

CITY OF OAKLAND



POLICE COMMISSION

250 FRANK H. OGAWA PLAZA, SUITE 6302 • OAKLAND, CALIFORNIA 94612

October 11, 2022

Mr. LeRonne Armstrong
Chief of Police
City of Oakland

Re: Request under Charter Section 604(f)(2) re: Materials Related to NSA Monitor's First Sustainability Report

Dear Chief,

Thank you for working with me to better understand certain topics raised by the Monitor's October 3, 2022 OPD Sustainability Report, which uses a term "deferred compliance" to describe OPD's compliance with some of the "subtasks" under one of the 52 tasks of the Negotiated Settlement Agreement ("N.S.A."). The Monitor Report indicates that Task 5 of the 52 Tasks consists of "several subtasks," the large majority of which appear to be confirmed as in compliance. In the Report, the IMT takes issue with certain deferred issues which appear to be related to Subtasks 5.18 and 5.21, and as a result conveys that full Task 5 compliance is deferred.¹

The Commission has agendaized the latest Monitor report for this Thursday's (10/13) Regular Meeting of the Commission, and we would appreciate you and/or your leadership team's help in making our own determinations about some of the references in the Monitor's report, to ensure that the Police Commission is exercising its oversight function and supporting OPD's efforts to address any and all instances that have raised the concerns of the Monitor.

On Pages 9 and 10 of the Monitor's Report, the Monitor makes mention of "two disciplinary matters [that] were referred to an outside firm for further investigation." Without providing any detailed information about compliance concerns, the report references unspecified "information that has been developed to date regarding the Department's internal investigation and discipline process [which] is deeply troubling." Consistent with the Police Commission's January 27, 2022 request under Charter Section 604 (f)(2), this is to request that you help us to identify both matters by their case matter numbers and also enable Commissioner access to:

¹ At least one member of the press has reported this as "out of compliance," which we understand to be inaccurate. In a Court filing, Plaintiffs' counsel in the N.S.A. matter more accurately state that the Monitor's full assessment of task compliance "must be deferred until there is greater clarity about these disciplinary matters and the underlying investigation(s)." For the sake of all stakeholders to the Court-oversight process, the Commission has previously urged the IMT to establish set, consistent, and detailed parameters by which the City can fully and finally resolve each NSA task. We maintain that position.

- Reports from IAD
- Interview Recordings or Transcripts from Subject and/or Witness Officers
- Interview Recordings or Transcripts from Complainants
- Discipline Recommendation Forms
- Body Worn Camera Footage

This is also to request a short, confidential briefing about the information that “has been developed to date.” The primary purpose of requesting these materials is to enable the Commission to reliably determine whether the information is relevant to its authorities under the Charter, in particular its policymaking authority under Section 604(b)(4).

On Page 8 of the Monitor’s Report, the Monitor makes reference to compliance concerns related to Body Worn Cameras. As you know, we have previously provided written input to the IMT about interpretations of the N.S.A. compliance standards that are vague and might even unnecessarily forestall full and final resolution of Court-mandated oversight. To that end, the Commission would appreciate you and/or your leadership team to prepare a short, confidential briefing of the specific instances that the Monitor is referencing. The primary purpose of the briefing is to empower the Commission if there is any basis to convene a Discipline Committee pursuant to Section 604(g)(5) related to any disciplinary incident “when body-worn camera footage of the incident was required under Department policy but such footage was not recorded or was otherwise unavailable.”

Finally, we note that the Court itself in its May 12, 2022 Order openly invited the Police Commission to set its own assessment protocols for the NSA Tasks during the sustainability year and authorized the Monitor to share with the Inspector General the IMT’s methodologies or tools that have been used during the sustainability period. (The IG recently reported that she has received these tools, which is encouraging news). Accordingly, we request you and/or your leadership team providing the same briefings to the Inspector General, who may evaluate the matters and report back to the Commission consistent with OMC § 2.45.120.

We commend your team’s ongoing commitment to resolving the N.S.A. and look forward to working with you to address any final concerns the Monitor may have, anticipating next year’s exit from the N.S.A.

Sincerely,

Tyfahara Milele

Tyfahra Milele
Chair of the Oakland Police Commission
City of Oakland