

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable William H. Orrick, Judge

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

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San Francisco, California  
Tuesday, January 24, 2023

**TRANSCRIPT OF REMOTE ZOOM VIDEO CONFERENCE PROCEEDINGS**

**APPEARANCES VIA ZOOM:**

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**(APPEARANCES CONTINUED ON FOLLOWING PAGE)**

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

1 **APPEARANCES VIA ZOOM:** (CONTINUED)

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10 Also Present:

11 **Mayor Sheng Thao**  
12 **Assistant Chief Darren Allison**

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1 Tuesday - January 24, 2023

3:29 p.m.

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

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4 **THE CLERK:** And we will get underway in Case  
5 Number 00-4599, Allen vs. City of Oakland.

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

8 **MR. BURRIS:** John Burris for the plaintiff.

9 **MR. CHANIN:** James Chanin for plaintiff.

10 **MS. MARTIN:** Brigid Martin, and I'm here with Oakland  
11 Mayor Sheng Thao, for the City of Oakland.

12 **MR. LUCIA:** And Rocky Lucia for OPOA, intervenor.

13 **THE COURT:** Great. Good afternoon, everybody.

14 And I'll also recognize Chief Allison, who's also on the  
15 screen.

16 Mayor Thao, welcome. Congratulations on your election.  
17 Your leadership here is going to be vital for the Oakland  
18 Police Department to achieve its obligation to provide  
19 law enforcement in a constitutional manner. It's going to  
20 require your committed, consistent, accountable, and  
21 transparent leadership and that you then hold the Department  
22 accountable to those standards. So I wish you the best of luck  
23 in doing that.

24 This is going to be a slightly -- or a lot different case  
25 management conference than we've had.

1 I am profoundly disappointed by the evidence that resulted  
2 in the Monitor Compliance Director's conclusion that Task 5 is  
3 out of compliance. The report that was prepared by Clarence  
4 Dyer & Cohen demonstrates that significant cultural problems  
5 within the Department remain unaddressed.

6 Prior to the next CMC, I expect the City to have adopted  
7 each of the recommendations in the report with respect to the  
8 Internal Affairs Division and Criminal Investigations Division  
9 or to explain why what it has done in the alternative is more  
10 effective, and I want the parties to address that in their next  
11 joint statement.

12 This is the third time since I've been overseeing the  
13 implementation of the NSA that the City has seemed to come  
14 close to full compliance with the NSA, only to have a serious  
15 episode arise that exposes rot within the Department.

16 The City is out of compliance and will not emerge from the  
17 sustainability period under the NSA or supervision will  
18 continue until there's full compliance and then successfully  
19 complete the sustainability period.

20 The question that I'm wrestling with, and I want you to  
21 wrestle with, is how best to implement the provisions of the  
22 NSA in a way that ensures constitutional policing.

23 The Riders litigation began 23 years ago. The monitorship  
24 is 20 years old.

25 OPD has created the policies called for by the NSA. It's

1 implemented the technological improvements required by the NSA.  
2 It's achieved remarkable success in the critical area of  
3 intelligence-led policing that's led to a dramatic reduction in  
4 the number of stops in the City, which was a core problem that  
5 led to the monitorship in the first place. The Department is  
6 far more diverse than it was. Chief Warshaw and his team have  
7 performed a herculean public service over the last 13 years.

8       There's no doubt in my mind that the monitorship has  
9 helped make substantial positive improvements in policing in  
10 the City of Oakland. Yet here we are: Even with  
11 the monitorship, the Department has not resolved the ongoing  
12 integrity, transparency, and accountability issues, issues that  
13 keep the Department from meeting the spirit and the letter of  
14 the NSA.

15       So between now and the next CMC, Chief Warshaw and his  
16 team will continue with its current scope of monitorship  
17 contemplated last year when we started the sustainability  
18 period.

19       While the Department is working to implement the  
20 recommendations in the report, I want the parties to engage in  
21 a discussion of how to move forward in a way that finally  
22 achieves compliance. And in this regard, I'm also interested  
23 in the perspective of the Police Commission.

24       I've read your submissions for the CMC, and I appreciate  
25 the perspectives that you shared, and I particularly appreciate

1 the analysis that the City made of the racial disparities in  
2 the stock data. That was very informative.

3 I'm not going to hear from anybody today unless,  
4 Mayor Thao, you wanted to make any sort of a statement.

5 But otherwise, what I want is to see the parties' proposal  
6 on how we get this job done. And that should be filed on  
7 April 4th, one week before the CMC, which will be on  
8 April 11th.

9 So, Mayor Thao, if you would like to say anything, you're  
10 certainly not -- I'm not calling on you; but if you'd like to  
11 say something, I'd be happy to hear it.

12 **MAYOR THAO:** Thank you. And good afternoon, Your Honor.

13 I just feel privileged to be here representing the  
14 residents of Oakland.

15 And I'll skip any further preliminaries but just say that  
16 I'm deeply disappointed by recent revelations about our  
17 Department. At the same time, I'm prepared to take those  
18 actions that you speak of.

19 My concern about the state of policing in Oakland, it  
20 started long before I took office as Mayor. I came into this  
21 job fully prepared and, actually, eager to work to improve  
22 public safety. And a few weeks in, not even a month, and I  
23 already have some specific deliverables stemming from the  
24 outside investigation.

25 And so to your point, absolutely, we're not -- you know, I

1 will not sit here and somehow say that being under the  
2 oversight did not allow for the City to grow. It definitely  
3 has.

4 And, first, my administration and I will make sure that  
5 every officer who engaged in misconduct is disciplined  
6 appropriately.

7 Second, we'll address the specific ways OPD's current  
8 systems failed. My goal is to be able to say to the public and  
9 to this Court that we've solved the problems, not just that  
10 we've mechanically implemented a list of recommendations.  
11 We're grateful to the investigators for their thoughtful  
12 recommendations which will help us prevent serious problems  
13 from recurring again. I truly believe in that.

14 And my third undertaking is the most significant, and it's  
15 to reflect on ways we, as a city, can go beyond remedial  
16 measures and continue the difficult work of reimagining police  
17 accountability and police safety and public safety.

18 As the leader of the City, I don't take lightly the  
19 responsibility to engage in honest self-reflection and earnest  
20 self-improvement on behalf of our Police Department.  
21 Oaklanders demand it, and we owe it to them.

22 And since I firmly believe that many of the problems that  
23 have been exposed through Oakland's robust sworn and civilian  
24 oversight likely go unexposed in other police departments, I  
25 also believe that Oakland has an opportunity, a great and

1 unique opportunity, responsibility to be a national leader in  
2 police reform.

3 And so for me, it's -- reading through both the public and  
4 confidential reports confirmed my belief that the investigation  
5 conducted outside the Department is critical.

6 Many of the problems the investigation uncovered were  
7 rooted in officers who are friendly with the people they were  
8 supposed to hold accountable and officers who are accustomed to  
9 reviewing and discussing cases in problematic ways. I'll be  
10 honest. So it's very interesting because when I read these  
11 reports, I see case studies on the dangers of relying on police  
12 departments to exclusive police themselves and, simultaneously,  
13 case studies on benefits of having the outside and civilian  
14 experts play a prominent role in police accountability.

15 I definitely want to be clear that internal accountability  
16 at OPD will always be an absolute necessity and it can never be  
17 replaced. But for one thing, no system of investigation and  
18 accountability can work if problems are successfully swept  
19 under the rug before any investigator, internal or external,  
20 knows about them. And this type of misconduct is particularly  
21 serious because it provides, as we all know, fertile grounds  
22 for other misconduct to thrive. And so when it's discovered,  
23 the discipline has to be equally serious.

24 Just as importantly, OPD's top executives have to make it  
25 culturally unacceptable through their words and their actions.

1 It's a non-negotiable job requirement as far as I'm concerned.

2 But I'm still convinced, more than ever, that robust  
3 civilian investigations and auditing must be additional pillars  
4 of any serious police accountability system in the 21st  
5 century. Some of the Department's biggest steps forwards,  
6 things like acknowledging and addressing the racial disparities  
7 in the traffic and pedestrian stops and the racial disparities  
8 in discipline, again, flow through partnerships with civilians  
9 like Dr. Eberhardt, Mr. John Burris, and Mr. Jim Chanin.

10 And one of the first things I did as Mayor was to reach  
11 out to Mr. Burris and Mr. Chanin because I want to make sure  
12 that my administration benefits from their years of experience  
13 and their deep, deep dedication to our City.

14 We also have a Police Commission that's doing an  
15 incredible job exercising civilian oversight. As a brief  
16 example, during the public meeting last week, our City Council  
17 and the committee of our Police Commission were deciding  
18 whether to approve certain OPD policies in regards to military  
19 equipment. And during the discussion about whether OPD should  
20 use sound canyons for crowd control, the commissioners revealed  
21 that they actually raised the subject themselves for the sound  
22 canyons before deciding a policy recommendation. And for me,  
23 that was an inspiring example of civilian oversight working for  
24 Oakland and making all of us safer.

25 I do believe that the next phase for civilian oversight in

1 Oakland is to really deepen our investment in the teams of  
2 professionals who work full-time to create police  
3 accountability. Those teams are the Community Police Review  
4 Agency and Office of the Civilian Inspector General, who  
5 conduct outside independent investigations and audits. And,  
6 Your Honor, I have already been briefed by Inspector General  
7 Michelle Phillips and offered my full support for her critical  
8 work.

9 Inspector Phillips took office just about a year ago this  
10 month and has already built the foundation for a significant  
11 oversight structure. She's hired five staff members, has a  
12 sixth member starting next month, and we expect to add four  
13 more members next quarter. Also, next quarter she anticipates  
14 to publish an audit of the Department's compliance with the NSA  
15 task force to help improve OPD's field training program.

16 Fully resourcing civilian oversight is a top priority in  
17 my administration. That is a conversation we had in depth  
18 about how we move forward.

19 I'll be making a number of appointments to the Police  
20 Commission in the coming months. I'll make sure the CPRA and  
21 the Inspector General are able to fill any job vacancies as  
22 quickly as possible with people who understand the process and  
23 take the process seriously.

24 And finally, I'll work with the City Council during our  
25 current budget process to invest as much as possible in these

1 two important offices because we know we can't move forward in  
2 an honest way if we're not willing to invest.

3 And finally, Your Honor, I must recognize the overwhelming  
4 majority of officers who work hard to do their very best day in  
5 and day out. I imagine their hearts must break a little when  
6 others in our Department fails to live up to their  
7 responsibilities, as do mine.

8 But please know that I will not tolerate toxic subcultures  
9 that try to demonize or deter officers who do the right thing.  
10 To keep Oaklanders safe, we have to make sure officers who make  
11 good choices, that they feel safe and they feel supported at  
12 OPD. And that is my North Star.

13 I thank the Court for this opportunity to share, and I  
14 sincerely look forward to working to sustain the progress  
15 the Department's made and to push it forward where it's had  
16 setbacks.

17 I welcome any questions you may have. Thank you so much,  
18 Your Honor.

19 **THE COURT:** All right. Well, thank you, Mayor Thao, and  
20 thank you for the spirit and the words that you've provided.

21 And I look forward to what the City and the plaintiffs and  
22 the Police Commission are able to come together on and present  
23 at the next CMC.

24 So the next CMC is going to be on April 11th. I'd like it  
25 to be in person. And the joint statement is on April 4th.

