



**OAKLAND POLICE DEPARTMENT
INITIAL
MONTHLY PROGRESS REPORT
JULY, 2013**

**OFFICE OF THE COMPLIANCE DIRECTOR
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

July 1, 2013

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Office of the Compliance Director
U.S. District Court, Northern District of California

July 1, 2013

This is the first Compliance Director's monthly report, as required by Judge Thelton Henderson's Court Order of December 12, 2012 (as amended).

As this is my initial report, it will cover the period from March 15, 2013 (the date my office formally commenced work) to June 30, 2013. Subsequent reports will be monthly.

As this report will clearly show, the pace of activity has been fast, and many noteworthy events have occurred in this relatively short period of time. There has been progress towards compliance with both Negotiated Settlement Agreement (NSA) Tasks, and non-NSA action items as identified in the Remedial Action Plan, and as prioritized in the Benchmarks Plan.

We have established positive momentum, in cooperation with the Independent Monitor and with the new leadership in OPD. The challenge before us now is sustaining this positive progress, resolving areas of disagreement with City officials, and achieving the goals we have worked together to construct.

Thomas C. Frye

Golden West Tower Bldg.
1970 Broadway Ave., Suite 930
Oakland, CA 94612

510-238-4459
oaklandcompliance@director@gmail.com

INTRODUCTION

The Compliance Director Court order dated December 12, 2012 addresses the reporting duties of the Compliance Director, and delineates, among other requirements, the following:

1. "Within 30 days of his or her appointment, the Compliance Director will file a remedial action plan (Plan) that both addresses deficiencies that led to noncompliance and explains how the Plan will facilitate sustainable compliance with all outstanding tasks by December 2013 or as soon thereafter as possible.
2. "Within 60 days of his or her appointment, the Compliance Director will file a list of benchmarks for the OPD to address, resolve, and reduce: (1) incidents involving the unjustified use of force, including those involving the drawing and pointing of a firearm at a person or an officer-involved shooting; (2) incidents of racial profiling and bias-based policing; (3) citizen complaints; and (4) high-speed pursuits. In developing these benchmarks, the compliance Director will consult with the Monitor, Plaintiffs, the Mayor, the City Administrator, the Chief of Police, the OPOA, and, as necessary, subject-matter experts to ensure that the benchmarks are consistent with generally accepted police practices and national law enforcement standards."
3. "Beginning on May 15, 2013, and by the 15th of each month thereafter, the Compliance Director will file a monthly status report that will include any substantive changes to the Plan, including changes to persons responsible for specific tasks or action items, and the reasons for those changes. The monthly status reports will also discuss progress toward achieving the benchmarks, reasons for any delayed progress, any corrective action taken by the Compliance Director to address inadequate progress, and any other matters deemed relevant by the Compliance Director."

4. On April 3, 2013 the Court issued an Order extending these deadlines as follows:

“ Accordingly, with good cause appearing, IT IS HEREBY ORDERED that the dates set forth in the December, 12, 2012 order are modified as follows:

1. The Compliance Director will file a remedial action plan on or before May 1, 2013.
2. The Compliance Director will file a list of benchmarks on or before May 31, 2013.
3. The Compliance Director will begin filing monthly reports on July 1, 2013, and reports will be due on the 1st of each month thereafter.
4. The parties and Intervener OPOA shall file a joint status conference statement on or before July 15, 2013, and appear for a status conference before this Court on July 25, 2013, at 10:30 AM.”¹

¹ Delphine Allen, et al., Master Case Number C00-4599 TEH (JL)

MAJOR EVENTS – INITIAL REPORTING PERIOD

1. Establishment of Compliance Director's Office. Commissioner Frazier assembled his staff and commenced work on March 15, 2013.
2. Completion of the Remedial Action Plan and the Benchmarks Plan. As required by Court order, the Remedial Action Plan was submitted on May 1, 2013. The Benchmarks Plan was submitted on May 31, 2013.
3. Changes in OPD Executive leadership. Chief Howard Jordan departed on medical leave on May 8, 2013. Interim Chief Sean Whent was appointed to replace him on May 11, 2013. The remainder of the executive leadership team was realigned in the following weeks.
4. Action on Criminal Investigations Division and Internal Affairs Division problems. Extreme problems with numbers of assigned personnel, experience of assigned personnel, and in quality of investigations were identified and targeted for remedial action.
5. Action on backlogged DNA evidence. In cooperation with the District Attorney, backlogged unprocessed DNA evidence was identified as a major issue, and planning commenced to rectify this problem.
6. Action on radio system problems. Public attention to this long-standing public safety issue resulted in unprecedented action by both the City administration and by City Council. A plan of action should be more clearly defined during the month of July.
7. Action on the IPAS contract. Focused attention to this lengthy process finally resulted in serious negotiations, and a tentative agreement to the terms of the initial contract with Sierra Systems.
8. Action on crowd control plan update. Negotiations between OPD and the involved parties have resulted in a tentative verbal agreement as to the content of the updated policy and the companion training bulletin. OPD expects to have this project finished by the end of July.

JUNE 2013 BENCHMARKS ACHIEVED

Following are the agreed-upon June intermediate Benchmarks extracted from the Benchmarks Plan that have been completed.

NOTE 1: The number in parentheses before each of the following intermediate due dates refers to the number of the “top twenty” priorities identified in the Benchmark Plan.

NOTE 2: Items identified as “Tasks” refer to specific non - compliant or partially compliant items from the Negotiated Settlement Agreement.

NOTE 3: Items NOT identified as “Tasks” are items identified and inserted in the Benchmark process by the Compliance Director.

NOTE 4: For purposes of this report the Compliance Director considers policy modifications to be a two-part process. Part one of this process is the OPD drafting/modification and Compliance Director/Monitor review/approval of the policy document. Part 2 is the OPD training and the actual OPD implementation of the policy, followed by the Compliance Director/Monitor review of the implementation process.

JUNE 2013

6.1.13 (18) Purchase and deploy modern crowd control weapons/munitions, TASERs, and additional PDRDs - Complete launchers/munitions purchase.

OPD RESPONSIBLE PARTY: Deputy Chief D. Outlaw.
(New assignment. Item added by Compliance Director)

PROGRESS: Completed (Qualified assessment). OPD has been given a qualified “completed” on this item. While it is correct that OPD has acquired 40 mm launchers, the rotary magazine versions have performance and reliability issues. In the coming months OPD will either resolve these issues with the current launchers, or return them and acquire models from a different manufacturer.

- 6.7.13 (6) Task 20 – Span of Control for Supervisors – Promote viable candidates on current Sergeants list.
- OPD RESPONSIBLE PARTY:** Deputy Chief D. Downing.
(New assignment due to command staff changes in May)
- PROGRESS:** Completed 7 June 2013.
- 6.15.13 (13) Task 41- Use of Personnel Assessment System (PAS) - PAS data fully incorporated into Risk Management meetings.
- OPD RESPONSIBLE PARTY:** Deputy Chief D. Outlaw.
(New assignment due to command staff changes in May)
- PROGRESS:** Completed. Data was fully incorporated into the 23 May 2013 Risk Management Meeting. This process will continue.
- 6.15.13 (20) Implement sequential double-blind photo lineup procedures – Complete draft policy.
- OPD RESPONSIBLE PARTY:** Assistant Chief P. Figueroa.
(New assignment. Item added by Compliance Director)
- PROGRESS:** Completed. Draft policy completed and forwarded to Compliance Director for review on 10 June 2013. Compliance Director review resulted in minor changes. Policy document approved.
- 6.15.13 (19) Develop needed training programs – Commence Quarterly Multiple Interactive Learning Objective (MILO) training. (NOTE: This is “shoot – don’t shoot” training for Patrol.)
- OPD RESPONSIBLE PARTY:** Deputy Chief D. Outlaw.
(New assignment. Item added by Compliance Director)
- PROGRESS:** Completed. Training commenced 7 June 2013.

6.30.13 (11) Task 34 - Vehicle Stops, Field Investigation, and Detentions – Modify FBR to include a “probation/parole” initial reason for stop field.

OPD RESPONSIBLE PARTY: Assistant Chief P. Figueroa.
(New assignment due to command staff changes in May)

PROGRESS: Completed in May 2013.

6.30.13 (12) Task 40 - Personnel Assessment System (PAS) – Purpose – Complete negotiations with Sierra or make decision to identify another contractor.

OPD RESPONSIBLE PARTY: Deputy Chief E. Breshears.

PROGRESS: Pending. All parties have verbally agreed to terms of the initial contract. Presently awaiting formal contract documents for review and signature.

JUNE 2013 BENCHMARKS MISSED

AND

CORRECTIVE ACTION TAKEN

Following are the agreed-upon June intermediate due dates extracted from the Benchmarks Plan. Following each item is a short summary of progress achieved towards completion of these items.

NOTE 1: The number in parenthesis before each of the following intermediate due dates refers to the number of the “top twenty” priorities identified in the Benchmark Plan.

NOTE 2: Items identified as “Tasks” refer to specific non-compliant or partially - compliant items from the Negotiated Settlement Agreement.

NOTE 3: Items NOT identified as “Tasks” are items identified and inserted in the Benchmark process by the Compliance Director.

NOTE 4: For purposes of this report the Compliance Director considers policy modifications to be a two-part process. Part one of this process is the OPD drafting/modification and Compliance Director/Monitor review/approval of the policy document. Part 2 is the OPD training and the actual OPD implementation of the policy, followed by the Compliance Director/Monitor review of the implementation process.

JUNE 2013 BENCHMARKS MISSED

6.3.13 (15) OPD to meet with representatives from the District Attorney’s Office to discuss CODIS outsourcing protocols.

OPD RESPONSIBLE PARTY: Deputy Chief D. Outlaw.
(New assignment. Item added by Compliance Director)

PROGRESS: Pending. OPD crime lab, CID, and OIG representatives met with District Attorney personnel on 21 June to discuss the discrepancy in numbers of backlogged cases between the two organizations. Consolidated list should be completed in the near future. OPD also is exploring using DA Office prioritization protocols to ensure seamless communication/activities between both offices.

WHY DEADLINE MISSED: It was not possible to arrange this multiparty meeting till late in the month. Preparing consolidated list of hundreds of samples will take about a month to complete

REVISED BENCHMARK DATE: 31 July.

6.15.13 (6) Task 20 – Span of Control for Supervisors – Meet and confer with OPOA to determine if OPD can extinguish the current Sergeants list once all viable candidates are promoted.

OPD RESPONSIBLE PARTY: Deputy Chief D. Downing.
(New assignment due to command staff changes in May)

PROGRESS: Pending. Meet and confer meeting scheduled for 10 July with City, OPOA, OPD, and Compliance Director’s staff.

WHY DEADLINE MISSED: Due to conflicting schedules and key parties on vacation, was not possible to schedule this multiparty meeting till 10 July.

REVISED BENCHMARK DATE: 10 July.

ASAP (6) Task 20 – Span of Control for Supervisors – OPD to work with City Human Resources Department to rapidly establish a new Sergeants list once current list is extinguished. OPD will promote to fill existing vacancies as they occur. (Contingent on negotiated status of current list.)

OPD RESPONSIBLE PARTY: Deputy Chief D. Downing.
(New assignment due to command staff changes in May)

PROGRESS: Pending. Meet and confer meeting to be scheduled after City, OPOA, OPD and Compliance Director’s staff meeting scheduled for 10 July.

WHY DEADLINE MISSED: This meeting can’t be held till after the scheduled 10 July meet and confer with OPOA. If OPOA and others cannot agree on a procedure to end the current list, then this issue fails and OPD must wait for the scheduled expiration of the current list.

6.30.13 (20) Implement sequential double-blind photo lineup procedures - Implement policy and commence investigator training.

OPD RESPONSIBLE PARTY: Assistant Chief P. Figueroa.
(New assignment. Item added by Compliance Director)

PROGRESS: Pending. Draft lesson plan completed. Training to commence in early July.

WHY DEADLINE MISSED: Policy review/approval occurred towards end of June – too late for training to commence. Project will be completed in July.

REVISED BENCHMARK DATE: 15 July.

SUMMARY OF JUNE PROGRESS

11 Benchmark action items.

7 Actions completed (64%).

4 Pending completion – benchmark dates reset for July.

ISSUES AND ROADBLOCKS

For most of this reporting period I have been frustrated by City officials' lack of cooperation, unnecessary restrictions, and control issues which have delayed progress. These roadblocks are not coming from the police department but rather directly from City Hall. The primary problems are:

- Failure to implement contracts between the City and the subject matter experts (SMEs) whose services are crucial to progress towards NSA compliance and other high - priority action items.
- City officials excluding members of my staff from critical meetings. One member of my staff has been excluded from an Information Technology meeting and another has been frozen out of the negotiation process between the City and a crucial provider for the new Personnel Assessment System (PAS). These actions have denied me access to critical information necessary to keep abreast of developments on high priority projects and issues.

These issues have once again caused the Court to intervene by issuing an order further defining the Compliance Director's authority to handle these matters directly.

CONCLUDING THOUGHTS

The pace of activity during this initial reporting period has been extraordinary. The most important single element of progress has been the change in leadership at the police department. The change in the atmosphere of cooperation, and the focus on citizen service and organizational improvement have been recognized by many observers familiar with the inner workings of OPD. Interim Chief Whent and his newly formed executive staff are young, energetic, and obviously hard working. While their collective experience in these senior leadership positions is somewhat shallow, they are quick studies and extremely open to coaching, mentoring, and other forms of Compliance Director guidance. The months ahead will determine whether or not this initial fast start can be sustained.