

1 BARBARA J. PARKER, City Attorney, SBN 069722
 OTIS McGEE, JR., Chief Assistant City Attorney, SBN 071885
 2 RYAN G. RICHARDSON, Special Counsel, SBN 223548
 KIMBERLY A. BLISS, Deputy City Attorney, SBN 207857
 3 JAMILAH A. JEFFERSON, Senior Deputy City Attorney, SBN 219027
 One Frank H. Ogawa Plaza, 6th Floor
 4 Oakland, California 94612
 Telephone: (510) 238-7686; Facsimile: (510) 238-6500
 5 Email: jjefferson@oaklandcityattorney.org
 R20752/2172488

6 Attorneys for Defendant
 7 CITY OF OAKLAND

8 **UNITED STATES DISTRICT COURT**
 9 **NORTHERN DISTRICT OF CALIFORNIA**

11 DELPHINE ALLEN, et al.,
 12 Plaintiffs,
 13 v.
 14 CITY OF OAKLAND, et al.,
 15 Defendants.

Case No. C 00-4599 TEH

**DEFENDANT CITY OF OAKLAND'S
 JUNE 30, 2017 PROGRESS REPORT
 PURSUANT TO SEPTEMBER 28, 2015
 ORDER REQUIRING QUARTERLY
 REPORTS**

21
 22
 23
 24
 25
 26

CITY OF OAKLAND



ONE FRANK H. OGAWA PLAZA 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney
Barbara J. Parker
City Attorney

(510) 238-3601
FAX: (510) 238-6500
TTY: (510) 238-3254

June 29, 2017

DELPHINE ALLEN v. CITY OF OAKLAND, et al.

PROGRESS REPORT NO. 8

This is the City's eighth Progress Report. The Court ordered that the City provide quarterly Progress Reports, beginning on December 31, 2015. There is only one outstanding item from the Court Investigator's April 2015 report.¹ Accordingly, this report focuses on the City's recent police-related arbitration decisions and the City's progress in implementing the fourteen recommendations in the Court Investigator's March 21, 2016 report. As of our last progress report, the City had implemented eleven of the fourteen recommendations. This report focuses on the remaining three.²

Recent progress notwithstanding, the City's duty to improve public safety service is continuous. The reprehensible sexual misconduct that shook our police department and our City is at the forefront of our attention. We have been and will continue working to hold accountable employees who violate the public trust. But accountability does not stop there. Now we begin the difficult work of holding the Department and the City accountable. Specifically, we must appraise the City's handling of the scandal, publicly acknowledge shortcomings and mistakes, identify the lessons we need to take away, and make sure we incorporate those lessons into our police practices.

To that end, we are in the process of comprehensively analyzing and discussing the Court Investigator's June 21, 2017 report. The undersigned wish to acknowledge and express our appreciation for the work of the investigative team and the report's recommendations.

¹ The one outstanding item from the Court Investigator's April 2015 report is the recommendation that OPD, in consultation with OCA, address outdated rules and policies. OPD continues to work on updating its entire policy manual and is on track to complete the project in 2017.

² We have numbered the remaining three recommendations using their original numbering, to facilitate cross-referencing with the Investigator's report and the City's last progress report.

I. Arbitration Decisions Since March 2017 Progress Report

One police-related arbitration decision has been issued since we filed our March 2017 progress report.

	GRIEVANT & VIOLATION	CITY'S DISCIPLINE	ARBITRATOR'S DECISION	OUTCOME	DECISION DATE
1	Sergeant A Unintentional Failure to Take a Complaint	2-Day Suspension	Reduced City's discipline.	Written Reprimand	3-30-2017

II. Implementation of March 2016 Recommendations**5) *IAD Civilian Manager***Recommendation:

The Civilian Manager within IAD should be responsible for developing institutional memory within IA, potentially through the development of an IAD manual.

Status:

The IAD manual project has entered its final stage. The initial draft of the manual was recently completed and is being reviewed and revised.

Projected Time Frame for Completion: September 2017

10) *Labor and Employment Supervisor*Recommendation:

The current Deputy City Attorney overseeing the Labor and Employment Unit should be reclassified as "Special Counsel – Labor and Employment." The position should require expertise in labor and employment matters, and should hold responsibility for overseeing OCA's work related to police discipline investigations and arbitrations. This will be an at-will classification, as the at-will status will help ensure that the person in this position continues to be held responsible for his or her efforts to oversee labor and employment matters, including police discipline investigations, grievances, and arbitrations.

Status:

Human Resources developed a Special Counsel – Labor and Employment classification and completed the meet and confer process with the union. The City Council introduced on June 6 and adopted on June 20 an ordinance adding the new classification to the City's salary schedule. At its June 15 meeting, the Civil Service Board approved the new classification and made the position at-will position by exempting it from the City's civil service system.

Projected Time Frame for Completion: Completed.

14) *OIG Performance Measurements*

Recommendation:

OIG should develop a plan to measure the performance of OPD at various points in the process of police discipline, including intake, investigation, Skelly hearings, and arbitration. OIG should also measure whether OPD is receiving the support that it needs to carry out fair discipline. The Mayor and City Administrator should present a budget that provides OIG with the resources it needs, including accredited auditors, to perform this additional function.

Status:

OIG has now reported Departmental performance results and recommendations for over two years, demonstrating its commitment to improving organizational accountability. Topics of review include matters related to police discipline and the quality of investigations.

OIG completed several relevant reviews since our last report to the Court. The OIG Monthly Progress report for April 2017 included a review of completed misconduct investigations, an evaluation of discipline, an assessment of supervisor accountability for subordinate misconduct, and an assessment of policy and training recommendations made as the result of investigations. In short, OIG determined that all reviewed discipline fell within the Department's Discipline Matrix and was sufficiently justified, the evidence did not suggest supervisor culpability but this was not sufficiently articulated in the reports, and the Department could not demonstrate timely and consistent follow-up on training or policy recommendations that arose from completed investigations. The OIG review identified opportunities for improvement, communicated recommendations for improvement, and tracked the statuses of several developed action items.

- Department policy and investigator training materials are being revised to clarify the expectation that supervisor culpability be both investigated and discussed.
- IAD is improving its ability to track the statuses of recommendations regarding training, policy, or practice.

The OIG Monthly Progress Report for June 2017 will include a review of investigative timelines and an additional review of how quickly the Department is responding to community members with complaints against Department personnel. The OIG process for monthly reporting will be revised after our June report; with the approval of the Monitor, OIG will begin producing quarterly reports.

OIG's current staff and training are sufficient for OIG to continue its commitment to reports, audits and reviews. OIG will continue to monitor any proposals and developments that might negatively impact its ability to support internal accountability.

In summary, OIG has developed a plan to measure the performance of OPD at various points in the discipline process. OIG has and will continue to measure whether OPD is receiving the support it needs to carry out fair discipline. The City acknowledges that the Court Investigator's recommendation for OIG requires an ongoing commitment. Because that commitment is in place, as demonstrated by OIG's consistency and value, the City believes it has implemented this recommendation.

Projected Time Frame for Completion: Completed.

III. Conclusion

It is plain that we have significant work ahead of us to improve our investigative processes and organizational culture. As we have said before, the overwhelming majority of Oakland's police officers are dedicated and professional public servants. But, that is not good enough. It is not good enough for our dedicated officers. It is not good enough for the undersigned City leaders. And it is not good enough for the people of Oakland. One unworthy officer is too many. Across the country, time and again, we have seen how wrongdoing by individual police officers can damage and potentially destroy the public's trust in policing as a whole.

We have also seen that the depth of the wound – the breadth of the breach in public trust – largely depends on how well a city responds. The acts that surfaced in the Oakland Police Department in 2015 ranged from wrongful to downright criminal. These acts both infuriated and saddened our City and brought disgrace to our Department.

DELPHINE ALLEN v. CITY OF OAKLAND, et al. – PROGRESS REPORT NO. 8

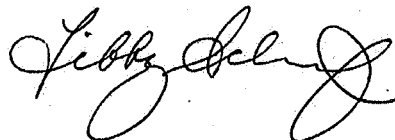
June 29, 2017

PAGE 5

This harm was exacerbated by the Department's handling of the allegations which was deficient in several important respects. The public trust was breached, and we have a duty to repair it.



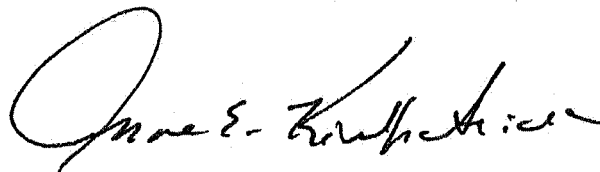
Barbara J. Parker
City Attorney



Libby Schaaf
Mayor



Sabrina Landreth
City Administrator



Anne Kirkpatrick
Chief of Police