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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable William H. Orrick, Judge

DELPHINE ALLEN, et al.,	)	
	)	
Plaintiffs,	)	
	)	
VS.	)	<b>NO. C 00-04599 WHO</b>
	)	
CITY OF OAKLAND, et al.,	)	
	)	
Defendants.	)	
	)	

San Francisco, California  
Tuesday, April 11, 2023

**TRANSCRIPT OF HYBRID PROCEEDINGS**

**APPEARANCES:**

For the Plaintiffs:

BURRIS NISENBAUM CURRY & LACY  
Airport Corporate Centre  
7677 Oakport Street, Suite 1120  
Oakland, California 94621

**BY: JOHN L. BURRIS, ATTORNEY AT LAW**

LAW OFFICES OF JAMES B. CHANIN  
3050 Shattuck Avenue  
Berkeley, California 94705

**BY: JAMES B. CHANIN, ATTORNEY AT LAW**

**(APPEARANCES CONTINUED ON FOLLOWING PAGE)**

REPORTED BY: Ana Dub, RDR, RMR, CRR, CCRR, CRG, CCG  
CSR No. 7445, Official U.S. Reporter

1 **APPEARANCES:** (CONTINUED)

2 For the Defendants:

3 OFFICE OF OAKLAND CITY ATTORNEY  
4 One Frank Ogawa Plaza, Sixth Floor  
5 Oakland, California 94612

6 **BY: BRIGID S. MARTIN, DEPUTY CITY ATTORNEY**

7 For the Intervenor Oakland Police Officers Association:

8 RAINS LUCIA STERN  
9 ST. PHALLE & SILVER, PC  
10 2300 Contra Costa Boulevard, Suite 500  
11 Pleasant Hill, California 94523

12 **BY: ROCKNE A. LUCIA, JR., ATTORNEY AT LAW**

13 Also Present:

14 **Mayor Sheng Thao**

15 **Interim City Administrator Steven Falk**

16 **Interim Police Chief Darren Allison**

17 **Dr. Tyfahra Milele (Via Zoom)**  
18 **Oakland Police Commission Chair**

19 **Retired Superior Court Judge Brenda**  
20 **Harbin-Forte**  
21 **Oakland Police Commission Ad Hoc Head**

22 **Michelle Phillips, Inspector General**

23 **Charlotte Jones**  
24 **Interim Executive Director**  
25 **Community Police Review Agency**

**Deputy Chief James Beere**

**Deputy Chief Drennon Lindsey**

**Deputy Director Kiona Suttle**

**Captain Kevin Kaney, Internal Affairs**

1 Tuesday - April 11, 2023

3:32 p.m.

2 P R O C E E D I N G S

3 ---o0o---

4 **THE CLERK:** And we are here in Case Number 00-4599,  
5 Allen, et al. vs. City of Oakland, et al.

6 Counsel, if you would please come forward and state your  
7 appearance for the record.

8 **MR. BURRIS:** John Burris for the plaintiff. Good  
9 afternoon, Your Honor.

10 **THE COURT:** Good afternoon.

11 **MR. BURRIS:** Jim?

12 **MR. CHANIN:** James Chanin for plaintiffs, Your Honor.

13 **MS. MARTIN:** Good afternoon, Your Honor. Brigid  
14 Martin for the City of Oakland. And I have many esteemed city  
15 members here with me.

16 I have Mayor Sheng Thao.

17 Interim City Administrator Steven Falk.

18 Interim Police Chief Darren Allison.

19 I also have, virtually, the Oakland Police Commission  
20 chair, Dr. Tyfahra Milele.

21 Head of the Oakland Police Commission Ad Hoc, Retired  
22 Superior Court Judge Brenda Harbin-Forte.

23 From the Office of the Inspector General, the Inspector  
24 General, Michelle Phillips.

25 The Interim Director of the Community Police Review

1 Agency, Charlotte Jones.

2 And subject matter experts from the Department, including  
3 Deputy Chief James Beere; Deputy Chief Drennon Lindsey;  
4 Deputy Director Kiona Suttle; and Internal Affairs Division  
5 Captain Kevin Kaney, who is also acting right now for  
6 Deputy Chief Clifford Wong of the Bureau of Risk Management.

7 **THE COURT:** Great. Well, thank you all for being  
8 here.

9 And do I have to -- hello, Mr. Lucia.

10 **MR. LUCIA:** Just for the record, Your Honor, Rocky  
11 Lucia for intervenor Oakland POA. Good to see you again.

12 **THE COURT:** It's good to see you.

13 I got a tip from a judge who I admire, a former judge who  
14 I admire that I hadn't let you introduce yourself. So,  
15 thank you.

16 And, Mayor Thao, I'm pleased that you're here.

17 Let me welcome everybody. And you can sit down.

18 **MS. MARTIN:** Thank you, Your Honor.

19 **THE COURT:** So my focus today, as it has been since I  
20 succeeded Judge Henderson on this matter, is how the Court can  
21 ensure that the City of Oakland achieves full compliance with  
22 the NSA, the Settlement Agreement which was negotiated 20 years  
23 ago with the plaintiffs and establishes constitutional policing  
24 in all aspects of its work.

25 So I'm going to start this afternoon with a few questions

1 for Chief Allison. Then I'm going to lay out my thinking based  
2 on the joint CMC statement and the Independent Monitor's  
3 report.

4 After that, I'm going to ask for comments from the  
5 plaintiffs, from OPOA, from the Police Commission, and then the  
6 City and the Mayor.

7 So, Chief Allison, I'm going to put you on the hot seat,  
8 as you have been a fair amount since I succeeded to  
9 Judge Henderson.

10 **CHIEF ALLISON:** Yes, Your Honor.

11 **THE COURT:** And so you've been on the force for the  
12 entire time, I think, of the Court's monitoring of OPD.

13 Since I've been the judge, I've seen impressive  
14 accomplishments, like the dramatic reduction shown by the stop  
15 data, both in terms of numbers and now even some impact on  
16 racial disparity.

17 I've seen the risk management meetings become an effective  
18 way to support constitutional policing.

19 I've seen the implementation of technology through vision  
20 and through the body-worn cameras.

21 To the same end, I've seen a lot of policies implemented  
22 to shore up the gaps in a myriad of tasks.

23 But here's the "but." I've also seen what seems to be a  
24 cultural inability of OPD to police itself, to hold itself and  
25 its officers accountable without fear or favor. And this seems

1 particularly true in cases involving OPD command staff. And  
2 it's this lack of integrity, this culture that plays favorites  
3 and protects wrongdoers that undercuts the foundations of  
4 constitutional policing. And 20 years of court supervision  
5 hasn't solved that problem, which was a major concern with  
6 the Riders more than 20 years ago.

7 So that's my preface to two questions that I have for you.  
8 The first one is: How are you and OPD addressing this cultural  
9 problem? And then the second part of that is: What can  
10 the Court do to support you in those efforts?

11 **CHIEF ALLISON:** Thank you, Your Honor.

12 As you know, as you've laid out, I've been here for a very  
13 long time. I started with the City in 1994. So I've seen the  
14 police department before the NSA, and certainly, particularly  
15 through my command experience, I've seen almost everything  
16 through the NSA, going back to even 2005. I was in the  
17 Inspector General's Office as a sergeant, later a young  
18 lieutenant. So I've certainly seen everything that you've seen  
19 and everything that you've laid out, Your Honor.

20 You know, I think when you look at organizational culture  
21 and how do you change it, you know, I think it always begins  
22 with hiring folks that are aligned with the value of the  
23 organization and values with the community. And for a long  
24 time, we didn't have a community oversight body that existed,  
25 up until just several years ago.

1 I think the first step in culture change is really trying  
2 to bring in people that you know have those institutional  
3 values, and then train those individuals through the academy,  
4 through field training to make sure that's inculcated through  
5 the organization. And that extends all the way to who you  
6 promote, putting the right people in the right places that are  
7 making the right decisions.

8 I have seen us progress over the years when it comes to  
9 the culture of the organization. I've seen great innovations,  
10 great transparency, great accountability, great community  
11 relationships and collaboration.

12 But I've also seen bad decisions, wrong decisions,  
13 missteps, and certainly have experienced several setbacks,  
14 times where we're standing in front of Judge Henderson talking  
15 about them and now yourself, Your Honor.

16 And so I always struggle with how do we hold that line.  
17 And I think from the leadership having that heart, looking at  
18 one's own heart and examining themselves and seeing that  
19 reflected in others, I think, is important.

20 So that goes back to putting the right people in the right  
21 seats to replicate that, and holding account.

22 I also think that as a business where the biggest asset  
23 are people, we know that there's going to be failures; we know  
24 that there's going to go wrong decisions; is working very  
25 closely with an independent body that can see them -- or see us

1 independently.

2 And I know over the last couple of years in particular, we  
3 have strengthened our collaboration and our work with our  
4 current oversight bodies, with the Police Commission, with the  
5 CPRA, with the IG's Office, and especially with the ability to  
6 audit us through the IG's Office ramping up over the recent  
7 months and year; that for those decisions that are wrong or  
8 made in error, that there will be that net that catches those  
9 things that get misstepped.

10 We're obviously -- all the setbacks, I feel them. It  
11 frustrates me. I would love to see us just move forward, just  
12 in best practices as an organization. And I know that we  
13 consistently raise the bar high.

14 So I think from my perspective, just really  
15 institutionalizing that culture; again, reinforcing not only  
16 the training -- and I know we've presented on Project Reset,  
17 which is a different training than we've ever done before. It  
18 talks about organizational culture. It analyzes our own  
19 culture and then highlights being change agents of that  
20 culture.

21 And so getting folks to think that way and understand the  
22 importance of it and then replicate it and get that courageous  
23 followership to be able to bring that forward is going to be a  
24 beginning of it; the policies that reinforce it; and then,  
25 obviously, putting the right leaders in the right place to hold



1 account and see it for themselves and be supportive, from the  
2 other leadership, to say, "It's okay to make decisions. It's  
3 okay to hold accountability. And it's also okay to make  
4 mistakes if they are done for the right reasons."

5 **THE COURT:** So, and you're always going to make  
6 mistakes. You have and the police department has the toughest  
7 job I can imagine doing. People are always going to mess up.

8 Not being honest about the problems that occur; trying to  
9 cover up things because it's a little easier, it seems like  
10 it's going to be an easier way of sort of alighting the  
11 problem; playing favorites with people who either have  
12 political sway or they're people that you just kind of like,  
13 that's, I think, central to what's going on. And just being  
14 able to hold people to account, it's a critical thing. And I  
15 hope and I expect that you're doing that.

16 **CHIEF ALLISON:** Sure.

17 **THE COURT:** And so that's one issue.

18 How about the second part of my question? What is it that  
19 the Court can do, that it hasn't been doing, or whether it can  
20 do anything to deal with the cultural problem that has existed  
21 from the Riders day and maybe for a lot longer than that?

22 **CHIEF ALLISON:** Well, Your Honor, I think that there's  
23 been a lot -- I mean, certainly, any tone that hasn't been set  
24 within the organization, I've always respected the Court has  
25 set the tone for those areas that we need to pay great focus

1 to.

2 And I think that maybe helping us as we get to the  
3 sustainability period. And I know we are several months into  
4 it, and we've had some advantages and some successes, and we've  
5 had certainly some setbacks.

6 Helping us focus in on the things that are remaining, the  
7 tasks that really are remaining. I know that, not to get too  
8 nuanced, but certainly the IA process, the discipline process,  
9 trying to really put all of our energy into that to set the  
10 foundation of the cultural expectations, because I do believe  
11 that the policies and the training really are going to amplify  
12 it.

13 So I think from the Court's assistance is basically  
14 putting all the inertia into those last remaining vestiges of  
15 compliance that we really need to get into to have long-lasting  
16 compliance.

17 And I think, also, I would love to see that transition  
18 over to community oversight, because I think we are at that  
19 point to where that can -- and I'm not going to speak for  
20 the Court. That's not what I'm trying to do. But since you  
21 asked about how the Court could help --

22 **THE COURT:** That's what I'm looking for.

23 **CHIEF ALLISON:** -- is that transition into that  
24 community oversight, because I think that the infrastructure is  
25 there, and just what does that now look forward to, moving

1 forward into the future beyond the NSA.

2 **THE COURT:** Okay. So are you satisfied -- I'm going  
3 to move on to a couple of other questions.

4 Are you satisfied that the policies that were recommended  
5 by the Clarence Dyer report and the systemic report, as  
6 modified by the City in the case management statement, as well  
7 as those that are going through the approval process, are going  
8 to ensure accountability and integrity in addressing officer  
9 and, especially, supervisor and leadership misconduct?

10 **CHIEF ALLISON:** Yes, Your Honor.

11 And one thing I want to emphasize is, you know, there were  
12 issues that were raised out of that report, and it ended up  
13 touching 15 policies or forms.

14 And so we went back and we dove in deep right away. We  
15 didn't wait to get it started or wait for direction. We ended  
16 up diving into those policies, and figured out one thing that  
17 stood out, not only in the public report but in recent  
18 monitoring team reports, was taking seriously those serious  
19 cases.

20 Obviously, with an organization that receives numerous  
21 complaints -- I think we closed about 1100 complaints last  
22 year -- that you can't scrutinize every single one of them.  
23 It's just humanly impossible with just the capacity.

24 But looking at the ones that are serious and holding them  
25 to a serious level is important. That's the ones -- those are

1 the ones that really impact public trust.

2 And I think the policies put in place a mechanism that  
3 balances the workflow capacity with bubbling up to the top  
4 those issues that are the highest importance that need the  
5 highest scrutiny, bringing in the higher levels of review so  
6 it's not left to just one person making all the decisions at a  
7 lower level; that it touches the executive team at a higher  
8 level where, if there are missteps at that level, then we can  
9 start the accounting process at a higher level.

10 Certainly, with the transparency piece, the better  
11 presentations at meetings and documentation of those meetings  
12 when key decisions, important decisions of discipline are made  
13 is certainly going to reinforce that piece of it.

14 And really, just, again, creating a greater sense of, if  
15 there's disagreements, it can't be hidden in the shadows  
16 anymore. It's going to be out there, whether it's going to be  
17 highlighted in an executive summary or shown in meeting notes  
18 or track changes.

19 So one thing that, to get rid of organizational cultural  
20 issues or threats to organizational cultures, you have to start  
21 shining light on shadows. You can't let things hide in the  
22 shadows. And I think these policies shine lights on areas and  
23 issues that are the right areas and issues to minimize and  
24 prevent those issues from hiding again.

25 And then, certainly, the collaboration -- which I know

1 wasn't necessarily one of the recommendations -- but the  
2 collaboration and the notification to our oversight bodies --  
3 CPRA and the Commission -- will also give what I mentioned  
4 earlier, that redundancy and that safety net for those issues  
5 that might slip through the cracks or may be the product of a  
6 wrong decision, an improper decision or a bad decision.

7 **THE COURT:** So as best you can tell, these policies,  
8 if they're in force, should solve the problem?

9 **CHIEF ALLISON:** I think it will shore up the process.  
10 I don't think a policy in and of itself solves a culture  
11 problem.

12 **THE COURT:** I couldn't agree more. That is up to the  
13 individuals who are responsible for the policy; right?

14 **CHIEF ALLISON:** That's correct. And that's where --

15 **THE COURT:** So --

16 **CHIEF ALLISON:** I'm sorry to cut you off.

17 **THE COURT:** Yeah. No, no. Go ahead.

18 **CHIEF ALLISON:** I was saying, that's where it comes to  
19 putting the right people in the right chairs to make those  
20 decisions.

21 **THE COURT:** And on that point, I think particularly in  
22 the last several years, OPD has done a good job of recruiting a  
23 more diverse force. The people that I met a few years ago when  
24 I went to the seminar over in Berkeley, the officers who were  
25 there, just very impressive people. And it's not -- I'm much

1 less concerned at this stage about the force in general than I  
2 am about the leadership making everything else work for the  
3 Department. And that's really -- that's what's got to happen.

4 Let me switch gears for a second.

5 I'm most heartened by the review and use of the stop data  
6 and the way that risk management meetings are working. I think  
7 they're at the core of whatever success OPD has had in  
8 implementing the NSA.

9 And so can you assure me that these are central to OPD's  
10 work today and on a going-forward basis?

11 **CHIEF ALLISON:** Absolutely, Your Honor.

12 The work and the outcomes of those risk management  
13 meetings, I think, does show us in a highlighted, shining star  
14 in the profession. I have a lot of counterparts -- chiefs,  
15 assistant chiefs, executives -- in other organizations that  
16 they don't do this. In fact, I asked one executive of a major  
17 police department what they do with their risk management data,  
18 and it wasn't anything; it wasn't anything stellar whatsoever.

19 And when I think back on our risk management policy and  
20 what it's -- our meetings and what it's produced, either in the  
21 forms of policy -- parole, probation, handcuffing policies --  
22 or in the form of practices and training -- recognizing  
23 supervisor promotion deficiencies in the sense of not giving  
24 them field experience, so it birthed the field training program  
25 for our sergeants -- the analysis into outliers or increase in

1 disparity. We had the report that we produced on Hispanic  
2 disparity stops. And just the intentionality and focus of  
3 issues and concerns that have driven down risk. And I can talk  
4 about ECW or Taser use that has dropped, disparities, pursuits.

5 And so I think that has to be a core staple of not only  
6 our organization, but any organization, because when you pay  
7 attention to something, it absolutely modifies or changes what  
8 you pay attention to. And so it has to be a core function, and  
9 I will commit to ensuring that that stays as part of our  
10 Department.

11 **THE COURT:** Okay. So just to let you know, I'm  
12 thinking of no longer requiring the Monitor to attend the risk  
13 management meetings. I will require that OPD provide slides  
14 and the stop data to the Monitor. And you may, of course,  
15 request the Monitor's presence or the Monitor may, at his  
16 discretion, choose to attend.

17 **CHIEF ALLISON:** Yes, Your Honor.

18 **THE COURT:** So here's my final question. The City has  
19 suggested that I narrow the scope of the Independent Monitor's  
20 work to Task 2, 5, and 45. I'm inclined to add Tasks 24 and 25  
21 to that list, simply because, at a high level, the failure of  
22 IAD and the command staff, as documented by Clarence Dyer, was  
23 about addressing officer misconduct, as is the analysis of uses  
24 of force.

25 What's your perspective on the City's suggestion and on

1 Task 24 and 25?

2 **CHIEF ALLISON:** Thank you, Your Honor.

3 I think one of the things that has been done well with  
4 Task 24 and 25, and use of force in particular, is creating  
5 capacity internal within the organization. So I've had that  
6 task for many years, as you well know, and reported out on it.  
7 And we, through intentionality, have focused on areas of  
8 concern.

9 Taking that and then replicating our own kind of internal  
10 standing on it has proven to be highly effective. It doesn't  
11 always change the potential missteps, whether it's a body-worn  
12 camera issue or maybe it's a use of force that wasn't reported  
13 properly. But the point that we're seeing is we're catching it  
14 now, and we're catching it through our own command reviews.

15 We're also catching it -- because of the speed at which  
16 we're catching it and communicating down, whether it's down  
17 through an accountability measure, NIA, or communicated down  
18 "Well, maybe it's not a misconduct issue but maybe is a  
19 training point issue," it's causing it to course-correct pretty  
20 rapidly.

21 So I think from a capacity standpoint, my intention is to  
22 keep those command reviews going; that I don't see a reason to  
23 stop them, even -- whether those tasks are monitored or not,  
24 I think we need to keep that going because it's been proven  
25 effective in not only catching the issues, but catching it



1 ourselves and training the new supervisors to catch it  
2 themselves.

3 And so from my perspective, having that capacity and,  
4 certainly, working closer with our community oversight bodies,  
5 that we can maintain those tasks.

6 **THE COURT:** Okay. All right. Thank you. You can sit  
7 down.

8 **CHIEF ALLISON:** Thank you, Your Honor.

9 **THE COURT:** All right. So let me tell you what I'm  
10 thinking, and this is what I want your input on.

11 Obviously, the City's not in full compliance with the NSA.  
12 The sustainability period is going to be extended.

13 I'm going to hold another in-person case management  
14 conference on September 26th at 3:30 to assess where we are at  
15 that time.

16 What I'm thinking of is, as of June 1st, I would reduce  
17 the scope of the Monitorship to Tasks 2, 5, 24, 25, and 45.  
18 But I also want to support the City in any reasonable way to  
19 attain compliance.

20 And so I'd like to hear from, first, the plaintiffs and  
21 then OPOA and then the Police Commission and then the City --  
22 and I shouldn't separate the Police Commission from the City --  
23 but Ms. Martin, and then the Mayor on what you think about  
24 that, as well as any other things you want to tell me.

25 So, Mr. Chanin.

1           **MR. CHANIN:** Thank you, Your Honor.

2           When I spoke to the Court on April 27th, 2022, nearly one  
3 year ago, OPD was on the verge of entering the sustainability  
4 period. I congratulated the Department.

5           But after saying no one is perfect, just like you did --  
6 and we are not looking for perfection in the sustainability  
7 period, just like you said -- I also stated what we are looking  
8 for is a department that can and will identify problems and  
9 major scandals when they occur and will not leave that job to  
10 someone else.

11           All the major scandals in the past have been discovered by  
12 someone else, either a reporter, a monitor, a member of  
13 the City Council, or the plaintiffs' attorneys, or a  
14 combination thereof. Never has it been the Oakland Police  
15 Department.

16           I further stated I am not confident that if a scandal  
17 occurs in the future, that it will be brought forward by the  
18 OPD.

19           Today should be a happy day. We should all be agreeing  
20 that the OPD has ended the NSA and that federal oversight has  
21 ended. However, I cannot agree to this proposition. We have  
22 lost another chief who, like Sean Whent, brought us to the very  
23 brink of compliance before disaster struck, in his case in the  
24 form of the sex scandal.

25           We also have no resolution to the overuse of findings of

1 unfounded, which appear to be used to avoid the allegation  
2 being discussed at risk management meetings and other areas  
3 where an officer's conduct is evaluated.

4 To end this problem, I propose that the Monitor, the OPD  
5 command staff, and the Police Commission, if they so choose,  
6 take a sample of the so-called unfounded cases and report if  
7 any of these unfounded findings should instead be sustained or  
8 not sustained and, thus, go into the risk management process.

9 I don't agree with the defendants that the Court should  
10 remove the affirmative assessment of the tasks they mentioned.

11 And I note Your Honor has left out Task 31,  
12 officer-involved shootings, and Task 34, racial profiling.  
13 They should, instead of being eliminated, remain an active task  
14 pursuant to the rules of the Negotiated Settlement Agreement.

15 I don't want to be here if, for example, there is a  
16 blatant violation of Task 34 or a questionable officer-involved  
17 shooting takes place, and then I have to get into the  
18 argument -- an argument with the City as to whether I can even  
19 talk about this in court or the Monitor can assess this.

20 I also disagree with the defendants that racial disparity  
21 in discipline of black and white officers for unintentionally  
22 failing to accept or refer complaints is acceptable somehow  
23 because the same disparity occurred previously. That's not all  
24 they said, but it is what they said.

25 I am pleased to see that the Department intends to drill

1 down on this problem. However, I still feel that looking at  
2 the disciplined officers' video would also be helpful. I want  
3 to be convinced that this discipline, which by its very nature  
4 involves substantial command staff discretion, is not a product  
5 of some sort of bias on the part of the supervisor meting out  
6 the discipline.

7 Furthermore, I want to disassociate myself from those who  
8 have said, without any evidence but unknown sources, that  
9 the Mayor was pressured by the Monitor to terminate the chief.  
10 There is no proof whatsoever that this happened. Whatever we  
11 may think of the Clarence Dyer & Cohen's personnel decisions,  
12 there is no excuse for Chief Armstrong's public comments that  
13 the Monitor, an officer of this Court, is disingenuous and only  
14 motivated by perpetuating the NSA.

15 Chief Armstrong's additional claim that the Mayor was  
16 forced by the Monitor to terminate him is, as yet, unsupported  
17 by a single named witness and, thus, reeks of sexism.

18 **THE COURT:** So, Mr. Chanin, I don't want to talk about  
19 Chief Armstrong.

20 **MR. CHANIN:** Okay.

21 **THE COURT:** I appreciate your support of the Monitor,  
22 and he has my full support.

23 I want to talk about what we're doing here, what OPD --  
24 how OPD is going to attain compliance with the NSA and  
25 constitutional policing. So let's go to that.

1           **MR. CHANIN:** Okay, Your Honor. What you can do is  
2 what you have been doing. I, of all people, know how long a  
3 process this has been: 23 years, as of December 7th, since we  
4 filed this lawsuit. But I do not think that it was not  
5 worthwhile. I think it's hard that it takes so long. No one  
6 is more frustrated than John and me. We cannot believe we're  
7 still here. Every time I hear the case called "00," et cetera,  
8 I cringe, and I don't -- I don't like it.

9           But I also think that your presence here, like  
10 Judge Henderson before you, is extremely important. You help  
11 them toe the line. You really do. And the fact that it's  
12 taken a long time is really hard to digest. It's hard for John  
13 and me to digest. It must be hard for you to digest. You have  
14 other things to do. I respect that.

15           But the fact is, there are people alive today, there are  
16 African Americans who have not been stopped by OPD because of  
17 the united efforts of plaintiffs' attorneys, the Defense in  
18 some cases, and especially the Court. You're the reason -- a  
19 big reason why the number of African Americans stopped has  
20 declined so great.

21           **THE COURT:** So, and I am in complete agreement that  
22 that has been a huge benefit, and I think the Court supervision  
23 has been a huge benefit. So I don't disagree with those  
24 things.

25           I'm trying to figure out, and what I'm most interested in,

1 the one issue that we haven't made a ton of progress in is the  
2 cultural rot that existed at the time that you brought this  
3 suit 23 years ago and that comes up again and again. And so I  
4 want to know what it is that you think is the best way of  
5 addressing this.

6 **MR. CHANIN:** Well --

7 **THE COURT:** And maybe you've just answered it. Maybe  
8 it's --

9 **MR. CHANIN:** Well, I think I did.

10 **THE COURT:** -- just we keep doing what we're doing.

11 **MR. CHANIN:** I think I did.

12 But I want to say that I don't agree that this department  
13 is filled with bad people. I recently went on a ride-along in  
14 East Oakland; and in one night, the officer dealt with fire on  
15 580, two criminals who drove up and down the street, shooting  
16 at each other, an event which ended in one of the cars crashing  
17 into a neighbor's fence and destroying most of it; two women  
18 who were so disoriented that the officer spent nearly an hour  
19 trying to calm them down. And that was just part of how the  
20 evening was spent. He got rid of me at 10 o'clock because he  
21 had so much paperwork to do.

22 This officer did an outstanding job. And I was informed  
23 that this night was more typical than not. And all the  
24 officers I met that night were courteous and trying to do their  
25 best.

1           We often discuss only the bad things. That's what lawyers  
2 do sometimes. But this officer was more typical of the Oakland  
3 police officers I've met over the years, rather than all the  
4 admittedly bad stuff I've reported and litigated over the  
5 years. So we can't lose sight of that, and I certainly don't.  
6 That's why I go on these ride-alongs.

7           I want to say something briefly about women officers, if  
8 that's okay.

9           **THE COURT:** Go ahead.

10           **MR. CHANIN:** Yeah. I think that the only thing harder  
11 than being a police officer is being a woman police officer.  
12 I've represented many women police officers, including Berkeley  
13 and Oakland and San Francisco; and I know that being a woman is  
14 a really, really hard job when you're a cop.

15           And I saw in the poll, however, that there's some good  
16 signs that certainly weren't true in the '80s and '90s when I  
17 was practicing law and represented women in federal court.

18           For example, 76 percent feel respected by their  
19 supervisors. That's something that wouldn't have been true in  
20 Alameda in the 1980s.

21           There's still bad news. Only 21 percent believe the  
22 promotion process is fair. Only 46 percent believes the agency  
23 takes claims of harassment seriously.

24           That's something you could do, frankly, is continue to  
25 monitor this, the role of women at OPD; talk about getting

1 numbers up, because I think women have a really positive role  
2 in a department. An all-male department is almost, by  
3 definition -- I'm trying to think of a word other than --

4 **THE COURT:** You don't have to go there, Mr. Chanin. I  
5 agree with whatever you were about to say.

6 **MR. CHANIN:** And I think, you know, calling for the  
7 progress they're making on hiring women, calling on the  
8 progress they're making in having women sergeants, lieutenants,  
9 and captains, that would be helpful. So there are many helpful  
10 things I think you can do, Your Honor.

11 But we do have to end sometime, and I agree with that. I  
12 just don't agree it's right now. And I don't -- I don't think  
13 that's the fault of the plaintiffs' attorneys. We were as  
14 shattered by this almost as the cops were.

15 Thank you.

16 **THE COURT:** Thank you, Mr. Chanin.

17 Mr. Burris, are you going to join in?

18 **MR. BURRIS:** Absolutely.

19 First off, I would like to thank the Court for cutting off  
20 the conversation that Mr. Chanin was making about the chief.  
21 That was a very -- that could have been a very dark spot to go  
22 to. And I appreciate the Court letting all of us know that  
23 that's not the subject of this particular hearing and so it was  
24 important not to continue that line of discussion, and I  
25 appreciate that.



1 Now, before this case started, Your Honor, 23 years ago --  
2 actually, for me it started before then -- I had written a --  
3 co-written a book at the time called *Blue vs. Black: Let's End*  
4 *the Conflict Between Cops and Minorities*. And part of the  
5 discussion that I had at the time was about the culture of  
6 policing and, secondly, about can we trust the police to police  
7 itself.

8 These were fundamental issues that sort of went to the  
9 essence of why I was -- why I do the work. It was really  
10 important because I understood that the policing component, if  
11 not checked and called into question, would have a very adverse  
12 impact on the African American communities and other  
13 communities of color, which that ultimately was borne out.

14 So I will say that as a consequence of the work that's  
15 taken place, the stop data and even Task 45, there's been some  
16 really positive things that have taken place I'm really, really  
17 pleased about.

18 And as the Court knows, I've raised these questions time  
19 and time again. And I will only say as an aside, on a project  
20 that I'm presently working on, I've had to really look at some  
21 of the other departments around the country and where they have  
22 been in terms of policing and the challenges they presented.

23 Particularly, like today we're hearing about Louisville  
24 and the courageous acts of the officers; but I can tell you  
25 that department is in bad, bad shape and African Americans in

1 that community are treated poorly. And I read the documents  
2 pertaining to them, I thought harkened back to where we started  
3 from. Now, I hope that it doesn't take Louisville 25 years to  
4 get there, but it's a long haul.

5 And so a lot of good effort has been made here to that,  
6 which we've acknowledged and I think the Court acknowledges and  
7 I think everyone acknowledges and which, I've been very, very  
8 pleased by some of the progress that has been made.

9 But I'm still troubled by the cultural issue.  
10 Undercurrent of that is the policing oneself and the leadership  
11 questions, because I don't think you can sustain yourself if  
12 the leadership isn't there.

13 And because we've had constant turnover in the last --  
14 since we've been involved here, I think that has contributed in  
15 many ways to get a consistency approach to attacking the  
16 cultural issues, because the culture is a function of the  
17 pattern and practices that exist within a department and how --  
18 what is carried on from one generation to the next and they  
19 bring those set of values.

20 And I think that, given that the numbers that we have, in  
21 many ways, if you just looked at the technical aspect of it,  
22 it's been positive. We don't have the beatings that we used to  
23 have; and certainly, we don't have -- the stop data stuff has  
24 improved; and certainly, as you know, in terms of the culture,  
25 the employment racial issues that I've raised previously around

1 officers themselves, that issue is better. It's not completely  
2 done.

3 But the question, how do you get to the cultural question,  
4 is one. And I know the Court has raised that question. It's  
5 one that I've thought about for many, many years. I know that  
6 if you don't control the cultural issues, I think, and changing  
7 the culture, I don't think sustainability can last, it can be  
8 sustained indefinitely, which is the hope, you know.

9 Rockne and I talk about our kids, just started out  
10 together, and now there are grandkids and I got great-grands.

11 But the future was always about that aspect of it and what  
12 does sustainability mean. And for me, it is not me, my  
13 generation or the next generation or the generations after  
14 that. And I don't know that we're going to get there without  
15 resolving this question of cultural change, where it's deeply  
16 embedded in the soul of the Department. And I don't have the  
17 answer to that.

18 Now, I do know that probably if you have solid, consistent  
19 leadership at the top with accountability, where people are  
20 held to answer like -- held to answer, which then we have  
21 issues that: Can that be true? Is that true? Can we count on  
22 that? Given a couple of issues that have come up more  
23 recently. Because those individuals at a time were in a  
24 position to demonstrate to all of us that what we put in place  
25 in fact sustained itself and does work. But it has not. It

1 has come up short. And so is that symbolic of what can happen,  
2 or is that an aberration or not?

3 But it is concerning. It is just very concerning.  
4 Because I think that at the end of the day, we've got to deal  
5 with the cultural issues; and a lot of that comes, I suppose,  
6 from the training, the hiring, who you hire, how you train  
7 them, and how you hold people accountable when mistakes are  
8 made, because mistakes, as the Court knows -- we all know;  
9 we've been in this business a long time -- mistakes are going  
10 to happen.

11 And it would have been a real test if when this particular  
12 case arose, that the system that was in place handled it. And  
13 the second case that has come up that we're talking about, did  
14 the system handle it? And if so, that would have been an  
15 indication of sustainability, at least at this stage.

16 So now we don't know, and I am troubled by that. And  
17 hopeful. But we can't stop or decide not to go forward.

18 But we do have to recognize that the question of culture  
19 is an ongoing process. It is not one day, two days, and you  
20 stop. It is how do you handled the problems when they  
21 developed and whether or not the culture is such that you hold  
22 people accountable from beginning to end, regardless of their  
23 station within the Department. And those are concerns that I  
24 still have, you know, now.

25 And I think that, as I looked at the list that the Court

1 indicates that they want to have continue with monitoring,  
2 certainly, they are all significant, honestly. We cannot turn  
3 a blind eye to some of the areas that have taken place.

4 Consistency of discipline is very important because how  
5 you treat your fellow officers is how you may treat the people  
6 in the community, and that's very important. If you don't  
7 treat the black officers, the women officers fair, how can we  
8 expect the people in the community to be treated fairly? So  
9 that's an important one, I think, that should be continued to  
10 be monitored.

11 The others as well. I agree with Jim that 34 is something  
12 that that's a perpetual issue that should be included because  
13 that goes to the essence of what we're about here, and it's how  
14 we treat people on the street and how people can feel safe that  
15 they will not be necessarily stopped just because of the color  
16 of their skin.

17 Now, made great progress, but we're not completely done  
18 there. The numbers are still pretty high, you know. So, but  
19 I think that progress is being made there. I just don't think  
20 we ought to take our eye off the ball in that particular area,  
21 45, 34, 2 and 5, of course, and whatever the Court thinks is  
22 appropriate.

23 But I don't want to forget that we have to deal with the  
24 question of how do we make consist efforts at effecting the  
25 culture that exists here. And at the end of the day, can we

1 trust the police to police itself?

2 Now, we're going to have other outside entities to help  
3 that down the way, but those are issues that I still have  
4 concerns about, even despite the fact that we've done --  
5 there's great work that's been done down through the years.

6 But that's my feeling about it now.

7 **THE COURT:** Well, so you told me -- the last time we  
8 saw each other was at Judge Thompson's induction ceremony.

9 **MR. BURRIS:** Oh, that's right.

10 **THE COURT:** You told me to read *When the Riders Come*  
11 *Out at Night*, which I did. I went out and I bought that. And  
12 it includes a number of reports and statements that were made  
13 by all sorts of people that are easy to document. I'm pretty  
14 sure they were accurate.

15 **MR. BURRIS:** Mm-hmm.

16 **THE COURT:** The thing that is striking to me is that  
17 the same kind of problem that existed in looking at what  
18 the Riders had done internally --

19 **MR. BURRIS:** Yeah.

20 **THE COURT:** -- is echoed by what happened recently,  
21 and we've been doing this for 20 years.

22 And so my real question is: What do you think the Court  
23 can do to assist in this besides -- I agree with what  
24 Mr. Chanin has said. I think a lot of progress has been made  
25 on a lot of issues. But the thing that you just kept saying

1 over and over again, that's what -- that's the -- I'm looking  
2 for the answer to that question. What do you think?

3 **MR. BURRIS:** Yeah. Well, obviously, the Court's  
4 involvement is important.

5 I do think that constant reporting of things, although I  
6 must admit, it may require someone more talented in another  
7 discipline to really look at those issues. I mean, I do a lot  
8 of reading around these police issues as well. I don't know  
9 that they've been solved.

10 I've asked Mr. Bob Warshaw, who has been involved in a  
11 number of these, has there been any one of his cases that he's  
12 worked on where the culture has been fundamentally changed in a  
13 different way? And he would say: No, there hasn't.

14 Sure, you can have technical violations -- technical task  
15 compliance, which we have here. We have 55 tasks, and most of  
16 those tasks -- one or two have not been -- have been in  
17 compliance. But has that solved the question of compliance?  
18 Has it solved the question of culture change? The answer to  
19 that is no. It may have an impact on it, but it hasn't changed  
20 it to the way that you feel comfortable.

21 So I don't know the answer to that, and I don't even know  
22 if it's solvable, you get down to. I mean, I've done a lot of  
23 reading. I've seen a lot of reports of different cities. And,  
24 sure, DOJ has been involved in a lot of those and they've had a  
25 lot of technical compliance, just like we have here.

1 But when the problem comes up, you still have the same  
2 question of police policing itself, the effort of covering up  
3 for one's friends. That still does happen. Or you try to --

4 One of the things we have here, we don't have the level of  
5 beatings that we used to have on the streets. That's clear.  
6 There's been real progress made from that. And I tell people  
7 all the time, the kind of cases that Jim and I used to have  
8 years ago, we don't have those cases anymore. And that's a  
9 good thing. That means there's some people out there who are  
10 not being beaten up, who should not have been beaten up.

11 But the answer to it is, I can't tell you that I have it  
12 either. And I don't know what the Court can do other than what  
13 the Court has been doing.

14 But all that really -- the question is: How do you  
15 measure the cultural change? We can certainly measure  
16 technical compliance. But how do we measure the cultural  
17 change? And that is a question that we may not be able to  
18 resolve right now, but I don't know that that means we have to  
19 stay in the process here indefinitely till that does happen.

20 **THE COURT:** It is something I'm thinking about.

21 Thank you.

22 **MR. BURRIS:** Yeah. All right. Thank you, Your Honor.

23 **THE COURT:** I appreciate it.

24 Mr. Lucia?

25 **MR. LUCIA:** Your Honor, I'm going to try to keep my



1 remarks brief, but I feel compelled to play off of what  
2 Mr. Burris just said.

3 You've always addressed us, and Judge Henderson addressed  
4 us, about cultural change. I can give you my anecdotal  
5 personal experiences with that, but I think what Mr. Burris  
6 just said and we've heard repeatedly is that they're not  
7 getting the cases they used to get.

8 And let's be specific. The cases were like the Riders  
9 cases, and those were trickling in after they filed the  
10 lawsuit. But we haven't seen those cases.

11 So at one level, when we start talking about cultural  
12 change, we can't really get in the heads of every person in the  
13 City of Oakland, law enforcement, non-law enforcement; but we  
14 can look at objectively a few things. And I think that's super  
15 important that the Court take into consideration that we don't  
16 see the types of lawsuits that they used to file. I know for a  
17 fact because our office was involved in those. We didn't  
18 defend the City, but we represented the officers. We don't see  
19 that. We hear about Louisville and places like that and  
20 Memphis. We don't see that in Oakland.

21 Our firm is privileged to represent most of the police  
22 officers in the San Francisco Bay Area. I represent the police  
23 officers in Berkeley and San Francisco and many others. And we  
24 don't see the types of cases that we see in other places,  
25 especially outside the Bay Area. That's one.

1 Two, I will tell you, I don't know about anyplace outside  
2 California. Our law firm represents cops all over the state.  
3 I don't think there's a police department in the state of  
4 California that has a structure in place to provide a formula  
5 for success. When I say "structure," I mean the NSA-created  
6 tasks. And I'm not going to get into whether you should keep  
7 control of one, two, or more. But there are tasks in place  
8 that have created and spawned a structure of accountability. I  
9 mean, there is accountability at multiple levels in this police  
10 department, far more than any other police department I have  
11 ever been involved with. Ever.

12 And so with the structure -- you've asked what can  
13 the Court do? What the Court has done here and what the  
14 parties have done is they've created a structure for  
15 accountability. And at some point, we've had -- we've come  
16 close to becoming compliant and entering the sustain- -- and  
17 then things happen.

18 Well, I think things happen because we're in the people  
19 business. That's what we do. I'm a labor attorney. I deal  
20 with people. You deal with people in this courtroom. And  
21 I think we have to just accept the fact that people will make  
22 mistakes. We are human beings.

23 But what I think you should expect, what I should expect  
24 is -- police officers are held to the highest standards,  
25 I think, in the country in terms of employees. This case is

1 evidence of that. There are cops in this country that are  
2 going to prison for not doing their job right. They've  
3 exceeded their authority. If a cop lies, they're fired.  
4 Right? If a lawyer lies, well, maybe you'll hold me in  
5 contempt and maybe I'll suffer consequences. But every cop,  
6 especially in Oakland, if they come close to lying, they're  
7 going to get fired. Every cop is held accountable for their  
8 behavior.

9       What I'm going to conclude with is this: I think we  
10 have -- I know we have a structure in place now that is far  
11 superior to any other police department. And I know from my  
12 perspective, being on the other side of all this, I think now  
13 we have a structure in the City of Oakland that we didn't have  
14 23 years ago. We've got Inspector Generals. We've got a  
15 Police Commission. We've got a CPRA. We've got a whole body  
16 of people that, as Chief Allison said, have to reflect the  
17 needs and the desires and the expectations of the community.  
18 We didn't have that before.

19       I'm used to working with civilian oversight bodies, and  
20 there's a tension between those bodies and law enforcement.  
21 But the reality is, they're here and we need to make it work.  
22 And I think that the structure in place now will make that  
23 happen.

24       No disrespect to the Court, but at some point this has to  
25 end; and when it ends, then the Mayor, the City Council,

1 the City Administrator and, ultimately, the Chief of Police  
2 have to be held accountable. By who? Not by a judge, but by  
3 the community that they oversee. People in those communities  
4 have to hold these people accountable.

5 I mean, my members, our members know, in a paramilitary  
6 organization, if you don't respect chain of command and follow  
7 the rules, there are consequences.

8 And I believe that this city is ready to take on the  
9 responsibility of moving forward, because -- I hate to say  
10 this, but in the next six to eight months, something could  
11 happen; somebody at a certain level in command staff could  
12 engage in some behavior.

13 And I'm going to conclude with this: Our office  
14 represented one of the Riders. We were involved in both of  
15 those criminal cases. I've had the pleasure and honor to  
16 represent Oakland cops for 25, 26 years. This is not the same  
17 police department. I'd love to know how many members have been  
18 hired since the start of the NSA. By far and away, the  
19 majority. This command staff, Chief Allison included, have  
20 grown up as managers with expectations changing from  
21 this Court, from the plaintiffs' lawyers, from the NSA. So  
22 ultimately, I think there has been a cultural change.

23 And you're in a very untenable position, like I am.  
24 You're a judge; I'm a lawyer. I've never walked in their  
25 shoes. Jim Chanin talked about the ride-alongs. That's the

1 reality of an Oakland cop. It's a dangerous job. They're  
2 understaffed, they've overwhelmed, and they're doing their  
3 darnedest to protect the community. And they're not doing it  
4 by circumventing people's rights. We don't have wild  
5 allegations of unconstitutional policing.

6 So I've been -- I said this probably 18 years ago. I  
7 haven't said it since. I'm going to say it now. At some point  
8 the Court needs to let the Chief be the Chief and be held  
9 accountable by those above him or her.

10 **THE COURT:** Thank you.

11 **MR. LUCIA:** You're welcome.

12 **THE COURT:** It's very rare when somebody tells a judge  
13 that he's in an untenable situation.

14 **MR. LUCIA:** I know. I know. I'm in an untenable  
15 position for even saying it. You're right.

16 **THE COURT:** I very much appreciate your very  
17 well-stated comments, Mr. Lucia.

18 So let me go to the Police Commission. And I understand  
19 that -- here we are. Please proceed.

20 **DR. MILELE:** Good afternoon, Your Honor.

21 **THE COURT:** Good afternoon. I hope you're feeling  
22 better.

23 **DR. MILELE:** No.

24 I am Dr. Tyfahra Milele, Chair of the Oakland Police  
25 Commission. Thank you for the invitation here directly from

1 the Commission.

2       Joining me and present with you is Retired Superior Court  
3 Judge Brenda Harbin-Forte, Commissioner and Chair of our Ad Hoc  
4 Committee for NSA Task 5 and 45. And Judge Harbin-Forte and I  
5 are available to answer any questions you may have after my  
6 remarks.

7       So briefly, I only have three points to make.

8       The first is that the citizens of Oakland have repeatedly  
9 voted to have citizen oversight of the Oakland Police  
10 Department centered in the Police Commission.

11       Second, at the January hearing before this Court,  
12 the Mayor of Oakland committed to providing the resources  
13 needed for effective civilian oversight; and the Police  
14 Commission, with its policymaking authority, its community  
15 police review agency, and its charter-mandated supervision of  
16 the work of the Inspector General, stands ready to assume  
17 the Monitor's role in ensuring the Oakland Police Department's  
18 accountability to the public.

19       Lastly, the work of the Monitor has been monumental, and  
20 the Commission has spent the majority of its time diligently  
21 working on the policies he has identified. However, the  
22 Commission is eager to use its valuable volunteer time focusing  
23 on the issues the community cares about most; namely, disparate  
24 enforcement of the law and racial profiling.

25       There's no question in my mind that the Commission,

1 reflecting a diversity and lived experience of the community,  
2 can and will do a more thoughtful job working on these issues.

3 We believe the Court should now allow the people and their  
4 Commission to take the lead.

5 So I'll pause there, and I or Commissioner Harbin-Forte  
6 can answer any questions if you have any.

7 **THE COURT:** I actually don't have questions of you. I  
8 appreciate your expression of readiness to take on these tasks.

9 I have, under the NSA and the agreements that brought the  
10 case to the Court in the first place, the responsibility of  
11 making sure that the NSA -- that the parties achieve full  
12 compliance with all of the tasks. There are a couple that  
13 still remain outstanding.

14 I appreciate that the Police Commission was not in  
15 existence then, is in existence now, and I am encouraged by  
16 that fact. And figuring out how to best ensure that that  
17 oversight that you discussed and that I now have continues in a  
18 way that is as effective as possible is what I'm thinking  
19 about.

20 So I very much appreciate your comments. Thank you.

21 **DR. MILELE:** Thank you.

22 **THE COURT:** All right. Ms. Martin?

23 **MS. MARTIN:** Thank you, Your Honor.

24 I appreciate Your Honor's consideration to potentially  
25 narrow the tasks that are affirmatively reviewed going forward.

1 I do think that in addition to 2, 5, and 45, if Your Honor  
2 includes Tasks 24 and 25 that involve use of force and use of  
3 force reporting, that does make the most sense. I do think  
4 that's reasonable.

5 I do think that in the City's perspective, the more narrow  
6 we can have that affirmative assessment focus be, the more  
7 resources we'll be able to use to focus where there is greater  
8 need.

9 That's not to say that we're not going to keep doing  
10 everything that we are doing to remain in compliance with the  
11 other tasks; but there is a non-negligible amount of time and  
12 resources that go toward sending document requests and other  
13 items on some of the others tasks that we could, frankly,  
14 really use any time and resources that we can get to put toward  
15 where we really need to use those resources.

16 So I appreciate that, Your Honor.

17 **THE COURT:** All right. You heard the plaintiffs  
18 suggest that 34 should be added to that mix. What's your  
19 perspective -- do you have an additional perspective besides  
20 the one you just shared?

21 **MS. MARTIN:** I think that it makes more sense for 24  
22 and 25 to be on the table rather than 34 because most of the  
23 issues that will be reviewed in 24 and 25, plus 5, which are  
24 essentially all investigations -- use of force investigations,  
25 internal affairs investigations -- those form a lot of the



1 basis of the Task 34 risk management meetings.

2 And then our stop data reports are now, quarterly, made  
3 public so all of that data and information is available.

4 And if we're still sharing slides from the risk management  
5 meeting, I feel that that would give enough information to  
6 the Monitor and to plaintiffs' counsel, assuming Jim Chanin  
7 will also be getting those slides, to know that things are  
8 still in the right place and that we're still maintaining  
9 compliance.

10 Because one of the things that I want to be clear on, to a  
11 point that Mr. Chanin made, is that none of these tasks are  
12 going away if there's not affirmative assessment. We  
13 understand that if something happens or someone notices an  
14 irregularity or there is an issue that arises, that any of  
15 these tasks could come back on the table for affirmative  
16 assessment and we could find ourselves back here on another  
17 task.

18 I am confident and optimistic, given the structures we  
19 have in place, that that won't happen. But I understand that  
20 these aren't going away. So I want to allay some concerns that  
21 I've heard from plaintiffs' counsel.

22 **THE COURT:** And just to be clear about this, we're  
23 going to be back together at the end of the September. Do you  
24 think that you're -- would you prefer to come back without  
25 having had the more direct oversight of the Monitor on Task 34

1 and just see how things have developed; or would it be helpful,  
2 in order to ensure compliance, to have the Monitor looking at  
3 34? Entirely up -- I mean, that's --

4 **MS. MARTIN:** You know, Your Honor, while we're here  
5 and we still have the benefit of Court and Monitor oversight,  
6 it makes the most sense to take some of the training wheels off  
7 while we still have some of the training wheels on and see how  
8 we do. I think the Department and the City are ready for that.

9 We still plan to present, in our filing, on Task 34. We  
10 know that's an area Your Honor is interested in. So we will  
11 continue to do that. But I think having as many training  
12 wheels off to see how it goes actually makes the most sense for  
13 the long run.

14 **THE COURT:** Okay.

15 **MS. MARTIN:** And I want to also just pick up on  
16 something that Mr. Lucia said and focus a little bit here on  
17 people because, really, at root, that is what we're talking  
18 about when we talk about culture.

19 And the Department has a number of people. It's an  
20 organization that necessarily is made up of a constantly  
21 changing body of people. And those people -- the sworn  
22 officers, the civilian Department members -- they share values  
23 and attitudes that have been so critical and continue to be so  
24 critical to this Department's undeniable progress.

25 And while we do have at times, inevitably, setbacks,

1 errors in judgment, and at those times -- which these times is  
2 what I'm talking about -- introspection and change and critical  
3 feedback are necessary.

4 And one of the ways the City has changed to address some  
5 of those issues is to provide community oversight. We have the  
6 Community Police Review Agency, the Police Commission, the  
7 Inspector General. So it's not just trying to have a cultural  
8 change from the inside, but we are trying to bring the City's  
9 culture from the outside into the Department as guideposts.

10 And I think that that is working. We are seeing progress.

11 More often than not in this Department, the officers are  
12 successful. And too often in life, we focus more on critical  
13 feedback and we don't give positive reinforcement when there  
14 are good outcomes. And the reality is that people need both.  
15 And police officers and Department employees are people, and  
16 they need positive reinforcement too.

17 And we've had a number of successes -- which, Your Honor,  
18 thank you for appreciating that and pointing them out -- in the  
19 risk management context and some of the implementations that  
20 we've brought in through the risk management context, which  
21 most notably show themselves in the reduction of racial  
22 disparities, in non-dispatched stops, and in lower level uses  
23 of force.

24 We've had success in holding officers accountable for  
25 using appropriate force and reporting that force accurately,

1 and officers are using their de-escalation techniques on a  
2 consistent basis and using force reasonably.

3 One of the reasons that it's important to talk about these  
4 successes is because they show that the people in this  
5 department are capable and willing to address any problem that  
6 they encounter and that they are committed to fairly and  
7 thoughtfully serving their community.

8 Another positive in limiting the tasks that are  
9 affirmatively reviewed going forward is that provides positive  
10 reinforcement to those officers for that good work that they  
11 are doing and continuing to do and for those sworn officers and  
12 civilian Department members who every day continually  
13 successfully uphold not only the letter of the NSA, but the  
14 spirit of the NSA as well.

15 Thank you, Your Honor.

16 **THE COURT:** All right. Thank you, Ms. Martin. I  
17 appreciate your thoughts.

18 Mayor Thao.

19 **MAYOR THAO:** Good afternoon, Your Honor. So nice to  
20 see you in person.

21 **THE COURT:** Very nice to see you. Thank you for being  
22 here.

23 **MAYOR THAO:** Absolutely. Thank you for having me.

24 You know, the last time that I was here, the last time I  
25 was able to address you, I did share my disappointment in the

1 findings that had recently taken place, and I made to you three  
2 commitments.

3 First, I promised to make sure that officers who engage in  
4 misconduct were held accountable.

5 Second, I said that the City would address systemic  
6 failures by identifying root problems.

7 And third, I said we would continue to not only fix our  
8 current system of police accountability and public safety, but  
9 to truly reimagine it, to see how we can really move forward.

10 And today I am able to say that the City is delivering on  
11 those commitments.

12 In terms of holding officers accountable, my  
13 administration and I have made some extremely -- extremely,  
14 extremely difficult decisions over the last few months as it  
15 played out in the media, of course. And navigating that  
16 process has been very difficult, but we were guided by our  
17 City's long-term interests. I always say that I will always  
18 choose Oakland first and Oakland's residents first.

19 At times we had to stare directly into the headwinds in  
20 order to stay on course, and it definitely wasn't easy,  
21 especially as a younger mayor coming into office right at the  
22 very beginning and having to make these hard decisions.

23 So while I don't take any pleasure in having to hold City  
24 employees accountable, I do take seriously the City's  
25 responsibility of upholding transparency and excellence. And

1 this is why I'm in this position. This is why I fought to make  
2 sure that I would be Oakland's next mayor. It's for that very  
3 reason: transparency and excellence.

4 And I'm proud that our team, we met the challenge head-on  
5 in regards to those difficult situations that we were put in.

6 I'm also proud to say that the Department and the City  
7 have made significant progress toward fixing the problems  
8 brought to light in the most recent investigations. And the  
9 work has truly been collaborative. The Department, under  
10 Chief Allison's stable leadership, played a central role, but  
11 it was part of a much greater whole. My office has met weekly  
12 with the police department commanders and legal advisors to  
13 ensure we were moving forward thoughtfully.

14 Likewise, our esteemed Police Commission and our esteemed  
15 Inspector General, who is here with us today, have worked  
16 closely with the Department to also provide input and guidance,  
17 as well as our valued partners with Mr. Burris and Mr. Chanin.

18 And that brings me to the third commitment we made, which  
19 was to continue to reimagine police accountability and public  
20 safety. The collaboration I've seen over the last few months,  
21 including from all the civilian partners I just mentioned, has  
22 further proved to me that Oakland is definitely on the right  
23 track.

24 I've thought a lot recently about what it means to really  
25 change organizational culture, the topic of today. And I had

1 to back up and really think about how we should really define  
2 the organization we're talking about.

3 Historically, there's been this tendency to think of  
4 police departments as their own organizations with their own  
5 cultures. But in Oakland, we've zoomed out and decided that  
6 policing must be part of a larger public safety, what I call,  
7 community safety and violence prevention system, and that our  
8 police officers have to be integrated into a much larger  
9 structure. To me, this means that the best way to continue  
10 changing the cultural at OPD is by continuing to weave the  
11 Department into the fabric of Oakland and Oakland's culture.

12 The culture of Oakland is a culture of compassion, a  
13 culture of service, and, of course, a culture of  
14 accountability. Our City is known for having leaders, both in  
15 government and in the community, who truly value the fairness  
16 and equity values.

17 Having a police department that is overseen by the  
18 community with policies that reflect community values, it is a  
19 really great start with the ultimate goal, of course, to be  
20 that it is ensuring that the Department is part of the  
21 community and that it is truly sharing the community's values.

22 And so the question becomes: How do we keep moving in  
23 that direction? In the near term, my administration is  
24 proposing to add a dedicated staff in the City Administrator's  
25 Office to be a point person in these efforts. This person will

1 provide the Chief of Police with a secondary civilian review on  
2 any major cases that haven't been investigated by our Community  
3 Police Review Agency. And they will work on helping the City  
4 move as much as of the investigative work as possible to CPRA,  
5 which has a commitment that came out of our Reimagining Public  
6 Safety workshops in 2021.

7 Another initiative my administration fully backs is  
8 the City's pledge to increase the percentage of female academy  
9 recruits to 30 percent by the year 2030. I, as a woman myself,  
10 understand that women lead a little bit differently.  
11 Increasing gender diversity at OPD has been a focus of mine and  
12 many other city leaders for years. It's been a focus of mine  
13 prior to being a mayor, prior to being a council member,  
14 you know, as a baby staffer and, prior to that, just as a  
15 citizen and resident.

16 When Oaklanders chose their public servants at the ballot  
17 box, we chose diversity. It benefits us in so many ways and  
18 helps shape our identity. We can't fully erase divisions  
19 between police services and other City services unless we erase  
20 this glaring contrast in who does the work.

21 These are obviously just a few examples of the work  
22 Oakland currently has ahead of ourselves. And with so many  
23 capable people invested in improving public safety, like the  
24 great people all here in this room, including yourself,  
25 Your Honor, we'll never stop finding areas for improvement. We



1 know that.

2 And running the Oakland Police Department involves a level  
3 of transparency, criticism, discourse, and collaboration that  
4 seems to be somewhat unique in policing. Our City has come to  
5 embrace it. It means that policing in Oakland will always be a  
6 work in progress, and it means that we have the solidarity of  
7 purpose to face new problems head-on because it's who we are  
8 now.

9 This oversight, yes, it's lasted 20 years, going on 21 or  
10 however many years; but it has changed the culture. It has  
11 changed the culture of Oakland, of how citizenries can actually  
12 hold the police department accountable, how the police  
13 department holds itself accountable.

14 As we have heard, many, including Chief Allison, has grown  
15 up in the Department under this oversight. So I believe, as I  
16 always did, that we are in a space, a unique space where we are  
17 creating a new culture for the OPD because we have people like  
18 Chief Allison and others who have come up the ranks, many who  
19 are in this room with us today who are now the trainers, who  
20 are training the trainees under this very culture.

21 And so I thank you so much for your time and for having us  
22 here, and I welcome any questions that you may have.

23 **THE COURT:** All right. Thank you, Mayor. I do not  
24 have questions for you.

25 I want to tell you that I appreciate your focus on this

1 and your action to show what kind of accountability is demanded  
2 of any civil servant.

3 **MAYOR THAO:** Yeah.

4 **THE COURT:** And particularly with the police  
5 department, I said it to your predecessor, that this is -- at  
6 the end of the day, you're the person who's on the top of the  
7 pyramid.

8 **MAYOR THAO:** That's right.

9 **THE COURT:** And leadership in this issue of culture is  
10 everything.

11 **MAYOR THAO:** Mm-hmm.

12 **THE COURT:** And it's not something that the Court --  
13 the one thing I know is that court supervision can't do very  
14 much about informing people that they need to own up to  
15 mistakes that they make, be accountable and -- because  
16 everybody makes them. But if you can't address them and then  
17 move forward, if you try to sweep them under the rug, whether  
18 the Court is supervising OPD or not won't make any difference.

19 And so it is really up to you, and the people who are in  
20 the offices that they hold within the City, and the volunteers  
21 who have formed -- who are sitting on the Commission, and the  
22 Office of the Inspector General, all of you are key to making  
23 this work far more than anything that is happening here on  
24 Golden Gate Avenue.

25 **MAYOR THAO:** Absolutely.



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CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript  
from the record of proceedings in the above-entitled matter.

DATE: Tuesday, May 2, 2023

Ana Dub

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Ana Dub, RMR, RDR, CRR, CCRR, CRG, CCG  
CSR No. 7445, Official United States Reporter