

First Monitoring Report to the California
Department of Justice re Stockton Unified School
District:

Status of Agreement Compliance

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I. Introduction

Early in 2019, the Stockton Unified School District (“District”) entered into a Stipulated Judgment (“Judgment” or “Agreement”) with the California Attorney General’s Office that had arisen from a California State Attorney General investigation into practices in the Stockton schools. The parties chose to address the tentative findings from that investigation by entering into an Agreement that addressed the full range of identified concerns that was filed in California Superior Court, People of the State of California, Ex Rel, Xavier Becerra, Attorney General of the State of California v. Stockton Unified School District, Case No. 34-2019-0024866 (2019).

That Judgment established a number of “affirmative corrective actions” that the District agreed to implement on a stipulated timeline based on the entry of judgment and appointment and approval of a monitor. Some of these actions were directed at District policies and procedures, while others were the primary responsibility of the Department (which ultimately answers to District leadership). Some were straightforward and required relatively prompt completion, while others were understood to be more complex or substantial in nature.

Using the specific language of the Judgment as the guiding authority, the District soon produced a working matrix that divided these stipulated corrective actions into seventy-four (74) separate “tasks” along with attendant due dates, and assigned their completion to respective “Responsible Parties.” These had designated “due dates” that extended for 180 days, 240 days, or (in some instances) even longer.

Moreover, and as often accompanies large-scale, action-oriented Agreements like this one, the Judgment called for two other concrete steps to help ensure that its overarching goals and meaningful reforms would come to fruition. One was for the Court to retain jurisdiction for a period of five years, so that it could resolve any evolving compliance issues as needed. The other was for the District to select (subject to Attorney General approval) a “qualified third-party monitor” to oversee the Judgment’s implementation and provide a resource to the parties as needed in achieving the completion and subsequent execution of designated tasks.

OIR Group, a team of police practices experts led by former federal prosecutor Michael Gennaco, was ultimately selected by the District as the monitor. Along with nearly two decades of experience in the field of independent civilian oversight of law enforcement, OIR Group team members had direct familiarity with the issues in Stockton: we worked with the Attorney General during the underlying investigation that eventually led to the Judgment. OIR Group’s focus at that time had been on the District’s referral policy as well as “use of force” policies, procedures, and internal accountability; our findings and recommendations helped guide specific terms set out in the Agreement between the parties.

We were pleased to have been mutually agreed-upon by the parties to serve in the role of monitor, and have been engaged with them in the relevant work for several months now. This has included multiple visits to Stockton from our base of operations in southern California, along with extensive correspondence, telephone conversations, consultations regarding individual issues, and document review.

This “status report” – the first of several twice-yearly written updates to the Attorney General that the Agreement requires – offers our independent accounting of progress in achieving compliance as of January 31, 2020. The report seeks to provide specific information about the status of the tasks set out in the Agreement. But the backdrop to those particulars is our general sense that the District and the Department have undertaken their compliance responsibilities in good faith – and with a genuine commitment to the philosophies of positive education, student development, and progressive policing that the Agreement reflects.

This commitment is visible in the Department’s three-year “Strategic Plan,” which it began formulating even before the Agreement had been finalized. It prominently features an emphasis on outreach and community interaction, as well as a commitment to principles of “community policing” rather than traditional enforcement. The Department’s website has also experienced refreshing changes: it very much showcases a desire to be accessible and accountable to the students and families of the District, and its hiring and recruiting pages prioritize an appeal to candidates who understand the distinctive mission of school police (as opposed to more traditional law enforcement models). These are positive signs, and the District’s leadership has been similarly attuned to and aligned with the Agreement’s vision for reform in its approaches.

Indeed, from the time of our initial visit to Stockton in June of 2019, we have found both the District’s and the Department’s representatives – starting with Superintendent John Deasy and Chief of Police Anne Johnston themselves – to be consistent in their endorsement of the Judgment’s principles. They have also led diligent efforts to work through obstacles and actualize the various requirements of the agreement, and have succeeded to a commendable extent.

That said, there is significant work left to do, and a need to marry good intentions with concrete accomplishment. Prompt and comprehensive completion of many tasks in relation to their stipulated due dates has proven challenging at times, and for reasons that range from minor details to more substantive obstacles. And on the District side, the formation of a working group from all relevant disciplines necessarily results in a more deliberative pace – though the ultimate product benefits from the multi-faceted expertise of the group’s collective membership. Moreover, the participation of an array of District stakeholders should increase the “buy in” of developed protocols during the Agreement’s training and implementation phases. Accordingly, from our vantage point and in light of our regular communications with the parties, these impediments to speed seem to be more understandable than discouraging or concerning.

Both spirit and letter have their place in looking at the effectiveness of any law – or legal agreement. At this point in time, our overall sense is that the Agreement’s underlying *spirit* is being well-served by the parties’ efforts to date. We look forward to contributing to the further achievement of the *letter* of its stipulated reforms during the coming months.

II. Initial Steps

A. Appointment of Police Professional and Disability Coordinator

Along with the selection of a monitor, the Agreement also called for the prompt retention of two other individuals: a Police Professional, to oversee the Department’s progress, and a Disability Coordinator, to develop training regarding working with students with disabilities, including mental health disabilities. These positions have been filled.

The District chose Alan Caddell to serve as the Police Professional for the Department. Mr. Caddell was selected, in part, for his familiarity with the Department, having previously developed the Department’s Strategic Plan. He also brings a significant amount of relevant experience in policing issues to his role. Mr. Caddell is both a retired supervisor from the Santa Ana Police Department and an experienced instructor regarding contemporary best police practices. While the Agreement only requires that Mr. Caddell provide oversight of the Department and submit an annual report regarding the Department’s progress, Mr. Caddell has, to his credit, taken on a significantly more proactive role. Mr. Caddell is actively involved in drafting new policies, tracking progress of tasks at a granular level, and corresponding with the Monitor on a regular basis. Mr. Caddell also facilitated the second Community Advisory Group meeting.

The District selected Robin Gurrola to fill the role of Disability Coordinator. Ms. Gurrola has a Master of Arts in both Special Education and Educational Psychology and has worked for over twenty-five years in the field of Special Education for Stockton Unified and other School Districts in the area, including years of service as a school psychologist. Ms. Gurrola is a District working group member crafting the various protocols necessary to meet the Agreement’s requirements. The monitor had an opportunity to meet Ms. Gurrola early on and was impressed by her passion to improve the educational experience for *all* Stockton Unified students.

B. First Meeting with Parties

In June of 2019, OIR Group first visited Stockton in our capacity as monitor. This gave us the opportunity to engage in individual discussions at Department headquarters, District administration offices, and with a coalition of community activists. We also attended a large gathering of the parties themselves – including

Attorney General representatives– to advance discussions of individual Agreement terms and begin establishing working relationships.

It was during this visit that we became aware of significant ways that the Department had already begun to respond to the Agreement’s action items. This included draft language for several policy changes in key areas such as use of force and the appropriate response to mental health incidents. The Department had already formulated a draft “Strategic Plan” that covered three years and responded to Agreement priorities in concrete ways. And it had initiated outreach to other justice system partners in response to other aspects of the Agreement’s requirement.

Overall, and thanks to the posture of all participants as well as legal counsel, we were able to frame our interactions with the parties as collaborative and constructive. It provided an effective foundation and set a tone that has helped to foster subsequent progress.

C. Creation of the Community Advisory Group

One of the more unique features of the Agreement is a mandate to create a Community Advisory Group (“CAG”). Consistent with the 21st Century Policing model proposed by President Obama’s Task Force, the purpose of the CAG is to increase a sense of legitimacy and foster greater trust between police and community – groups that, in Stockton especially, have sometimes been at odds. The CAG is composed of a wide breadth of stakeholders from the Stockton community, and specifically those who play a significant role in the care and schooling of children and families. Additionally, the meetings are open to the public, and all minutes of the meeting are publicly available.¹

Notably, the CAG was created in June of 2019 and held two meetings (September 10 and November 21, 2019) well ahead of the due date set out in the Agreement. The fact the group was established and has already met twice is a credit to Superintendent Deasy, who believed that creating the CAG at the start of the process was beneficial for all parties. The CAG includes representatives from the school administration, community organizations, the District Attorney and Public Defender’s offices, the Probation Department, and other child welfare agencies. The CAG also includes a student, and several parent representatives. While not required by the Agreement, the Superintendent also had invited each School Board member to designate members for the CAG.

The CAG plays a significant role in the completion of the Agreement by serving as the community’s “eyes and ears”: it allows actual stakeholders to verify that the requirements of the Agreement have been met in a way that serve the community’s needs. Moreover, the CAG structure allows members to give feedback on the

¹ The CAG agreed to hold meetings the 3rd Thursday of each quarter. As of January 31, 2020, the CAG had chosen a chair to facilitate future meetings.

proposed changes in policy and practice and, when completed, disseminate these proposed changes to the community. Particular responsibilities of the CAG, as expressly set out in the Agreement, are to review the diversion program established as an alternative to citations and bookings, and make recommendations to reduce the disproportionalities in student referrals to law enforcement.

We note that some members of the CAG raised issues over having sufficient input and impact on the tasks outlined in the Agreement. Of specific concern was that the CAG would receive policies only after they had been finalized. To address these concerns, the monitor worked with the District to ensure that all policies would be presented to the CAG with at least a ten-day window to provide feedback before moving toward implementation phase. The CAG was also advised that they would be informed when policies and administrative regulations requiring Board approval were calendared so that they could offer any additional feedback directly to the Trustees.

To its credit, the Department further intends to use the CAG for feedback on police matters not required or contemplated by the Agreement, such as the new graphic design for the Department's patrol vehicles (as discussed at the November meeting).

III. Methodology and Mechanics

OIR Group used the District Task Timeline, tracking by the Attorney General, and its own internal tracking system to create this report. On the whole, OIR Group is pleased to report that, while a majority of tasks are not yet finalized, several significant ones have been or are close to completion. Moreover, the District and Department continue to be actively engaged in working on the tasks outlined in the Agreement.

As noted above, early on the District delegated completion of some Agreement tasks to the Police Department and initiated a working group to complete the remaining. Once those assignments were made, the Department began working on modifying policies, creating data sets, or otherwise responding to the Agreement requirements. The monitoring team then reviewed the Department's work, comparing the documents with the dictates of the agreement, and suggesting revisions or additional work when appropriate. After this process, the monitor then forwarded the draft materials to the Attorney General for feedback, including additional suggestions. The monitor then shuttled the various draft documents between the parties until a consensus was reached. The final step was presentation of the materials to the CAG for feedback.

A similar process is followed for District assigned tasks with the exception of the working group component described above. Because the District assigned tasks tend to be more substantial and extend well beyond law enforcement, there is more involvement by District experts in various fields during the working group process. Once the working group believes the policy meets the Agreement's requirements, it is then forwarded by

District Counsel to the monitor and a similar process occurs between the District, the monitor, and the Attorney General.

All parties have been receptive to suggested modifications and improvements in what has proven to be an interactive process and have provided timely feedback to each other. Moreover, to both the Department and District’s credit, as policies and protocols have become developed, there has not been slavish insistence on addressing requirements at nothing more than the levels set forth in the Agreement. As will be covered in subsequent reports, reforms have been embraced during the development process that transcend the Agreement’s specific language. In addition, District policies that have not been visited in over twenty years are being upgraded to correspond to contemporary educational practices – another enhancement not dictated by the Agreement. This progressive orientation and mindset are a testament to an organization intent on providing quality education and service to its communities.

IV. Completed Tasks (As of January 31,2020)

Task	Description (Abbreviated)	Section No.	Status
1	Hire Monitor	XIV	Completed
2	Hire a Disability Coordinator	III(C)	Completed
3	Invite participants to the CAG	XII (B)	Completed
4	Revise CAD form to include "ethnicity" field	X(A)	Completed
5	Matrix for BP 5144	I(C)	In Progress
6	Provide monitor report summarizing all complaints against school officials	IX(A)(7)	With Working Group
7	Adopt Police Assistance & Referral Policy	I(A); I(A)(3)	In Progress
8	Report on Department's contacts with students and school staff quarterly	X(B)	Completed
9	Revise BP 5145.11 to require parent/guardian contact before interrogation of student by police	VI(A)	In Progress
10	Policy to prohibit transfer of students who misbehave	VI(C)	In Progress
11	Revise BP 5145.11 to maintain student interviews	VI(D)	In Progress
12	Protocol for UOF complaints against CSM, CSA, or other school staff	V(B)	With Working Group
13	Record calls for service from school site staff that did not warrant a police response	I(E)	In Progress
14	Revise BP 5144 re physical restraint may only be used by school staff trained in their application	V(C)	With Working Group
15	Goal to develop a formal diversion program	II(A)	In Progress
16	Hire a Police Professional	XI(A)	Completed

Task	Description (Abbreviated)	Section No.	Status
17	Stakeholder evaluation of formal diversion program	II(B)	In Progress
18	Revise BP 5144, Discipline	I(A)	In Progress
19	Prohibit "out of control" in Police Assistance Policy	I(D)(2)	In Progress
20	Plan for referrals of students with disabilities/mental issues	I(F)	In Progress
21	Create a Protocol to continue the Community Policing Model	II(A)	In Progress
22	Protocol for referral of psych/counselors v. PD	III(A)	In Progress
23	Policy to identify mental health issues that can be managed at school site	III(A)	In Progress
24	Protocol for de-escalation techniques	V(A)	In Progress
25	Protocol to document all use of physical restraint used by staff	V(D)	With Working Group
26	Protocol for supervisor approval for PC 148 (resisting/delaying officer)	I(D)(1)	Completed
27	Protocol for dispatchers	I(E)	In Progress
28	Expunging PC 415.5 violations	II(C)	In Progress
29	Revise format of 1020 Personnel Complaints	IX(A)	In Progress
30	Create mandatory training plan	VII(A)	Completed
31	Procedure for Formal Complaints against school officials	IX (A)(6)	With Working Group
32	Revise BP and AR 5145.12, Search and Seizure	VII(A)	In Progress
33	Protocol for Mental Health Assessments	III(D)	In Progress
34	Procedure for calls re: mental health crisis	III(D)	In Progress
35	Develop mediation and alternative dispute resolution model	IX(A)(2)	In Progress
36	Initiate training officers in crisis intervention and de-escalation for mental health calls	III(D)	In Progress
37	Train CSMs, CSAs, and other school staff to not use force except in exigent circumstances	V(B)(C)	In Progress
38	Train officers on all new policies per agreement	VIII(A)	Awaiting Approval of Policies
39	Train school administrators on all new policy	VIII(A)	In Progress
40	Train school administrators annually on implicit bias, cultural competence, and restorative practices	VIII(B)	With Working Group
41	Use Dept of Ed's "Restraint and Seclusion Resource Document" to train school staff	V(C)	With Working Group
42	Review behavioral emergency reports monthly re: if use of restraint techniques violates law or used disproportionately	V(E)	With Working Group

Task	Description (Abbreviated)	Section No.	Status
43	Review data on use of physical restraints by staff; develop remediation plan if needed	V(A) (D)	With Working Group
44	Document any use of force by a CSM, CSA, or school staff for review by the District	V(B)	With Working Group
45	Annual training on search and seizure per BP 5145.12	VII(A)(2)	Awaiting Approval of Policies
46	Submit State of Department report to District	XI(A)	Completed
47	Sign language interpreters (Policy #369)	III(E)	Completed
48	Policy for referral of disabled students to law enforcement	III(B)	With Working Group
49	Formalize hiring preferences for officers who have experience with children/the community	XIII	In Progress
50	Policy for students with disabilities that ID disciplinary dispositions that are consistent with laws	III(B)	In Progress
51	Create a Community Advisory Group (CAG)	XII(A)	Completed
52	Protocol to review the intervention and supports prior to requesting PD assistance for students with mental health disabilities or an IEP or 504 plan	III(B)	In Progress
53	Revise 300 to include Captain to regularly convene supervisors to review UOF incidents for performance review	IV(D)(7)	In Progress
54	Revise UOF review policy (#300) to include Lt. and above review	IV(D)(5)	In Progress
55	Review 300.6 to include parent/guardian notification of student injury	IV(A)(9)	In Progress
56	Revise 306, Leg Restraint Device, to describe use and reporting	IV(B)(1)	Completed
57	Revise UOF policy (#300) to include new UOF review process	IV(D) (1-3, 5, 7)	In Progress
58	Revise 457 and 314, Foot and Vehicle Pursuits, to include communication/office safety/interagency communication	IV(D)(9)	In Progress
59	Training curriculum for de-escalation in school based policing settings	IV(C)	In Progress
60	Provide required training on UOF and de-escalation strategies	IV(C)	Awaiting Approval of Policy
61	Identify a community policing philosophy in the Strategic Plan	II(D)	In Progress
62	Write supervisor expectations for documenting findings in UOF reviews	IV(D)(4)	In Progress
63	Policy for not citing/booking students for conduct that directly resulted from their disability	III(C)	With Working Group

Task	Description (Abbreviated)	Section No.	Status
64	Ensure Performance Evaluation system reinforces alternatives to UOF	IV(D)(8)	Completed
65	Revise UOF policy (#300) to include new definition of UOF per final judgement	IV(A)(1-8)	In Progress
66	Convene annual meeting of parties to discuss questions/issues/changes to policies	XI(C)	In Progress
67	Annual training of school staff involved in responding to student misconduct	V(A)	Due 4-12-20
68	Develop training re: working with students with disabilities	III(C)	Due 4-12-20
69	Plan for reducing disproportionalities in referrals by admin to law enforcement	XI(D)	Due 4-15-20
70	Implement a Formal Diversion Program	II(B)	Due 4-17-21
71	Publish DOJ Report of Citizen Complaints on website, provide to CAG	IX(A)(5)	Due 4-1-20
72	Review CAG's written summary	XII(E)	In Progress
73	Provide Superintendent quarterly summary report of complaints	XI(B)	Completed
74	Provide a written summary of each CAG meeting to public, monitor, Superintendent, COP	XII(D)	Completed

As of January 31, 2020, fifteen tasks were completed by the Department. Those involving written documentation were being assembled to be distributed to the CAG for review and feedback.

Task 1. Hiring of the Monitor: On April 17, 2019, the District engaged the Monitor contractually consistent with the terms of the Agreement. The contract provides the monitoring team wide-ranging responsibility in facilitating and reporting on the progress of the Agreement.

Task 2. Hiring of Disability Coordinator: As noted above, the District assigned Robin Gurrola as Disability Coordinator.

Task 3. Invite Participants to the Community Advisory Group: As detailed above, the Superintendent invited participants to the CAG which, as of January 31, 2020 had met on September 10 and November 21, 2019.

Task 4. Revise CAD Form to Include “Ethnicity” Field: Each police patrol card has a computer which allows entry of information about police enforcement in the field. The Computer Aided Dispatch (“CAD”) form provides entry of data about persons encountered by the police (interviewed, cited, arrested). Prior to the entry of the Agreement, the CAD form did not capture the ethnicity of such individuals. This task has been completed by adding that field to the CAD system.

Task 8. Collect and Analyze Data Regarding Police Contacts with Students and Provide the CAG

Quarterly: This task requires the Department to collect all instances of student contacts after police requests for assistance and provide the data quarterly to the CAG. The Department began collecting this information the Second Quarter (“Q3”) of 2019 (has collected similar data for Q3 and Q4 of 2019) and will provide the data to the CAG at its February 2020 meeting.

Task 16: Hire a Police Professional: As discussed above, the Agreement requires that the Department retain an outside police professional. A task outlined in the Agreement is for the police professional to create a State of the Department Report. As indicated and per Task 46, Mr. Caddell has completed the first Report and will presenting the Report to the CAG at its February 2020 meeting. Moreover, as detailed above, Mr. Caddell has assumed other responsibilities in facilitating tasks required by the Agreement.

Task 26: Create a Protocol for Handling of Resisting Officer Charges: The Agreement requires the Department to provide additional guidance through policy to its officers in considering “resisting an officer” charges. In order to prevent the over-reliance on a sanction that is disparagingly referred to as “contempt of cop” (as opposed to a substantive offense), the new policy requires supervisory approval before charging the relevant Penal Code Provision (148.6). The policy also prohibits use of the statute for low-level disciplinary conduct, low-level misconduct and truancy. The monitor and Attorney General’s Office have reviewed the proposed policy, and it will be presented to the CAG at its February 2020 meeting.

Task 30: Create a Mandatory Training Plan: The Agreement requires that the Department create a mandatory training plan, to be reviewed annually, incorporating recommendations from the Attorney General’s Office. Per the Agreement, the Department’s proposed mandatory training plan has been presented to the monitor and the Attorney General’s Office and will be presented to the CAG at its February 2020 meeting.

Task 46: Create State of the Department Report: The Agreement requires that an outside police professional submit a publicly available annual report that addresses the state of the Department with input from the monitor and the CAG. The monitor and the Attorney General’s Office have reviewed the State of the Department report compiled by Mr. Caddell, the outside police professional, and the Report will be provided to the CAG at its February 2020 meeting for any input or comment.

Task 47: Use of Qualified Sign Language Interpreters During Police Investigations: The Agreement requires that the Department modify policy to include the use of qualified sign language interpreters who are skilled in interpreting for law enforcement matters and who will be on-call to interpret for students who need them for effective communication during police investigations. The Department has modified its policy and contracted with sign language interpreters who have experience as interpreters for a number of law enforcement agencies. The modified policy will be presented to the CAG for input or comment.

Task 51: Create a Community Advisory Group: The Agreement requires that the District create a Community Advisory Group that will meet quarterly and be comprised of students, parents, educators, and community members. As detailed above, the Advisory Group was formed in September 2019 and met in September and November of 2019.

Task 56: Revise the Department's Handcuffing Policy: The Agreement requires the Department to ensure that a sufficiently serious level of risk and/or danger is present prior to application of handcuffs. The revised policy goes beyond the plain language of the Agreement and instructs officers to consider de-escalation techniques and/or mental health support services when practicable to avoid the use of handcuffs. The policy will be provided to the CAG at its February 2020 meeting for comment.

Task 64: Refining the Department's Performance Evaluation System: The Agreement requires the Department to ensure that its performance evaluation system reinforces police officer activity that is geared toward problem-solving, developing positive relationships with students, and acknowledging when officers resolve conflicts using alternatives other than force. Per the Agreement, the Department revised its key performance evaluation categories for police officer which informs officers that the qualities identified are the basis for personnel performance evaluations. The monitor and the Attorney General's Office have reviewed the document and the revised document will be provided to the CAG at its February 2020 meeting for comment.

Task 73: Provide Superintendent Quarterly Summary of Complaints: The Agreement requires the Department to provide the Superintendent a summary report of any complaints it receives. For Q4 2019, the Department reported receipt of no complaints.

Task 74: Provide Written Summary of the CAG Meeting: The Agreement requires that a summary be prepared of the CAG meeting and disseminated to the public, the monitor, the Superintendent and the Chief of Police. A summary of the September and November 2019 meetings was prepared and disseminated among the noted parties. Discussion is underway regarding how best to provide the summary to the public in the future.

V. Next Steps

As set out above, the District has made important progress toward completing the specific tasks outlined in the Agreement. Both the District and the Department recognize the priority in completing the outstanding tasks. To the degree that the tasks are not completed in accord with the timetable previously agreed to by the parties, it may also result in more time being needed to ensure effective training and implementation.

To that point, as policies and protocols come "on-line," the monitor expects that training will commence in short order. The monitor has already had discussions with the District with regard to reviewing training syllabi and sessions to ensure that they are effective.

After the initial training phase has been completed, the monitor will work with the District and the Attorney General's Office to devise a monitoring of the District's efforts at implementation. This phase will require review of police reports and additional data (some set out in the Agreement) to determine whether the policy reforms have been implemented and taken root. If that review finds challenges in successful implementation, the monitor intends to work with the parties to devise corrective actions to ensure compliance with both the letter and spirit of the Agreement.

VI. Conclusion

As stated above, while the District has accomplished much in responding to the dictates of the Agreement, there is much more to do. Based on the observed diligence and effort displayed to date by both the District and Department, the monitor is optimistic that the reforms envisioned by the Agreement will be achieved – as will the underlying promise of a more safe, fair, and constructive educational experience for each of the Stockton Unified School District's students and families.