

Charles A. Gruber Consulting, LLC

REQUEST FOR INFORMATION

INDEPENDENT MONITOR

**Settlement Agreement Regarding the
Albuquerque Police Department**

December 11, 2014

1. EXECUTIVE SUMMARY

Charles A. Gruber Consulting, LLC (CAG) is pleased to provide initial information to conduct independent monitoring of the Settlement Agreement Regarding the Albuquerque Police Department (APD). I am prepared to provide monitoring of compliance with all substantive and procedural requirements of the current Settlement Agreement. I am the current U.S. District Court Appointed Monitor for the U.S. Virgin Islands Police Department (VIPD). Prior to appointment as Monitor, I was the Police Practices Coordinator for the VIPD. Additionally, I served for seven years on the monitoring team of the Oakland California Negotiated Settlement Agreement. CAG combines the assets of premier law enforcement and criminal justice professionalism with a proven and solid track of accomplishment in effecting change, organizational change, significant management improvements and sustained reform and constitutional policing emphasis.

CAG recognizes that Settlement Agreement are vehicles that outline procedural and other significant revisions, which APD must implement. When properly implemented these revisions will enhance police accountability to the community, increase individual and organizational integrity, and minimize the risk of police misconduct, especially with respect to the use of force. The Settlement Agreement, which APD has agreed to promote, foster and implement a number of changes in APD policies and practices. These changes will result in improved police – community relations, with a net effect of improving the delivery of police services to a more trusting and involved community.

CAG possesses experience to monitor compliance, while promoting organizational improvement in the APD. CAG provides excellence in law enforcement, police monitoring, labor, auditing, evaluation, intergovernmental relations, civil rights compliance, constitutional considerations and best practices in contemporary policing. CAG has extensive experience working with law enforcement agencies across the United States in formulating law enforcement policies, teaching and designing police training, assessing the internal affairs and disciplinary systems of major police agencies, evaluating law enforcement information management programs, and working with other elements of the criminal justice system. CAG is equally versed in collective bargaining issues. In addition to monitoring compliance with the Settlement Agreement, CAG is very well positioned to offer APD Technical Assistance (TA), which if used can assist APD in achieving substantial compliance while enhancing the quality of police services to the community.

CAG maintains the experience and expertise to address the various issues presented by the Settlement Agreement. The Monitor will be led by Charles A. Gruber who will serve as the Independent Monitor. He has worked as a member of the current U.S. Virgin Islands Consent Decree as Police Practices Coordinator and formally served as one of the monitors of the Oakland California Police Department Monitoring Team. He has also worked for the Department of Justice Special Litigation Section as a Police Practices Expert since 2002 and continues to provide his services to this day.

Chief Gruber has many years of police and law enforcement experience. He was Chief of Police for the cities of Quincy, Elgin, and South Barrington Illinois along with Shreveport Louisiana.

CAG is affiliated with and have worked closely with such diverse organizations as the International Association of Chiefs of Police (IACP); Police Executive Research Forum (PERF); National Organization of Black Law Enforcement Executives (NOBLE); FBI National Academy Associates (NA); National Black Police Association (NBPA); National Association for Advancement of Colored People (NAACP); Americans for Effective Law Enforcement (AELE) among others.

The Monitor plans to have at least two site visits each month by a member of the team and or other Subject Matter Experts (SME) as agreed to by the parties. In consultation with the parties, CAG will establish protocols for site visits and will ensure that all communications are open and effective. Each requirement of the Consent Decree that is outstanding will be identified, analyzed, and a specific measure of compliance will be developed for acceptable substantial compliance. Specific data necessary for measuring compliance and protocols for collecting it will be reviewed, discussed with the parties and amended as necessary.

CAG will meet on a regular basis and participate in telephone conferences with the APD Chief of Police and all interested parties to ensure all Settlement Agreement requirements are discussed and understood by all. For each outstanding requirement we will first define compliance and outline the measures that will be utilized to determine compliance. We will discuss the specific methodology with the parties to ensure that everyone involved understands the expected outcomes.

Compliance will be measured by determining if a policy or set of procedures has been established to support each Settlement Agreement task. Having determined that an appropriate policy has been established, we will determine if that policy has been promulgated and effectively implemented. Effective implementation may include the provision of appropriate training to all areas of APD, insuring a thorough understanding of what is expected from APD personnel. In general, to achieve compliance with a requirement of the Consent Decree, an appropriate policy must be both *adopted* and *effectively* implemented. We recognize some areas of the Settlement Agreement will require substantial work and time to achieve implementation and we believe it is appropriate to recognize when substantial progress towards implementation has occurred. Accordingly, we will describe three levels of compliance:

1. **In Compliance** – where effective implementation has been achieved.
2. **Pending Compliance** – where full compliance has not been achieved, but substantial progress toward compliance has been made.
3. **Not in Compliance** – will be reserved for an instance where compliance has not been achieved and substantial progress has not been made.

Analysis and reporting will be by each team member who will furnish their reports to the Monitor for his review, editing and approval. Chief Gruber will prepare semi-annual reports for publication. Drafts or other communications that are intended for release to the public shall be sent to the parties for comment prior to finalization and delivery. The independent monitor will provide monthly status updates to the parties or their representatives.

Chief Gruber will ensure that all work groups within the APD whose work is being monitored are treated openly, respectfully and most of all – fairly. CAG will work closely with these individuals during the site visits and will as required or requested, provide TA to assist them in helping them achieve compliance. Furthermore, at the close of the each site visit, the CAG will meet with APD officials to discuss some of the primary results of the on-site visit, address procedural problems encountered during the visit, collect copies of documents necessary for review off-site and determine reporting period dates for the next site visit. CAG embraces the concept of openness and transparency, believing it is the most critical element to ensure that misunderstandings do not occur, that all facts are fully developed and the objectives of the Settlement Agreement are achieved. The desired outcome will be organizational improvement and constitutional policing.

2. PERSONNEL

A. Team Personnel

Chief Gruber will meet with all parties – Department of Justice, Albuquerque Police and community to establish goals and objectives of the Settlement Agreement. He will foster a collaborative approach with all parties – Department of Justice and APD to bring closure to the Settlement Agreement and Constitutional Policing principles for all parties and the community. Chief Gruber will meet and confer with parties and establish who best of police professionals to form the Independent Monitoring Team. Chief Gruber requests to meet the parties and consult with them to seek their input on how best the team members can best serve the APD Settlement Agreement.

B. Auditing, Investigation, or Reviewing Organizational Performance

CAG brings specialized knowledge and experience in auditing, investigating and reviewing the performance of law enforcement agencies.

As part of the Oakland California Negotiated Settlement Agreement, Chief Gruber served as one of four monitors on a monitoring team and was the lead evaluator of compliance with those requirements relevant to police use of force and internal affairs. Chief Gruber served in this capacity for seven years. More recently, he is the Police Practices Coordinator of Fried, Frank, Harris, and Shriver & Jacobson LLP - Office of the Independent Monitor for the Virgin Islands Police Department. Additionally, Chief Gruber has conducted several police use of force investigations on behalf of the United States Department of Justice Special Litigation Section in many of Justice's high profile police practices cases. Including Miami Florida, Cincinnati Ohio, Seattle Washington, Portland OR. Maricopa County AZ. And others.

C. Appearing and Providing in Court as a Monitor, Expert Witness or Providing Other Types of Testimony

Chief Gruber has appeared in court as a monitor and expert police practice witness. CAG will present monthly status reports to the District Court Judge, Department of Justice, Police Commissioner and APD Chief of Police. The monthly status reports will open and enhance lines of communication to all parties. The monthly status reports will have open and honest dialogue with the goal of reaching individual task compliance followed by substantial compliance by the due dates established and approved by the court. CAG will provide semi-annual reports to all parties and any other written documentation as deemed necessary by parties.

3. PROPOSED ACTIVITIES

This section of our proposal is organized to present information required in a manner intended to enhance clarity and provide a professional methodology to reach and sustain compliance under the current Consent Decree. This area will demonstrate how CAG would handle the responsibilities of the Independent Monitor, provide some specific examples, and discuss the important topic of defining substantial compliance.

A. Description of Approach

Our monitoring of compliance will include a review of the Settlement Agreement Requirements, including review of policies, review of APD audits, review a sample of use of force and misconduct investigations, a review of the early intervention system, a review of citizen complaint investigations, a review of management and supervisory practices, a review of the previous monitor's reports and a comprehensive review and evaluation of APD training. At each stage in this process, CAG will evaluate the compliance with the Settlement Agreement with a view to improving the operations of APD, encouraging accountability, and fostering an environment that promotes the growth of professional constitutional policing. The members of the IMT have extensive knowledge and experience in addressing problems in large municipal police departments and in best practices implementation in law enforcement. CAG will share their knowledge of policing, best practices, community oriented policing and community – police relationships in a positive and constructive fashion without mitigating the team's commitment to a thorough and objective compliance evaluation. We will make recommendations to the parties, when and where appropriate, regarding measures necessary to ensure full and timely implementation of the Settlement Agreement. As law enforcement professionals, our team has a commitment to both organizational compliance with the provisions of the Settlement Agreement and as well as organizational improvement in the furtherance of maximizing quality, just and efficient delivery of police services to the APD and the community they serve. CAG clearly understands the Monitor measurers and evaluates compliance and does not manage the Department. CAG will avoid any activity that could be construed as intruding on the management prerogatives of the Chief and his staff.

B. Develop Protocols for Monitor Visits, Document Retrieval, Records Review and Field Observations

The monitoring team, in conjunction with the Department of Justice and APD, we will draft protocols for CAG visits to APD offices and personnel for document retrieval, records review and field observations. IM in consultation with the parties will develop forms and protocols for

the review, scheduling, and regularity of audits of various databases, APD reports and forms. CAG will; however, retain the option to conduct random audits as it deems appropriate and necessary to monitor and evaluate compliance with the Settlement Agreement.

CAG expects to obtain information from a variety of sources within the APD. In addition to obtaining information from the APD, the monitoring team will obtain data and information directly from APD components, including electronic databases and other document repositories. In addition, CAG will establish regular status meetings with representatives of the APD and the Department of Justice to discuss ongoing compliance issues, upcoming Monitor visits, and provide technical assistance as well as training regarding constitutional policing practices.

For each month, CAG anticipates at least two 4 day site visits to APD. At the close of each site visit, CAG will meet with APD officials and the leaders of the various parties to discuss some of the preliminary results of the on-site visits, address procedural problems encountered during the visit, collect copies of documents necessary for review off-site and determine reporting period dates for the next site visit.

C. Methods of Analyzing Information

a. Compliance Measures

CAG will submit for approval of the parties a detailed methodology describing how it will proceed. Under our methodology, compliance is a dichotomy in which compliance is either achieved or not achieved. We do however, recognize an interim position of “pending compliance” when the department has made significant progress, but appropriate data are not yet available to assess a statistical level of compliance. Pending compliance will be reported for no more than two quarters after which “not in compliance” will be reported if requirements are not fully met and the status of “in compliance” is not achieved. A department will be found “in compliance” when specific data consistent with the required data met with consent with the Settlement Agreement. Compliance will ordinarily be reviewed on a monthly basis and it is possible for the Department to move from being “in compliance” to “out of compliance” if accomplishments are not sustained. Unless otherwise instructed by the Court, we do not intend to cease assessment of any particular requirements during the monitoring even though compliance many have been achieved at some point in time.

CAG will continue to work through the established agreed upon “Substantial Compliance Chart” by all the parties. The “Substantial Compliance Chart” will continue to assist CAG and APD in reaching full compliance.

CAG will assess compliance in three phases. For phase 1, compliance is assessed according to whether requisite policies and procedures have been developed, approved and implemented in accordance with the Settlement Agreement. Phase 2 compliance involves training personnel affected by the policies, and finally Phase 3, an assessment of completeness of implementation as measured by the actual implementation of the policy in practice and as agreed upon by parties within the Settlement Agreement.

For each requirement in the Settlement Agreement, CAG will determine:

Required Measures: In almost all instances CAG will determine if a policy, a set of procedures, or other governing documents that support the requirement as articulated in the Settlement Agreement has been established. CAG will confirm that personnel have received requisite training that assures understanding of the requirement as well as the establishment of new skill sets, if applicable. Further, CAG will verify supervisory engagement and policy implementation as evidenced in files, reports, logs, tapes, and other police-related materials.

Data Collection: CAG will determine for each Settlement Agreement requirement, the type of data and the process of collection essential to evaluate APD's compliance with the relevant requirement.

Compliance Defined: CAG will conclude that the agency is in fact complying with the requirements when it meets the parameters articulated in the "Substantial Compliance Chart and conforms to the provisions as it is articulated in the Settlement Agreement.

b. Policy Compliance

The Settlement Agreement requires the development of policies on a number of topics. CAG will determine if the policies that support the implementation of requirements as articulated in the agreements have been developed, disseminated and adopted.

c. Compliance

Once it has been determined that an appropriate policy has been established, CAG will determine if that policy has been effectively implemented. If a requirement of the agreement has been effectively implemented thru training then Phase 2, or Compliance, will have been attained. Phase 3 compliance will be attained when the APD has demonstrated implementation of tasks consistent with the policy and practiced in the APD's daily activities. Substantial Compliance is achieved when APD had maintained consistent practice implementation for one year of the tasks outlined in the Settlement Agreement.

d. Levels of Compliance

CAG recognizes the Settlement Agreement is a complex document and many of their requirements may take time and considerable resources to implement and to achieve Substantial Compliance. In measuring compliance of each Consent Decree, CAG will use three levels of compliance: 1) Compliance, 2) Not in Compliance, and 3) Pending Compliance.

"Compliance" will be used to describe instances where the requirement has been achieved at either Phase 1 of Phase 2. "Pending Compliance" will describe instances where substantial progress has been made toward compliance. "Not in Compliance" will be reserved for those instances where compliance has not been achieved and substantial progress has not been made.

4. CONCLUSION

CAG will bring a reliable process in order to provide exceptional monitoring and assistance under the Settlement Agreement. Success in this endeavor will require experience, expertise, judgment and constitutional policing.

CAG is experienced in conducting monitoring of law enforcement agencies and will provide the foundation for understanding the fundamental monitoring process. CAG is confident in the process and has a sound methodology for monitoring the Settlement Agreement.

CAG is composed of a seasoned law enforcement professional who bring a variety of experience, mature judgment and expertise to the tasks of monitoring the Consent Decree. Chief Gruber is perfectly suited to the role of Monitor. He has law enforcement experience, has served in other high-level panels and committees that examined controversial police-community issues, and has a well-earned reputation for a leadership and dealing successfully with labor – management issues. CAG possesses a broad array of police and governmental experience along with current and past monitoring experience. CAG will provide unparalleled background and expertise to assist the APD and its police department in their commitment to improve the police – community relationship.

Chief Gruber understands the unique nature of the agreement and its importance in achieving a sustained partnership between the police department and community. Chief Gruber possesses the unique skills from current monitoring and past experience to bring about constitutional policing to all parties and bridge effective police-community relationships. I am eager to be part of the process.