two year budget (FYs 2011-2013) that meets this goal: (1) Transfer of the Internal Affairs Complaint Intake functions from OPD to the CAO, and (2) Transfer of the OIG from OPD to the CAO.

ANALYSIS

Office of the Inspector General (OIG) Update

OIG reorganization is further along than the Complaint Intake function and moving appropriately through the key milestones. The OIG function is less directly related to NSA task compliance and serves internally as an auditing function to advise on service performance and sustainment of NSA Compliance. The transfer of OIG only includes performance auditing, audits of investigations, sustaining the 6 NSA required audits per year, and other duties related to these functions pursuant to the City Administrator's authority/direction. The transfer does not include other functions currently maintained by the OPD OIG's office such as internal review boards, risk management, or data reports related to reporting to the Monitor or Compliance Director. OPD will continue to conduct these functions and some management reviews on areas where it can achieve improved service delivery.

The Compliance Director convened a meeting on May 22 to focus on the need to maintain sworn expertise focus in the auditing and investigation process and the role of sworn members in the transfer and sustained services. The discussion was continued on June 7 with all parties present (e.g., Plaintiffs Attorneys, OPOA, Federal Monitor, OPD staff, Mayor, City Administrator, Employee Relations, and City Attorney).

Following that meeting, as a separate discussion, the Compliance Director raised issues whether there exists an internal conflict with respect to having the IG and the Chief of Police report to the City Administrator. The United States Government Accounting Office's Government Auditing Standards (December 2011), speaks to this issues and the City has demonstrated that the proposed structure meets all of the criteria (see Attachment 1). The City awaits the Compliance Director's input as to whether there are any pending issues with respect to this inquiry.

An OPOA meet and confer regarding the Inspector General job specifications was held on June 6, 2013. Significant progress has been made with respect to the duties and structure of the OIG. There remains a difference in position with respect to the qualification requirements to fill this position. The City will present a revised version of the job specification to the OPOA and hold another meeting on it toward the goal of completing the revisions of these duties and, simultaneously, consult with the Compliance Director.

Complaint Intake Update

The Complaint Intake function is directly related to NSA tasks since it is the first step of allegations of police misconduct that requires Internal Affairs' due diligence, investigation, and resolution of whether staff should be disciplined or not. The complaint intake transfer has two goals: 1) free up 8-9 officers to be assigned to other sworn dufies and; 2) civilianize complaint intake. The Complaint Intake function is directly related to the following NSA Tasks:

- 4 - Complaint Control System,
- 5 - Complaint Procedures,

- 7 - Methods for Receiving Complaints,
- 9 - Contact of Complainants,
- 10 - IAD Manual,
- 11 - Summary of Complaints Provided to OPD Personnel
- 14 - Lawsuits and Legal Claims.
- 2 - Timeliness of IA Cases,
- 16 - Supporting the IA Process, and,
- 33 - Reporting Misconduct.

Internal preparations are focused on: (1) training method, (2) systems that need to be modified, and (3) meet and confer. First, normalizing the complaint intake practices between the Internal Affairs and CPRB, including making consistent forms and procedures between both offices, is absolutely necessary as we move to merge these functions. This function will allow for us to train the incoming staff on a process that meets both the CPRB and IA requirements.

There is agreement that the complaint intake staff will be trained and housed in OPD's IA division until such time that they demonstrate the job skills and competencies that are required to maintain NSA compliance before they transfer to the CAO. Some of the areas identified to master institutional knowledge are: NSA tasks, Internal Affairs processes, police data systems (LRMS, CAD, SJIS, DMV, etc.), Manual of Rules, California Peace Officers' Bill of Rights, and OPD policies and procedures. This approach has been discussed with the Compliance Director and Federal Monitor and neither have expressed disagreement. Additionally, CPRB and IA utilize different technology systems that also need to be merged and modified to ensure that data is captured in one manner. Given that the two processes are slightly different, staff is working to establish training protocol resulting in one methodology for taking in complaints and will modify the system accordingly. These efforts are underway.

During June, the Mayor and staff met, or discussed several times, with the Compliance Director the details of the proposed workplan to transfer Complaint Intake to the City Administrator's Office. The Compliance Director's original position on the transfer was that there was "*no objection to either Inspector General or IA Intake moving to the C.A.'s Office. Of course, the Monitoring and the interests of the Compliance Director follow the transfer*" (April 30). As of June 10, the proposed structure is under review by the Compliance Director and, as of this report writing, the City awaits the Compliance Director's position on this matter.

With the proposed structure under review by the Compliance Director, there is further delay with respect to the City's ability to meet and confer with the OPOA on the Complaint Intake job specifications and related transition because these documents were developed according to the City Council's direction and the Administration does not have certainty of what exactly it will present to the OPOA for the purpose of meeting and conferring.

Draft Changes to OPD Policy M-3 to Receive Complaints to Improve Intake Efficiency

OPD has recently made efforts to make changes to current complaint intake practices to be more aligned with national best practices. Consistent with the Compliance Director and Federal Monitor approval, a current effort underway involves Sergeants having more authority and

direction to initiate an investigation and make determination of a complaint prior to referring it to IAD. Instead of sending the complaint to IAD the next day, Sergeants will have up to 14 days to complete extra investigative steps and identify any and all MOR violations. Sergeants can then make a case file recommendation for further investigation, handle at the supervisor level (supervisor notes file/informal complaint resolution), or administrative close the complaint. The impact will be that some complaints coming to intake will need little or no additional follow up activities to be closed. This change in policy will help expedite the process of investigations and better use limited resources dedicated to intake; it is separate from the Council's direction relative to civilianizing complaint intake. Current changes to the policy are under review with the parties of the Federal Court Order.

Federal Court Order re Compliance Director's Approval

The Federal Court Order, issued December 12, 2012, assigned various authorities to the Compliance Director that requires the City to seek approval for NSA and/or AMOU task or areas beyond specific NSA tasks. The Federal Court Order contains three key provisions which require the City to work with the Court assigned Compliance Director before action is taken:

- B1 The requirement in the January 24, 2012 order for consultation with the Monitor will terminate upon appointment of the Compliance Director. However, Defendants will not implement any of the types of changes or actions identified in the January 24, 2012 order without the Compliance Directors direction or approval.

Comment: Generally, the January 24 Court Order included instructions regarding policies, personnel decisions, procurements, and operations. The OIG and Complaint Intake functions fall under policies, personnel decisions, and operations part of the Order.

- C(f)(6) 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.

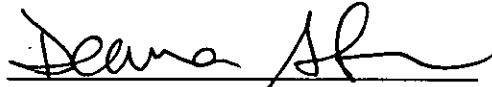
Comment: OIG and Complaint Intake both fall under the policies, procedures and practices of the OPD and are directly related to the NSA and AMOU.

- C(f)(7) 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 of the NSA and AMOU, including but not limited to: ... (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.

Comment: OIG and Complaint Intake both are programs and/or initiatives directly related to the NSA tasks and objectives. The Compliance Director has the authority to direct the City Administrator accordingly with respect to these

Council directive since they fall under the policies, procedures and practices of the OPD and are directly related to the NSA and AMOU.

Respectfully submitted,



DEANNA J. SANTANA
City Administrator

Reviewed by:

SEAN WHENT
Interim Chief of Police

PATRICK J. CACERES
Manager, Citizens' Police Review Board

LAWANNA PRESTON
Employee Relations Director

DONNA HOM
Budget Director

Attachments (2):

- Agenda Report titled, "Transfer of OIG and Complaint Intake to the City Administrator's Office," dated March 28, 2013.
- The United States Government Accounting Office's Government Auditing Standards (December 2011), Chapter 3, Internal Auditor Independence

ATTACHMENT 1

The United States Government Accounting Office's Government Auditing Standards (December 2011)

Chapter 3: Internal Auditor Independence

3.31. Certain entities employ auditors to work for entity management. These auditors may be subject to administrative direction from persons involved in the entity management process. Such audit organizations are internal audit functions and are encouraged to use the Institute of Internal Auditors (IIA) International Standards for the Professional Practice of Internal Auditing in conjunction with GAGAS. In accordance with GAGAS, internal auditors who work under the direction of the audited entity's management are considered independent for the purposes of reporting internally if the head of the audit organization meets all of the following criteria:

- a. is accountable to the head or deputy head of the government entity or to those charged with governance;

Administration's Proposal: Done, the Inspector General position will report directly to the City Administrator. We have included this reporting requirement in the job specification.

- b. reports the audit results both to the head or deputy head of the government entity and to those charged with governance;

Administration's Proposal: Done, the report/audit results will be shared with the City Administrator and Chief of Police. We have included this reporting requirement in the job specification.

- c. is located organizationally outside the staff or line-management function of the unit under audit;

Administration's Proposal: Done, the Inspector General will reside in the City Administrator's Office and will not be in the line of management at OPD in any manner.

- d. has access to those charged with governance; and:

Administration's Proposal: Done, this position will report directly to the City Administrator, who has City Charter responsibilities to the City Council and reports directly to the Mayor. We have included this reporting requirement in the job specification.

- e. is sufficiently removed from political pressures to conduct audits and report findings, opinions, and conclusions objectively without fear of political reprisal.

Administration's Proposal: Done, this position will report directly to the City Administrator. The City Charter has a "non-interference" clause that prevents any influence, pressure, etc. on the administrative duties of the City Administrator. The job specification is clear in that this work should be conducted in an independent manner and according to auditing standards.