



News from: City of Oakland

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November 9, 2012

City files opposition to plaintiffs' motion for receivership for the Oakland Police Department ***Alternative proposed to accelerate and sustain compliance with reforms required by Negotiated Settlement Agreement ("NSA")***

Oakland, CA – On November 8, the Oakland City Attorney filed in federal court its opposition to plaintiffs' motion to place the Oakland Police Department under federal receivership.

Media Contacts:

Karen Boyd
City Administrator's Office
510-238-6365
kboyd@oaklandnet.com

The City's opposition papers were filed in the case of *Delphine Allen, et al v. City of Oakland*, often referred to as the Riders case. In 2003, the City settled that case with the plaintiffs through a Negotiated Settlement Agreement, or NSA. Under this agreement, the City committed to completing 51 "tasks" that involved changing the structure of the Oakland Police Department and reforming many of its policies, training procedures and daily practices. The tasks are intended to promote police integrity and professionalism and enhance the ability of OPD to protect the lives, rights, dignity and property of the community it serves.

OPD's compliance with these tasks is evaluated by a monitoring team approved by the Court. As of the monitor's most recent quarterly report, which covered the period ending in June 2012, of the 51 original tasks, 10 tasks remained short of full compliance: seven were in partial compliance, one was noncompliant, and two had been deferred.

The plaintiffs' attorneys filed a motion on October 4, 2012, requesting the court place OPD under the control of a federal receiver in order to achieve full compliance with the terms of the NSA.

The City's legal team, led by City Attorney Barbara J. Parker, filed opposition papers on Thursday, which state that the City is "not advocating for the status quo." However, "The appointment of a receiver is neither legally nor factually appropriate at this time and could be detrimental to the goal of NSA compliance."

City Attorney Barbara Parker said, "I and my entire Office are committed to dedicating resources to provide OPD and City leaders with the best legal advice and support to assist in achieving compliance and reforms as expeditiously as possible."

The City's opposition states, "a receiver is not likely to provide a quick and efficient remedy here, where it could take months or even years for the receiver to understand the dynamics and complexities of the Department, and even longer to bring about significant change."

"It would be inappropriate and counterproductive to bring in an outsider to run the entire Department, as Plaintiffs request, just to ensure that Defendants achieve Phase 2 compliance with the remaining 10 tasks," the opposition stated.

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In his Ninth Quarter Report issued in April 2012, the City's papers state, "the Independent Monitor previously noted that the current Chief of Police Howard Jordan was appointed at a 'tumultuous time' approximately one year ago, but nevertheless has shown with his executive team 'dedication to the core principles relevant to the NSA,' and 'progress has been made with regard to looking at innovative ways to bring about change.'"

"We are committed to both the legal requirements of the NSA and the spirit of its reforms," Mayor Jean Quan said. "This agreement speaks to vitally important issues that go beyond rote compliance. Though we must be diligent and thorough in reaching full compliance with all the NSA tasks, we are addressing systemic needs. We are tackling ongoing work to rebuild a better police department with policies and a culture that will reflect the true spirit of Oakland and its commitment to progress and equality. That's the department our residents deserve and our officers deserve. Strengthening community policing has been my administration's priority, and we are all committed to accelerating the pace at which we make that department a reality."

Courts generally consider the appointment of receivers when less extreme measures have been exhausted or proven futile. The City contends that intermediate measures, such as granting the Monitor with expanded authority and powers as the Court did in its January 24, 2012 order, were never fully implemented, and thus the appointment of a receiver is premature and unnecessary.

The opposition also requests that the structure by which OPD's compliance efforts are evaluated be changed, allowing for immediate feedback from the monitoring team as changes are made. Under the current structure, the monitor's quarterly evaluation reports regularly address changes made between three and six months prior to the report.

The City has also asked for "more robust and frequent technical assistance" from the monitor and more frequent communication and onsite visits. In its opposition, the City acknowledges that more assistance is necessary to achieve significant and lasting reform.

The City proposed a less extreme alternative to the appointment of a receiver: the appointment of both a Compliance Director and an Assistant Chief of Constitutional Policing. This alternative "will help to both ensure more rapid compliance with the outstanding NSA tasks and enhanced public safety."

The Compliance Director, as proposed, would be a salaried, full-time, onsite position. The Compliance Director would have full responsibility and authority for implementing all actions necessary to bring the Department into full compliance. While having enhanced power, the Compliance Director would not have complete control over the entire police department, unlike a receiver as requested by the plaintiffs. Rather, the role of the Compliance Director will be to focus on the tasks that remain.

The City anticipates identifying specific candidates for this position prior to a Dec. 13, 2012 court hearing in the case, but did not name any in the opposition papers.

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The Assistant Chief of Constitutional Policing, as proposed, would be someone coming from outside of OPD, who has the respect and confidence of the community and the full support of Chief Jordan. This Assistant Chief of Constitutional Policing would be tasked with ensuring implementation of the remaining tasks and would complement the Compliance Director's efforts.

The City's leadership team – Mayor Quan, City Administrator Deanna J. Santana and Chief Jordan – is united in its commitment to the goals of the NSA and accelerating the pace at which OPD comes into compliance with the remaining tasks.

Chief Jordan said, "Everyone in this case wants the same thing: constitutional policing. That's what the judge wants, and that is what I want. In my collaboration with the Mayor and City Administrator, and in my ongoing work with my command staff, I have seen and continue to see the utmost commitment to achieving that goal. We have made concrete steps toward reform and are on a path to full compliance."

City Administrator Deanna J. Santana said, "We are committed to rebuilding OPD so that it has the tools it needs to achieve accelerated, stable, long-term reform. That's why we've sought funding for two police academies per year to build the department, and set aside \$5 million for additional compliance and crime-fighting efforts. We know that with the proper policies, training and resources, OPD can produce results."

The court hearing on the receivership motion is scheduled for Dec. 13, 2012.

The City's [filing](http://bit.ly/SIFM8h) is available online: <http://bit.ly/SIFM8h>. A [fact sheet](http://bit.ly/VXOccN) with background on the history of the NSA is also available: <http://bit.ly/VXOccN>. Questions about the case should be directed to City Attorney Barbara Parker through the City's Communications Director, Karen Boyd, at (510) 449-4401.

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