

CITY OF OAKLAND

AGENDA REPORT

To: Office of the City Administrator
Attn: Dan Lindheim
From: Mayor's Task Force Working Group Members
Date: May 26, 2009
Re: **Report and Resolution Approving in Principle the Transfer of the Intake of Citizen Generated Complaints against members of the Oakland Police Department from Internal Affairs to the Citizens' Police Review Board.**

SUMMARY

At its meeting of May 26, 2009, the Public Safety Committee requested a report on our proposal to civilianize the intake of citizens' complaints against Oakland police officers, including information on the number of CPRB staff that would be required, the associated start-up costs, potential funding sources and a timeline for implementation. This report is intended to provide a provisional framework for the transition based on current knowledge and projections. However, we are also asking Council to approve a resolution adopting this proposal in principle, and directing Staff to return within eight weeks with a more accurate and detailed transition plan, including recruitment, training, costs and funding sources. Implementation of this resolution will occur upon your acceptance of the implementation plan to be submitted.

FISCAL IMPACT

At this time, we are projecting the following related CPRB personnel needs and associated costs:

- \$1.27 million to fund 8 Complaint Investigator I for intake of citizen complaints and 2 Administrative Assistant I positions to provide the necessary administrative support. Each investigator position includes a budget of \$2,000 per investigator for ongoing training.
- Two Complaint Investigator I positions are anticipated to be funded through the City of Oakland's Byrne Justice Assistance Grant (JAG) federal funding application.

Estimated Cost of Proposed Positions (includes salary, benefits and operating & maintenance)

Per Complaint Investigator I¹ = \$135,160

Per Administrative Assistant I = \$95,609

8 Complaint Investigator I =	\$1,081,280
<u>2 Administrative Assistant I =</u>	<u>\$ 191,218</u>
Total Est. Funding for Positions	\$1,272,498

Estimated costs for positions include operating and maintenance expenses per position and \$2,000 ongoing for training of investigators.

¹ A new position classification would have to be created in the Salary Schedule for a Complaint Investigator I.

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Anticipated Additional Expenses

Possible one-time expenses not currently estimated in this proposal include recruiting, background checks, position advertising and facility expenses.

However, long term, there is an estimated total cost savings to the City of Oakland of \$1,079,840 in FY '09-'10 and FY '10-'11. These saving will continue in perpetuity due to the disparity in salaries and benefits between sworn officers and civilian employees. These cost savings will offset the additional expenses to fund the proposed staff positions within a few years of the implementation of this program.

Estimated Potential Cost Savings

Per IAD Intake Officer = \$166,752
Per Complaint Investigator I = \$135,160

10 Intake Officers = \$1,667,520
10 Complaint Investigator I = \$1,351,600
Total Difference in Est. Cost \$ 315,920

Total Annual OPD Overtime for Intake = \$ 224,000

Total Estimated Cost Saving in FY'09-10 = \$ 539,920

Total Estimated Cost Savings in FY '09-'10 and FY'10-'11 = \$1,079,840

Funding Sources

Two Complaint Investigator positions were requested in the City of Oakland's Byrne Justice Assistance Grant (JAG) federal funding application. Assuming the approval of this funding, we still require funding for the remaining eight positions to reach the originally requested ten new hires in the proposal from the Mayor's Task Force on Police Issues on April 28, 2009.

Alternative Funding Sources

The City of Oakland can also apply to the competitive Byrne Grant for funding from State and Federal funds. The CPRB and the Mayor's Office plan to continue to work together to track future funding options. Additionally, since COPS grant funding may be used to offset a portion of the of the General Fund allocation to OPD, some portion of OPD's budget could be redirected to cover some or all of the start up costs of this program.

BACKGROUND

Since this proposal was first presented to the Public Safety Committee on April 28, a working group comprised of representatives of the Citizens' Police Review Board, City Administrator's Office, Oakland Police Department and Mayor's Task Force on Police Issues has met at least six times to develop an action plan to implement the proposal to civilianize the Internal Affairs Division's intake of citizen complaints. The following topics have been and are continuing to be addressed:

- Management of the Proposed Process
- Impact to the Negotiated Settlement Agreement
- Civilian Investigators Background and Training
- Timeline for Implementation
- Budget and Funding Sources

KEY ISSUES AND IMPACTS

Management of the Proposed Process

CPRB requires that the proposed intake Complaint Investigator I positions be under the supervision of the CPRB Director. The ten intake investigators will accept all citizen complaints and forward these within 24 hours to Internal Affairs. They will proceed to do a preliminary investigation, which will include taking statements from the complainants and witnesses, if any, and collecting pertinent documentation. They will then turn over this initial work up to the CPRB Director who, along with senior investigators, will triage these complaints and determine whether the complaints are to be fully investigated for evidentiary hearing, prepared for summary findings, or referred for mediation.

Impact of the Negotiated Settlement Agreement (NSA)

As stated above, there is no anticipated impact on the compliance issues with respect to the NSA tasks that are related to Internal Affairs. IAD will continue to investigate all of the complaints received by the CPRB as long as the NSA is in force. Only when IAD is convinced that the CPRB intake personnel are conducting preliminary investigations in compliance with the required standards of the NSA will the transfer of those preliminary investigative responsibilities from IAD to the CPRB occur.

The Internal Affairs Division is currently responsible for 21 of 45 NSA tasks, but of those 21 tasks, only 5 or 6 are specific to the 'intake' of complaints. The newly hired CPRB intake personnel will receive at least three months of training to enable them to comply with the standards of the relevant NSA tasks.

Civilian Investigators' Qualifications and Training

The minimum qualifications of civilian investigators suggested by the CPRB are currently defined in the *Qualification Standards for Oversight Investigators* established by the National Association for Civilian Oversight of Law Enforcement (NACOLE). Applicants most commonly eligible to meet these qualifications are former attorneys, licensed private investigators, former law enforcement personnel or civilian investigators of other agencies. A summary of those defined qualifications include:

- Bachelor of Arts/Science
- Three years experience conducting civil, criminal or factual investigations
- Ability to conduct detailed factual interviews
- Ability to write clear, concise, well-organized and thorough investigative reports
- Ability to conduct investigations of a highly confidential and sensitive nature
- Ability to analyze and apply relevant laws, regulations and order to the facts of the case being investigated
- Ability to conduct investigations in an objective and independent manner by adhering to high standards of ethical conduct
- Ability to evaluate evidence and make findings without personal bias

The CPRB would further seek individuals with an understanding of constitutional rights, criminal law and their application. Preferred experience would emphasize critical analysis skills in the application of the preponderance of evidence when make findings of facts and recommending discipline.

The CPRB suggests that each potential Complaint Investigator I also undergo a background check similar to the background check established by the San Francisco Office of Citizen Complaints (OCC). As part of the hiring process, the applicant is required to submit a Personal History Questionnaire with their name, address, social security number, education, previous employment, criminal background, parole and juvenile record, driver's license number, business licenses, three references, and places of residence for the last five years. The OCC submits this questionnaire to the San Francisco Police Department's Background Investigative Unit to verify and approve the applicant's background. The CPRB suggests that a similar review by the Oakland Police Department could be conducted on future applicants, including finger printing.

The CPRB would provide the investigators with a variety of professional training opportunities. Funding for ongoing annual training is recommended in the budget for each Complaint Investigator I position. As funding and staffing resources permit, the CPRB would send Complaint Investigator I positions to the Peace Officer Standards and Training (POST) to receive additional training for investigators. Some required investigator POST courses could include use of force, search and seizures and laws of arrest.

Further training on the post-NSA investigative standards, OPD computer systems and departmental forms would also have to occur with current staff of IAD prior to a full transition of positions.

PROJECT DESCRIPTION

The proposal before you would transfer the filing of citizen complaints against Oakland police officers from Internal Affairs (IAD) to the Citizens' Police Review Board (CPRB). There is agreement that the CPRB will send each complaint received to IAD within 24 hours. IAD will continue to investigate these in accordance with the requirements of the NSA until such time as they are confident that the CPRB is equipped to process these complaints in compliance with the NSA standards.

It is anticipated that, in time, as the funding of the CPRB is increased, that Agency will be able to undertake responsibility for investigating a greater percentage of citizens' complaints. As the CPRB increases its capacity, Internal Affairs will be able to reduce its staffing levels and re-assign officers to duties specifically related to crime reduction and violence prevention. However, until increased funding levels for the CPRB are established, we wish to emphasize that, as long as the IAD-related tasks of the NSA are in force, IAD will continue to investigate all citizen complaints and ensure that the NSA standards of compliance are met.

RECOMMENDATION

We recommend that that the City Council adopt the above Resolution in principle to civilianize the intake of citizens' complaints against Oakland police officers, In addition, we recommend that Council direct Staff to return within 8 weeks with an implementation plan, accompanying timeline, start up costs, long-range projections on cost savings and associated benefits and the identification of sources of funding.

ACTION REQUESTED BY THE CITY COUNCIL

We request that the Council vote to approve in principle the resolution calling for the transfer of the intake of citizens' complaints against Oakland Police officers from Internal Affairs to the Citizens' Police Review Board. Implementation is subject to subsequent approval of the

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implementation plan, costs associated and identified funding sources, to be determined by Staff within eight weeks.

APPROVED AND FORWARDED TO
THE PUBLIC SAFETY COMMITTEE:

Office of the City Administrator

Respectfully submitted,

Rashidah Grinage obo
Mayor's Task for on Police Issues
Working Goup Members

Prepared by:

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