

# CITY OF OAKLAND



2009 JUL -2 PM 8:17

CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Office of the City Administrator  
Dan Lindheim  
City Administrator

(510) 238-3301

July 7, 2009

Oakland City Council  
Oakland, California

President Brunner and Members of the Council:

**RE: Proposal to Transfer Intake of Citizen Generated Complaints against members of the Oakland Police Department from Internal Affairs to the Citizens' Police Review Board**

Attached are two reports concerning proposals to transfer certain "intake" functions of complaints against OPD or members of OPD to the Citizens' Police Review Board. The reports are from: (i) the CPRB; and (ii) the Mayor's Task Force on Police Issues.

Budget issues aside, there are real benefits to civilianizing many OPD functions including many IAD functions. That said, I call the Committee's attention to the following:

- There are substantial financial implications to the proposal. Whatever the relative costs of civilians vs. sworn staff, adding ten new civilian positions while not terminating ten sworn positions simply adds the cost of ten new civilians to City expenditures. As such, the proposal would at minimum cost the City an additional \$1.2 million in FY2009/10 unless new revenue sources are found.
- The CPRB/Task Force proposal calls for CPRB to handle the "intake" of civilian complaints and the hiring of additional CPRB staff to handle those complaints. OPD does not oppose passing on "intake" as defined by the CPRB/Task Force, but it is important to note the substantial difference in what constitutes "intake" between the proposal and the current OPD intake functions. OPD is adamant that the CPRB/Task Force view of intake is but a small sub-set of what OPD means by "intake" and that the proposal will not meaningfully reduce the workload of sworn OPD Internal Affairs staff.

Respectfully submitted,

Dan Lindheim  
City Administrator

Item: \_\_\_\_\_  
City Council  
July 7, 2009

# CITY OF OAKLAND

## AGENDA REPORT

**To:** Office of the City Administrator  
**Attn:** Dan Lindheim  
**From:** Citizens' Police Review Board (CPRB)  
**Date:** July 2, 2009  
**Re:** **Report and Resolution Approving in Principle the Transfer of the Intake of Citizen Generated Complaints against members of the Oakland Police Department from Internal Affairs to the Citizens' Police Review Board.**

---

### SUMMARY

On June 23, 2009, the Public Safety Committee approved a report on a proposal to civilianize the intake of citizens' complaints against Oakland police officers, including information on the number of CPRB staff that would be required, the associated start-up costs, potential funding sources and a timeline for implementation. This report was intended to provide a provisional framework for the transition based on current knowledge and future projections.

### FISCAL IMPACT

At this time, the CPRB are projecting the following related personnel needs and associated costs:

- \$1.27 million to fund 8 Complaint Investigator I for intake of citizen complaints and 2 Administrative Assistant I positions to provide the necessary administrative support. Each investigator position includes a budget of \$2,000 per investigator for ongoing training.
- Two Complaint Investigator I positions are anticipated to be funded through the City of Oakland's Byrne Justice Assistance Grant (JAG) federal funding application.

#### Estimated Cost of Proposed Positions (includes salary, benefits and operating & maintenance)

Per Complaint Investigator I<sup>1</sup> = \$135,160

Per Administrative Assistant I = \$95,609

8 Complaint Investigator I =	\$1,081,280
<u>2 Administrative Assistant I =</u>	<u>\$ 191,218</u>
Total Est. Funding for Positions	\$1,272,498

Estimated costs for positions include operating and maintenance expenses per position and \$2,000 ongoing for training of investigators.

#### Anticipated Additional Expenses

Possible one-time expenses not currently estimated in this proposal include recruiting, background checks, position advertising and facility expenses. The CPRB's current location on the 11<sup>th</sup> floor of City Hall cannot house all the proposed staff or provide sufficient space for the

---

<sup>1</sup> A new position classification would have to be created in the Salary Schedule for a Complaint Investigator I.

Item: \_\_\_\_\_  
City Council  
July 7, 2009

increase in the number of walk-in complainants as it currently configured. Additional office and cubicle space should be made available on the 11<sup>th</sup> Floor, or the CPRB will have to be relocated to accommodate the additional staff.

#### More Efficient Use of Staff Resources

Sworn officers can be reassigned to other policing duties including criminal investigations or Patrol by assigning civilian compliant investigators to the task of the intake of citizen complaints. This proposal offers an alternative to better use the City's staffing resources because of the difference in salary saved between sworn officers and civilian investigators. The same job functions could be performed at a fraction of the current personnel costs and sworn officers can be reassigned to other duties. Additional funds will be saved on the advertising, recruiting and training of additional officers to perform the duties sworn officers would eventually be reassigned to perform.

#### Funding Sources

Two Complaint Investigator I positions were requested in the City of Oakland's Byrne Justice Assistance Grant (JAG) federal funding application. The CPRB would still require funding for the remaining eight investigators and two administrative support positions to reach an adequate level of staffing to perform the duties of intake of citizen complaints.

#### Alternative Funding Sources

The City of Oakland can also apply to the competitive Byrne Grant for funding from State and Federal funds and non-stimulus grants available in the fall. The CPRB and the Mayor's Office will continue to work together to track future funding options. An update on this application process will be reported to the Committee.

### **BACKGROUND**

Since this proposal was first presented to the Public Safety Committee on April 28th, a working group comprised of representatives of the Citizens' Police Review Board, City Administrator's Office, Oakland Police Department and Mayor's Task Force on Police Issues has met at least seven times to develop an action plan to implement the proposal to civilianize the Internal Affairs Division's intake of citizen complaints. The following topics have been and are continuing to be addressed:

- Management of the Proposed Process
- Impact to the Negotiated Settlement Agreement
- Civilian Investigators Background and Training
- Timeline for Implementation
- Budget and Funding Sources

Item: \_\_\_\_\_  
City Council  
July 7, 2009

## **KEY ISSUES AND IMPACTS**

### Management of the Proposed Process

CPRB requires that the proposed intake Complaint Investigator I and administrative support positions be under the supervision of the CPRB Director. The 10 intake investigators will accept all citizen complaints, to include, all walk-ins, complaints made over the telephone - anonymously or confidentially, and recorded messages from the 24/7 complaint hotline, take statements, and obtain police communications, reports, and other documentary evidence.

Current CPRB procedure ensures that all complaints received by the CPRB are forwarded to the IAD within 24 hours. This will not change under this new proposal so IAD will continue to ultimately receive and investigate all complaints of misconduct. The CPRB will provide summary findings on some complaints, consistent with IAD's current policy, obtain supporting documents and forward the intake of the complaints within 24 hours to IAD. Citizens currently are able to make complaints in the field with OPD supervisors. This is required by the Negotiated Settlement Agreement (NSA) and this would not change. There would be an amendment to this policy as OPD supervisors would send the complaints received immediately to the CPRB in lieu of IAD for intake processing.

The intake investigators will be trained to identify allegations and recommend where the complaint will go in Internal Affairs for investigation. The CPRB Director will also review all complaints and determine whether or not complaints will be selected for a concurrent investigation by the CPRB for an evidentiary hearing. The CPRB will select cases from the interviews completed during the intake process for evidentiary hearings or refer them to mediation.

The working group proposed a procedural change that would have IAD call CPRB administrative personnel to come to IAD and escort walk-in complainants that arrive at IAD to the CPRB's current office space located on the 11<sup>th</sup> Floor so they can file a complaint. This is to ensure that the person does not become discouraged and leave IAD with the notion that their complaint is not being taken seriously. Complainant letters or other correspondence received in IAD would be forwarded to the CPRB for intake processing.

The computer systems of the CPRB and IAD will have to be connected to share intake information and to refer to OPD internal documents during the initial intake process. The IT Department should be consulted regarding the completion of this task. The IT Department is also currently developing an on-line complaint form with an electronic signature for the CPRB to expedite the processing of citizen complaints.

Item: \_\_\_\_\_  
City Council  
July 7, 2009

The CPRB will cease producing administrative closure reports on cases not brought to hearings, in order to allow the investigators more time and resources to focus on the increase pool of cases selected for evidentiary hearings.

#### Impact of the Negotiated Settlement Agreement (NSA)

CPRB plans to expand its methods of receiving complaints to be in compliance with the NSA including taking complaints over the phone, through the complaint hotline, from the jail, via email, voicemail, Chief's Office and from the field from Sergeants receiving complaints. The intake investigators will also review legal claims, litigation, go out to interview witnesses and initiate the informal resolution process. Some IAD intake staff will remain after a full transition can occur to continue to intake complaints internally-generated against officers and non-sworn police staff.

Generally, IAD will continue to investigate all of the complaints received by the CPRB intake investigators as determined by the terms of the NSA. Only when IAD is convinced that the CPRB intake personnel are conducting preliminary investigations in compliance with the required standards of the NSA will the transfer of those preliminary investigative responsibilities from IAD to the CPRB occur. No IAD officers will be transferred to other positions in the police department until an anticipated date of July 1, 2010. However, this timeline may have to be postponed until funding is secured. A further consideration is that the NSA may no longer be in effect by the time this program is implemented.

The IAD is currently responsible for 21 of 45 NSA tasks, but of those 21 tasks, 11 are specific to the intake of complaints. The CPRB intake personnel will receive at least three months of training to enable them to comply with the standards of the relevant NSA tasks. One challenge to the tasks of the NSA identified by the working group is IAD being able to turn over complainants to the CPRB by referring them to the CPRB intake officers. The working group discussed a possible legal stipulation to be created and approved by the plaintiff's attorneys before the implementation of the new process.

#### Next Steps for the Proposal

The IAD continues to work to facilitate the efforts of the working group. IAD has determined that this proposal will require stipulated changes to the NSA as IAD currently is not permitted under any circumstances to refer complaints away from the Division. Specifically, NSA sections III F and G would need to be amended to allow for this limited referring of complaints. OPD is working on drafting proposed NSA language that will be presented to the plaintiff's attorneys and the Independent Monitoring Team (IMT) for approval. This approval will be necessary prior

Item: \_\_\_\_\_  
City Council  
July 7, 2009

to implementation of this proposal in order to ensure the city does not fail in compliance efforts with the NSA.

OPD is working on identifying necessary policy changes to accommodate this proposal. Minimally the following OPD policies would require some revision to allow for this proposal:

- General Order M-3 Complaints Against Department Personnel
- General Order M-3.1 Informal Complaint Resolution Process
- General Order M-4.1 Criminal Investigations of Department Personnel
- IAD Policy and Procedure 05-01 General Operating Procedures
- IAD Policy and Procedure 05-02 IAD Investigation Process
- IAD Policy and Procedure 06-01 Legal Claim
- IAD Policy and Procedure 07-03 IAD Intake Manual
- Training Bulletin V-T.1 Internal Investigations

#### Civilian Investigators' Qualifications and Training

The minimum qualifications of civilian investigators recommend by the CPRB are currently defined in the *Qualification Standards for Oversight Investigators* established by the National Association for Civilian Oversight of Law Enforcement (NACOLE). Applicants most commonly eligible to meet these qualifications are former attorneys, licensed private investigators, former law enforcement personnel or civilian investigators of other agencies. A summary of those defined qualifications include:

- Bachelor of Arts/Science
- Three years experience conducting civil, criminal or factual investigations
- Ability to conduct detailed factual interviews
- Ability to write clear, concise, well-organized and thorough investigative reports
- Ability to conduct investigations of a highly confidential and sensitive nature
- Ability to analyze and apply relevant laws, regulations and order to the facts of the case being investigated
- Ability to conduct investigations in an objective and independent manner by adhering to high standards of ethical conduct
- Ability to evaluate evidence and make findings without personal bias

The CPRB would further seek individuals with an understanding of constitutional rights, criminal law and its application. Preferred experience would emphasize critical analysis skills in the application of the preponderance of evidence when make findings of facts and recommending discipline.

The CPRB suggests that each potential Complaint Investigator I also undergo a background check. As part of the hiring process, the applicant would be required to submit a Personal History Questionnaire with their name, address, social security number, education, previous employment, criminal background, parole and juvenile record, driver's license number, business licenses, three references, and places of residence for the last five years. The CPRB suggests this questionnaire be verified and approved by a designated investigative unit of the Oakland Police Department. The applicant's hiring process will also include finger printing.

The CPRB would provide the investigators with a variety of professional training opportunities. Funding for ongoing annual training is recommended in the budget for each Complaint Investigator I position. As funding and staffing resources permit, the CPRB would send Complaint Investigator I positions to the Peace Officer Standards and Training (POST) to receive additional training for investigators. Some required investigator POST courses could include use of force, search and seizures and laws of arrest.

Further training on the post-NSA investigative standards, OPD computer systems and departmental forms would also have to occur with current staff of IAD prior to a full transition of positions. Complaint Investigator I position will also receive training on OPD General Orders, specifically on those policies relating to the NSA and accepting of citizen complaints.

## **PROJECT DESCRIPTION**

The proposal before you would transfer the filing of citizen complaints against Oakland police officers from Internal Affairs (IAD) to the Citizens' Police Review Board (CPRB). There is agreement that the CPRB will send each complaint received to IAD within 24 hours. IAD will continue to investigate complaints in accordance with the requirements of the NSA until such time as they are confident that the CPRB is equipped to process these complaints in compliance with the NSA standards.

It is anticipated that, in time, as the funding of the CPRB is increased, the CPRB will be able to undertake responsibility for investigating a greater percentage of, and eventually, all citizens' complaints. As the CPRB increases its capacity, Internal Affairs will be able to reduce its staffing levels and re-assign officers to duties specifically related to crime reduction and violence prevention.

## **RECOMMENDATION**

The CPRB recommends that the City Council vote to adopt this proposal in principle, implementation of which is subject to the identification of external sources of funding and

Item: \_\_\_\_\_  
City Council  
July 7, 2009

completion of consultation and agreement on the part of plaintiffs' attorneys, IMT and Judge Henderson.

Respectfully submitted,

FORWARDED TO  
THE CITY COUNCIL:



---

Office of the City Administrator

Sean P. Quinlan  
Interim Executive Director - CPRB

Prepared by:  
Patrick Caceres  
Policy Analyst - CPRB

Item: \_\_\_\_\_  
City Council  
July 1, 2009



**CITY OF OAKLAND**  
**AGENDA REPORT**

**To:** Office of the City Administrator  
**Attn:** Dan Lindheim  
**From:** Mayor's Task Force Working Group Members  
**Date:** May 26, 2009  
**Re:** **Report and Resolution Approving in Principle the Transfer of the Intake of Citizen Generated Complaints against members of the Oakland Police Department from Internal Affairs to the Citizens' Police Review Board.**

---

**SUMMARY**

At its meeting of May 26, 2009, the Public Safety Committee requested a report on our proposal to civilianize the intake of citizens' complaints against Oakland police officers, including information on the number of CPRB staff that would be required, the associated start-up costs, potential funding sources and a timeline for implementation. This report is intended to provide a provisional framework for the transition based on current knowledge and projections. However, we are also asking Council to approve a resolution adopting this proposal in principle, and directing Staff to return within eight weeks with a more accurate and detailed transition plan, including recruitment, training, costs and funding sources. Implementation of this resolution will occur upon your acceptance of the implementation plan to be submitted.

**FISCAL IMPACT**

At this time, we are projecting the following related CPRB personnel needs and associated costs:

- \$1.27 million to fund 8 Complaint Investigator I for intake of citizen complaints and 2 Administrative Assistant I positions to provide the necessary administrative support. Each investigator position includes a budget of \$2,000 per investigator for ongoing training.
- Two Complaint Investigator I positions are anticipated to be funded through the City of Oakland's Byrne Justice Assistance Grant (JAG) federal funding application.

Estimated Cost of Proposed Positions (includes salary, benefits and operating & maintenance)

Per Complaint Investigator I<sup>1</sup> = \$135,160

Per Administrative Assistant I = \$95,609

8 Complaint Investigator I =	\$1,081,280
<u>2 Administrative Assistant I =</u>	<u>\$ 191,218</u>
Total Est. Funding for Positions	\$1,272,498

Estimated costs for positions include operating and maintenance expenses per position and \$2,000 ongoing for training of investigators.

---

<sup>1</sup> A new position classification would have to be created in the Salary Schedule for a Complaint Investigator I.

Item: \_\_\_\_\_  
Public Safety Committee  
May 26, 2009

Anticipated Additional Expenses

Possible one-time expenses not currently estimated in this proposal include recruiting, background checks, position advertising and facility expenses.

However, long term, there is an estimated total cost savings to the City of Oakland of \$1,079,840 in FY '09-'10 and FY '10-'11. These saving will continue in perpetuity due to the disparity in salaries and benefits between sworn officers and civilian employees. These cost savings will offset the additional expenses to fund the proposed staff positions within a few years of the implementation of this program.

Estimated Potential Cost Savings

Per IAD Intake Officer = \$166,752  
Per Complaint Investigator I = \$135,160

10 Intake Officers = \$1,667,520  
10 Complaint Investigator I = \$1,351,600  
Total Difference in Est. Cost \$ 315,920

Total Annual OPD Overtime for Intake = \$ 224,000

Total Estimated Cost Saving in FY'09-10 = \$ 539,920

Total Estimated Cost Savings in FY '09-'10 and FY'10-'11 = \$1,079,840

Funding Sources

Two Complaint Investigator positions were requested in the City of Oakland's Byrne Justice Assistance Grant (JAG) federal funding application. Assuming the approval of this funding, we still require funding for the remaining eight positions to reach the originally requested ten new hires in the proposal from the Mayor's Task Force on Police Issues on April 28, 2009.

Alternative Funding Sources

The City of Oakland can also apply to the competitive Byrne Grant for funding from State and Federal funds. The CPRB and the Mayor's Office plan to continue to work together to track future funding options. Additionally, since COPS grant funding may be used to offset a portion of the of the General Fund allocation to OPD, some portion of OPD's budget could be redirected to cover some or all of the start up costs of this program.

## **BACKGROUND**

Since this proposal was first presented to the Public Safety Committee on April 28, a working group comprised of representatives of the Citizens' Police Review Board, City Administrator's Office, Oakland Police Department and Mayor's Task Force on Police Issues has met at least six times to develop an action plan to implement the proposal to civilianize the Internal Affairs Division's intake of citizen complaints. The following topics have been and are continuing to be addressed:

- Management of the Proposed Process
- Impact to the Negotiated Settlement Agreement
- Civilian Investigators Background and Training
- Timeline for Implementation
- Budget and Funding Sources

## **KEY ISSUES AND IMPACTS**

### Management of the Proposed Process

CPRB requires that the proposed intake Complaint Investigator I positions be under the supervision of the CPRB Director. The ten intake investigators will accept all citizen complaints and forward these within 24 hours to Internal Affairs. They will proceed to do a preliminary investigation, which will include taking statements from the complainants and witnesses, if any, and collecting pertinent documentation. They will then turn over this initial work up to the CPRB Director who, along with senior investigators, will triage these complaints and determine whether the complaints are to be fully investigated for evidentiary hearing, prepared for summary findings, or referred for mediation.

### Impact of the Negotiated Settlement Agreement (NSA)

As stated above, there is no anticipated impact on the compliance issues with respect to the NSA tasks that are related to Internal Affairs. IAD will continue to investigate all of the complaints received by the CPRB as long as the NSA is in force. Only when IAD is convinced that the CPRB intake personnel are conducting preliminary investigations in compliance with the required standards of the NSA will the transfer of those preliminary investigative responsibilities from IAD to the CPRB occur.

The Internal Affairs Division is currently responsible for 21 of 45 NSA tasks, but of those 21 tasks, only 5 or 6 are specific to the 'intake' of complaints. The newly hired CPRB intake personnel will receive at least three months of training to enable them to comply with the standards of the relevant NSA tasks.

### Civilian Investigators' Qualifications and Training

The minimum qualifications of civilian investigators suggested by the CPRB are currently defined in the *Qualification Standards for Oversight Investigators* established by the National Association for Civilian Oversight of Law Enforcement (NACOLE). Applicants most commonly eligible to meet these qualifications are former attorneys, licensed private investigators, former law enforcement personnel or civilian investigators of other agencies. A summary of those defined qualifications include:

- Bachelor of Arts/Science
- Three years experience conducting civil, criminal or factual investigations
- Ability to conduct detailed factual interviews
- Ability to write clear, concise, well-organized and thorough investigative reports
- Ability to conduct investigations of a highly confidential and sensitive nature
- Ability to analyze and apply relevant laws, regulations and order to the facts of the case being investigated
- Ability to conduct investigations in an objective and independent manner by adhering to high standards of ethical conduct
- Ability to evaluate evidence and make findings without personal bias

The CPRB would further seek individuals with an understanding of constitutional rights, criminal law and their application. Preferred experience would emphasize critical analysis skills in the application of the preponderance of evidence when make findings of facts and recommending discipline.

The CPRB suggests that each potential Complaint Investigator I also undergo a background check similar to the background check established by the San Francisco Office of Citizen Complaints (OCC). As part of the hiring process, the applicant is required to submit a Personal History Questionnaire with their name, address, social security number, education, previous employment, criminal background, parole and juvenile record, driver's license number, business licenses, three references, and places of residence for the last five years. The OCC submits this questionnaire to the San Francisco Police Department's Background Investigative Unit to verify and approve the applicant's background. The CPRB suggests that a similar review by the Oakland Police Department could be conducted on future applicants, including finger printing.

The CPRB would provide the investigators with a variety of professional training opportunities. Funding for ongoing annual training is recommended in the budget for each Complaint Investigator I position. As funding and staffing resources permit, the CPRB would send Complaint Investigator I positions to the Peace Officer Standards and Training (POST) to

receive additional training for investigators. Some required investigator POST courses could include use of force, search and seizures and laws of arrest.

Further training on the post-NSA investigative standards, OPD computer systems and departmental forms would also have to occur with current staff of IAD prior to a full transition of positions.

### **PROJECT DESCRIPTION**

The proposal before you would transfer the filing of citizen complaints against Oakland police officers from Internal Affairs (IAD) to the Citizens' Police Review Board (CPRB). There is agreement that the CPRB will send each complaint received to IAD within 24 hours. IAD will continue to investigate these in accordance with the requirements of the NSA until such time as they are confident that the CPRB is equipped to process these complaints in compliance with the NSA standards.

It is anticipated that, in time, as the funding of the CPRB is increased, that Agency will be able to undertake responsibility for investigating a greater percentage of citizens' complaints. As the CPRB increases its capacity, Internal Affairs will be able to reduce its staffing levels and re-assign officers to duties specifically related to crime reduction and violence prevention. However, until increased funding levels for the CPRB are established, we wish to emphasize that, as long as the IAD-related tasks of the NSA are in force, IAD will continue to investigate all citizen complaints and ensure that the NSA standards of compliance are met.

### **RECOMMENDATION**

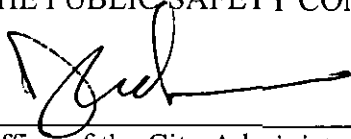
We recommend that that the City Council adopt the above Resolution in principle to civilianize the intake of citizens' complaints against Oakland police officers, In addition, we recommend that Council direct Staff to return within 8 weeks with an implementation plan, accompanying timeline, start up costs, long-range projections on cost savings and associated benefits and the identification of sources of funding.

### **ACTION REQUESTED BY THE CITY COUNCIL**

We request that the Council vote to approve in principle the resolution calling for the transfer of the intake of citizens' complaints against Oakland Police officers from Internal Affairs to the Citizens' Police Review Board. Implementation is subject to subsequent approval of the implementation plan, costs associated and identified funding sources, to be determined by Staff within eight weeks.

Item: \_\_\_\_\_  
Public Safety Committee  
May 26, 2009

FORWARDED TO  
THE PUBLIC SAFETY COMMITTEE:



Office of the City Administrator

Respectfully submitted,

\_\_\_\_\_  
Rashidah Grinage obo  
Mayor's Task for on Police Issues  
Working Goup Members

Prepared by:

Item: \_\_\_\_\_  
Public Safety Committee  
May 26, 2009