

2010 MAR 11 PM 4:03

CITY OF OAKLAND
AGENDA REPORT

To: Office of the City Administrator
Attn: Dan Lindheim
From: Patrick Caceres, Citizens' Police Review Board on behalf of the Civilianization Working Group
Date: March 23, 2010

Re: Action on a Report and Recommendation from the Civilianization Working Group on the Transition Plan to Civilianize the Intake of Citizen Complaints of Police Misconduct

SUMMARY

On July 7, 2009, the City Council approved a proposal to civilianize the intake of citizen 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 an update on the status of the efforts to implement that transition plan including NSA/MOU considerations, the efforts to secure outside funding and the plan to utilize JAG Funding to hire two additional CPRB investigators.

FISCAL IMPACT

The CPRB projects the following related personnel needs and additional associated expenses:

- \$1.27 million to fund 8 Complaint Investigator I positions 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 positions are 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 = \$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

The possible one-time expenses not currently estimated in this proposal include recruiting, background checks and position advertising. The CPRB's current location on the 11th floor of City Hall will provide sufficient space at this time for the increase in the number of walk-in complainants and may not require additional facilities expenditures.

More Efficient Use of Staff Resources

Sworn officers can be reassigned to other policing duties including criminal investigations or patrol by directing citizens' complaints to the CPRB instead of to Internal Affairs. This proposal allows for the job of receiving complaints to be executed at a fraction of the current personnel costs because of the difference in the salary between sworn officers and civilian investigators.

Police officers have not been trained to investigate complaints, so it is not part of their 'skill set' coming out of the Academy or in their field training, which means they must be trained in this job. On the other hand, the civilians who are hired will already have had the training and experience of conducting investigations of complaints, so their training will not be as extensive, or as expensive as that required for sworn police officers. Sworn officers who are currently assigned to IAD will, instead, be able to perform the duties of public safety that are needed in Oakland, particularly with the understaffed force that exists and the lack of resources to hire additional officers.

This proposal does not immediately save money for the City because additional financial resources will be required. Through outside grants more funds will have to be added to the City budget to fund the transition. However, City funds could eventually be saved on the advertising, recruiting and training of officers who currently perform these duties.

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 still requires 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

OPD and the Working Group continue to work together to track possible future funding options.

BACKGROUND

Since this proposal was first presented to the Public Safety Committee on April 28, 2009 a working group comprised of representatives of the Citizens' Police Review Board, City Administrator's Office, Oakland Police Department and Mayor-initiated Task Force on Police Issues has met jointly to develop an action plan to civilianize the Internal Affairs Division's intake of citizen complaints. The following topics have been addressed:

- Negotiated Settlement Agreement (NSA)/ MOU requirements
- Efforts to Secure Outside Funding
- JAG Federal Funding to Hire Two Additional CPRB Investigators
- Timeline for advertising, training and deploying new hires
- Changes needed to the procedures for citizens' calling in complaints and for OPD personnel accepting complaints in the field

KEY ISSUES AND IMPACTS

Negotiated Settlement Agreement (NSA)/Memorandum of Understanding (MOU) Requirements

On January 22, 2010, the NSA for Delphine Allen, et. al., vs. City of Oakland, et. al. expired. A current MOU has superseded the NSA to ensure all outstanding requirements are completed in compliance with the expired NSA.

OPD's Internal Affairs has drafted a legal stipulation currently being reviewed by the City Attorney's Office to include in the MOU language for either IAD and/or both CPRB to perform specific task requirements. Once the stipulation is reviewed, it will be presented to the plaintiff's attorneys and Judge Henderson for approval. The CPRB taking over the intake of citizen complaints has been discussed at prior NSA meetings before both parties. There are no current objections to this possible change at this time as long as the MOU standards are met by the City.

In order to meet those requirements, the proposed intake Complaint Investigator I and the administrative support positions will be under the supervision of the CPRB Manager. The 10 intake investigators will accept all citizen complaints, including all walk-ins, complaints made over the telephone and recorded messages from the 24/7 complaint hotline. The investigators will also take statements, and obtain police communications, reports, and other documentary evidence. 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. For complaints made in the field, OPD Sergeants will receive the complaint and immediately forward the complaint to the CPRB for intake processing. The CPRB will work with the OPD radio room to review the log to ensure that sergeants called out to take complaints are forwarding the complaints to the CPRB.

Item: _____
Public Safety Committee
March 23, 2010

The intake investigators will be trained to identify allegations and recommend where the complaint will go in Internal Affairs for further investigation. The CPRB Manager 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.

Currently, the MOU requires that OPD provide sufficient IAD staff to meet the standards for investigations. Police officers are taken off other assignments and assigned to IAD investigations in order to achieve these standards. After the two years of grant funding, the CPRB will, likewise, need to be assured of sufficient resources for staffing in order to maintain the ability to meet MOU requirements for investigations. Without sufficient staffing, the CPRB will not be able to be accountable for meeting these standards, just as Internal Affairs was not able to meet them before the upgrading of their staffing levels. Again, it should be remembered that the CPRB investigators will cost significantly less than the same number of IAD investigators.

Efforts to Secure Outside Funding

The Working Group met with fiscal service representatives of OPD and consulted with grant writers in the Department of Human Services. A number of options were discussed but no grants were currently identified fitting the criteria of this request. OPD Fiscal Services is currently seeking grants for the additional positions. To date, OPD has not found any grant RFPs with a nexus to this project but they are still actively looking.

JAG Funding for Two Complaint Investigators

The JAG funding for the two complaint investigators has been received by OPD. OPD Fiscal Services is currently preparing a Budget Change Request (BCR) to transfer the funds into the CPRB budget to begin hiring for the two positions. The CPRB is currently planning recruitment to fill these two complaint investigator positions within a couple of months.

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 will 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 will 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 will 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 positions will also receive training on OPD General Orders, specifically on those policies relating to the MOU 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). 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 MOU until such time as they are confident that the CPRB is equipped to process these complaints in compliance with the MOU standards.

As the funding of the CPRB is increased, the CPRB 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.


RECOMMENDATION

The Working Group recommends that the City Council direct staff to prioritize this transition and to secure outside funds beyond the two JAG positions to complete the implementation plan.

REQUESTED ACTION

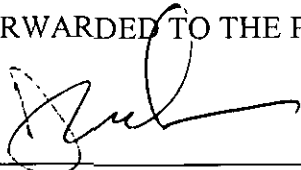
Direct the City staff to report an update to the Public Safety Committee on the status of grants pursued to fund the transition on the intake of citizen complaints in the Internal Affairs Division to the Citizens' Police Review Board.

Respectfully submitted,



Patrick J. Caceres
Acting Manager, CPRB

FORWARDED TO THE PUBLIC SAFETY COMMITTEE:



Office of the City Administrator

Item: _____
Public Safety Committee
March 23, 2010