

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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4
5 DELPHINE ALLEN, et al.,

6 Plaintiffs,

7 v.

8 CITY OF OAKLAND, et al.,

9 Defendants.

MASTER CASE FILE
NO. C00-4599 TEH

ORDER OF CLARIFICATION RE:
SCOPE OF COMPLIANCE
DIRECTOR'S AUTHORITY

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11 It has become apparent from the Compliance Director's early conversations with
12 officials from Defendant City of Oakland that the City is attempting to limit unilaterally the
13 scope of the Compliance Director's authority. The Court issues this order – which should be
14 unnecessary – to clarify that its orders mean what they say.

15 As was made clear in the Court's December 12, 2012 order establishing the
16 Compliance Director position, the Compliance Director's authority is not limited to the tasks
17 in the Negotiated Settlement Agreement ("NSA") that are not in compliance, nor even to all
18 tasks in the NSA. As but one example, the City agreed, and the Court ordered, that the
19 Compliance Director has the authority to address "[s]trategies to decrease the number of
20 police misconduct complaints, claims, and lawsuits," although doing so is not required by
21 any task in the NSA. Dec. 12, 2012 Order re: Compliance Director at 4; Dec. 5, 2012
22 Parties' Proposed Order at 7. Likewise, the City agreed, and the Court ordered, that the
23 Compliance Director has authority over "tactical initiatives that may have a direct or indirect
24 impact on the NSA and AMOU [Amended Memorandum of Understanding]." Dec. 12, 2012
25 Order at 6; Dec. 5, 2012 Proposed Order at 8. Most broadly, the City agreed that, "[i]n
26 addition to the specific tasks in the NSA and AMOU, the Compliance Director will be
27 empowered to review, investigate and/or take corrective action with regard to OPD [Oakland
28 Police Department] policies, procedures and practices that are related to the objectives of the

1 NSA and the AMOU.” Dec. 5, 2012 Proposed Order at 6 (emphasis added). Pursuant to that
2 agreement, the Court ordered that: “The Compliance Director will have the power to review,
3 investigate, and take corrective action regarding OPD policies, procedures, and practices that
4 are related to the objectives of the NSA and AMOU, *even if such policies, procedures, or*
5 *practices do not fall squarely within any specific NSA task.*” Dec. 12, 2012 Order at 6
6 (emphasis added). The Compliance Director’s powers are broad, and the City shall
7 immediately cease its misguided efforts to constrict the Court’s orders. Any City officials or
8 personnel, without exception, who fail to do so will be subject to show cause hearings before
9 this Court as to why sanctions should not be imposed against them.

10 In addition, the City appears to have increased its reliance on legal or contractual¹
11 arguments when dealing with the Compliance Director and Monitor, both of whom have
12 expertise in the substantive issues in this case but neither of whom has been trained in the
13 law. If the City continues to pursue this strategy, the Court may appoint legal counsel to
14 assist the Compliance Director and/or Monitor in their discussions with the City. The fees of
15 any counsel so appointed will be paid by the City.

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17 **IT IS SO ORDERED.**

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19 Dated: 04/10/13



THELTON E. HENDERSON, JUDGE
UNITED STATES DISTRICT COURT

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¹To avoid any ambiguity, the Court makes explicit that which should have been clear from the outset: The scope of the Monitor’s work is governed by this Court and not by the Monitor’s contract with the City. If the City contends that it cannot pay the Monitor for any work ordered or directed by this Court that may go beyond the contract, then the City shall immediately notify the Court so that the Court can arrange for payment of the Monitor’s reasonable fees and expenses through the Court’s registry.