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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DELPHINE ALLEN, et al.,  
Plaintiffs,  
v.  
CITY OF OAKLAND, et al.,  
Defendants.

Case No. [00-cv-04599-WHO](#)

**ORDER EXTENDING  
SUSTAINABILITY PERIOD**

United States District Court  
Northern District of California

Pursuant to the Negotiated Settlement Agreement (NSA) dated January 22, 2003, I placed the City of Oakland into a sustainability period on May 12, 2022, given its “substantial compliance” with the tasks required by the NSA. Dkt. No. 1525. My Order required that the City demonstrate that it could comply with all provisions of the NSA for one year starting on June 1, 2022. *Id.* The Order also narrowed the number of NSA tasks under active monitoring by the Monitor/Compliance Director and his team (to Tasks 2, 5, 20, 24, 25, 26, 30, 31, 34, 41, and 45) and reduced the Monitoring Team’s reporting schedule, while directing the Monitor/Compliance Director to continue to provide support to the OPD’s Office of Internal Accountability (OIA) and guidance to the Police Commission. *Id.*

The City did not achieve full compliance. As explained during the October 12, 2022, January 24, 2023, and April 11, 2023, Case Management Conferences, the City was either in “deferred compliance” or “not in compliance” with Task 5: significant concerns have arisen regarding the continued inability of the OPD to police itself in a consistent, fair, and equitable way. *See* Dkt. Nos. 1557, 1578 (Not in compliance); Dkt. No. 1557 (Not in compliance); Dkt. No. 1540 (Deferred). Task 45 was initially not in compliance, then in partial compliance, and finally deferred with “no compliance finding.” Dkt, Nos. 1540, 1557, 1578. The City has remained in

1 compliance throughout the sustainability period, however, with Tasks 2, 20, 24, 25, 26, 30, 31, 34,  
2 and 41.

3 In light of the City's inability to achieve full compliance, the sustainability period will be  
4 extended. I will assess the City's compliance with the NSA at the next Case Management  
5 Conference on September 26, 2023. By that time, the City should be well on its way to  
6 implementing the recommendations of the Clarence Dyer Cohen report, as modified by the City's  
7 best judgment. Until further notice:

8 1. The Monitor/Compliance Director and his team will continue to monitor Tasks 2,  
9 5, 24, 25 and 45. While Tasks 24 and 25 have remained in compliance during the sustainability  
10 period, they are included given the close nexus between the failures of the IAD and the Command  
11 Staff as documented by the Clarence Dyer Cohen report and the use of force reporting and internal  
12 reviews covered by Tasks 24 and 25. The Monitoring Team will not be required to observe the  
13 Risk Management Meetings but may do so at its discretion. The slides prepared for those  
14 meetings and the stop data shall continue to be shared with the Monitoring Team. The  
15 Monitor/Compliance Director shall share with the Court and the Parties any concerns he might  
16 note relevant to stop data.

17 2. In addition to the Task assessments, the Monitoring Team will continue the  
18 following activities:

- 19 • Maintain regular contact with the Chief and other Department officials to discuss  
20 Department updates, personnel issues, high-profile cases, critical incidents, and other  
21 matters.
- 22 • Review and comment upon NSA-related Department policies.
- 23 • Review OIA's audit reports and provide feedback.
- 24 • Engage in other activities as the Monitor/Compliance Director deems necessary.

25 3. The Monitoring Team will conduct site visits and issue reports on a quarterly basis  
26 as before. Absent extraordinary circumstances, the Monitor/Compliance Director need not assess  
27 compliance with Tasks other than those listed above.

28 4. The term of the sustainability period will be assessed again at the next Case

United States District Court  
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Management Conference. The Monitoring Team’s next site visits will occur in May and August 2023. The sustainability reports will be issued in June and September 2023.

The Court is wrestling with the utility of its role in helping the City achieve constitutional policing after 20 years of monitoring compliance with the NSA. As discussed at the last Case Management Conference, much good work has been accomplished. Fundamental questions regarding the Oakland Police Department’s ability to police itself remain. The Court appreciates the perspectives expressed by the plaintiffs, OPOA, Police Commission, the City and the Mayor at the last Case Management Conference and looks forward to the parties’ constructive analysis of the remaining issues at the next Case Management Conference. As always, the Joint Case Management Conference Statement is due one week before the hearing, which shall be in person.

**IT IS SO ORDERED.**

Dated: April 18, 2023

  
William H. Orrick  
United States District Judge