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**(Exempt from Filing Fees Pursuant
to Gov. Code, § 6103(a))**

FILED
KERN COUNTY SUPERIOR COURT
08/27/2021
BY Evans, Gricelda
DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KERN

**THE PEOPLE OF THE STATE OF
CALIFORNIA, EX REL. ROB BONTA,
ATTORNEY GENERAL OF THE STATE
OF CALIFORNIA,**

Plaintiff,

v.

**CITY OF BAKERSFIELD and
THE BAKERSFIELD POLICE
DEPARTMENT,**

Defendants.

Case No. BCV-21-101928

**STIPULATION FOR ENTRY OF FINAL
JUDGMENT AND PERMANENT
INJUNCTION**

1 Plaintiff, the People of the State of California, by and through its attorney, Rob Bonta,
2 Attorney General of the State of California (the "Attorney General"), and by Supervising Deputy
3 Attorney General Nancy A. Beninati, and Defendants City of Bakersfield and the Bakersfield
4 Police Department, stipulate as follows:

5 1. This Court has jurisdiction of the subject matter hereof and the parties to this
6 Stipulation for Entry of Final Judgment and Permanent Injunction ("Stipulation").

7 2. The Stipulated Judgment ("Judgment"), a true and correct copy of which is
8 attached hereto as Exhibit 1, may be entered by any judge of the Kern County Superior Court.

9 3. The Attorney General's Office may submit the Judgment to any judge of the Kern
10 County Superior Court for approval and signature, based on this stipulation, during the court's ex
11 parte calendar or on any other ex parte basis, without notice to or any appearance by the
12 defendants, which notice and right to appear the defendants hereby waive.

13 4. The parties hereby waive their right to move for a new trial or otherwise seek to
14 set aside the Judgment through any collateral attack, and further waive their right to appeal from
15 the Judgment, except the parties agree that this Court shall retain jurisdiction for the purposes of
16 enforcing said Judgment.

17 5. The parties jointly represent that they have worked cooperatively to come to an
18 agreement as set forth in the Judgment.

19 6. The parties have stipulated and consented to the entry of the Judgment without the
20 taking of proof and without trial or adjudication of any fact or law herein, without the Judgment
21 constituting evidence of or an admission by the defendants regarding any issue of law or fact
22 alleged in the complaint on file herein, and without the defendants admitting any liability
23 regarding allegations of violations that occurred prior to the entry of the Judgment.

24 7. The defendants will accept service of any Notice of Entry of Judgment entered in
25 this action by delivery of such notice to their counsel of record or the Bakersfield City Attorney,
26 and agree that service of the Notice of Entry of Judgment will be deemed personal service upon
27 them for all purposes.

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8. The individuals signing below represent that they have been authorized by the parties they represent to sign this Stipulation.

9. This Stipulation may be executed in counterparts, and the parties agree that an electronic signature shall be deemed to be, and shall have the full force and effect as, an original signature.

PLAINTIFF THE STATE OF CALIFORNIA

ROB BONTA
Attorney General of California

DATED: August 23, 2021

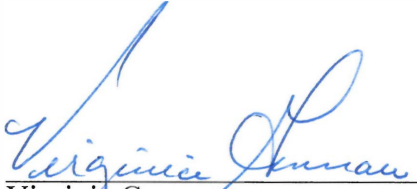


Nancy A. Beninati
Supervising Deputy Attorney General
Attorneys for Plaintiff, The People of the State of California

DEFENDANTS CITY OF BAKERSFIELD and THE BAKERSFIELD POLICE DEPARTMENT

CITY OF BAKERSFIELD AND THE BAKERSFIELD POLICE DEPARTMENT

DATED: August 19, 2021



Virginia Gennaro,
Bakersfield City Attorney,
Attorneys for Defendants, City of Bakersfield and The Bakersfield Police Department

EXHIBIT 1

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**Exempt from Fees
(Gov. Code, § 6103(a))**

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KERN

**THE PEOPLE OF THE STATE OF
CALIFORNIA, EX REL. ROB BONTA,
ATTORNEY GENERAL OF THE STATE
OF CALIFORNIA,**

**CITY OF BAKERSFIELD and
THE BAKERSFIELD POLICE
DEPARTMENT,**

Case No. BCV-21-101928

Plaintiff, **STIPULATED JUDGMENT**

v.

Defendants.

1 **INTRODUCTION**

2 The People of the State of California, ex rel. Rob Bonta, Attorney General of the State of
3 California (Attorney General), filed a Complaint for Injunctive Relief (Complaint) in the Superior
4 Court of Kern County against the City of Bakersfield (City), and the Bakersfield Police
5 Department (BPD), pursuant to the authority granted to the State of California under California
6 Civil Code section 52.3, to seek declaratory and equitable relief to address alleged incidents of
7 conduct by law enforcement officers that deprive individuals of rights, privileges, or immunities
8 secured by the state or federal Constitution or state or federal law. The Attorney General, the
9 City, and BPD (collectively, Parties) are committed to effective, constitutional law enforcement,
10 and enter into this Stipulated Judgment for the common good of the people of the City of
11 Bakersfield.

12 The City and BPD generally and specifically deny each and every allegation contained in
13 the Complaint. The Attorney General, City, and BPD are committed to effective, constitutional
14 law enforcement that protects individuals' statutory and constitutional rights, treats individuals
15 with dignity and respects and promotes public safety in a manner that is responsive to the
16 community's priorities and accomplished in a manner that is fiscally responsible. The Parties
17 herein agree to the entry of judgment without the taking of proof, trial, or the adjudication of any
18 fact or law, without this Stipulated Judgment constituting evidence of liability of the City or BPD,
19 or admission by the City or BPD of any issue of fact or law alleged in the People's Complaint,
20 without the City or BPD admitting any liability, and with all Parties waiving their right to appeal.
21 Each party agrees to bear its own attorney's fees and costs to date.

22 The purpose of this Stipulated Judgment ("Judgment" or "Agreement") is to ensure that the
23 City and BPD protect individuals' statutory and constitutional rights, treat individuals with
24 dignity and respect, and promote public safety in a manner that is fiscally responsible and
25 responsive to community priorities. The Parties recognize that these outcomes require
26 partnership between BPD and the community it serves, one in which BPD is transparent about its
27 processes and provides community members with a voice in its functions. This Agreement is
28 designed to enhance BPD's relationship with its community through increased transparency and

1 public input, improved oversight and accountability systems, and increased support for officers
2 through effective law enforcement policies, training, and supervision. The Parties agree that the
3 Effective Date of this Judgment is the date the Judgment is entered by the court.

4 Upon the conclusion of the Attorney General’s investigation of the BPD, the City and BPD
5 acknowledge that they are dedicated to constant evolution and improvement. The BPD
6 acknowledges that it can always benefit from additional and continual reform in a manner that is
7 sustainable over time. The Attorney General acknowledges that BPD has taken action to improve
8 its law enforcement services and accountability, including, but not limited to: outfitting its
9 officers with body-worn cameras; expanding its Quality Assurance Unit which has created many
10 oversight systems to include random audits and inspections; purchasing and implementing public
11 safety management software; hiring consultants to review policies and practices; developing a
12 formal sergeant and lieutenant field training officer (FTO) program; increasing the complement
13 of lieutenants and captains; implementing Text to 911; introducing principled policing and
14 procedural justice training courses; providing employee wellness training; and volunteering to
15 collect data under the Racial and Identity Profiling Act one year earlier than the mandatory
16 collection date.

17 THE COURT, HAVING CONSIDERED THE MATTER, AND GOOD CAUSE APPEARING:

18 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

19 This court has jurisdiction over the allegations and subject matter of the People’s Complaint
20 filed in this action and the Parties to this action; venue is proper in this county; and the court has
21 jurisdiction to enter this Stipulated Judgment as stipulated here as follows:

22 **I. USE OF FORCE**

23 1. BPD agrees to revise its use of force policies and practices to reflect its commitment to
24 upholding the rights secured or protected by the Constitution of the State of California and the
25 United States Constitution, and federal and state laws, protecting human life and the dignity of
26 every individual, and maintaining public safety. As specified below, BPD agrees to review and
27 revise its use of force policies to include focusing on the concepts of sanctity of life, necessity,
28 proportionality, and de-escalation; require officers to intervene; and define an imminent threat

1 justifying lethal force that is consistent with Penal Code section 835a, subdivision (e)(2). BPD's
2 use of force policies, and other related policies, must remain consistent with Penal Code section
3 835a and Government Code section 7286, which (1) limits authorization of the use of lethal force
4 to situations where the officer reasonably believes, based on the totality of the circumstances, it is
5 necessary to defend against an imminent threat of death or serious bodily injury (Pen. Code, §
6 835a); and (2) direct law enforcement agencies to maintain a use of force policy that requires the
7 use of de-escalation techniques, crisis intervention tactics, and other alternatives to force when
8 feasible. To that end, BPD's use of force policies will incorporate these concepts and
9 requirements in the following ways:

10 **A. Use of Force Policies and Principles**

11 2. BPD will continue to review and revise its policies and associated training materials, to
12 ensure compliance with the requirements of this Agreement and enacted California law, including
13 Penal Code section 835a and Government Code section 7286.

14 3. BPD agrees to maintain, and where necessary review and revise, its use of force policies
15 as follows to:

- 16 a. clearly define and describe when force is and is not authorized;
- 17 b. clearly define and describe the purpose of authorized and prohibited force options as
18 well as define and describe the tools and techniques permitted and prohibited for all
19 force options;
- 20 c. better describe the applicable legal standard for use of deadly and non-deadly force;
- 21 d. have its use of force policy be guided by the principle of the sanctity of human life;
- 22 e. limit the use of deadly force to situations where the officer reasonably believes it is
23 necessary, not just reasonable, to defend against an imminent threat of death or serious
24 bodily injury if the officer reasonably believes that the person will cause death or
25 serious bodily injury (Pen. Code, § 835a) ("deadly force" herein and throughout this
26 Stipulated Judgment means any use of force that creates a substantial risk of causing
27 death or serious bodily injury; deadly force includes, but is not limited to, the
28 discharge of a firearm);

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- f. require that officers, whenever feasible, undertake efforts to utilize de-escalation tactics or employ less-lethal options before using deadly force (“feasible” herein and throughout this Stipulated Judgment means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective, without increasing risk to the officer or another person);
- g. require that officers use force only to effect a lawful arrest, detention, or search, to overcome resistance or to prevent escape, to prevent the commission of a public offense, in defense of others or in self-defense, or to gain compliance with an order that is based in the law;
- h. affirm the importance of proportionality (as defined below);
- i. consistent with state law, prohibit chokeholds, carotid restraints, and other maneuvers that are designed to, or may foreseeably result in, cutting off blood or oxygen to a subject’s head;
- j. require employees to avoid restraining a subject face down whenever possible, or to do so only for a very short time, and then place a restrained subject in the recovery position as soon as possible following a use of force so as to reduce the risk of positional asphyxia and/or effects associated with excited delirium syndrome;
- k. require, where feasible, that suspects who must be transported in a recumbent position be transported by rescue ambulance personnel and accompanied by an officer;
- l. prohibit discharging a firearm at moving vehicles, unless the operator or occupant of a moving vehicle poses an imminent threat of death or serious bodily injury to the public or an officer and the officer is unable to move out of the way;
- m. prohibit discharging a firearm from a moving vehicle absent exigent circumstances;
- n. prohibit force against subjects who only verbally confront officers;
- o. prohibit force against subjects who are handcuffed or otherwise restrained, unless the subject is actively resisting and poses a direct and immediate threat to officers and/or themselves;

- 1 p. prohibit the use of electronic control weapons (ECW's) in "drive stun" mode, unless
2 reasonably necessary to avoid the use of any force that could increase injury to the
3 suspect, the officers, or others, with those instances being fully documented and
4 justified in the use of force reports;
- 5 q. prohibit the use of ECW's on handcuffed individuals and children who appear to be
6 under the age of 14;
- 7 r. prohibit the use of ECW's on the following individuals, unless officers can provide
8 justification of articulable facts necessitating the use of the ECW on any of the
9 following: (a) pregnant females; (b) elderly persons; (c) individuals who have been
10 recently sprayed with alcohol-based pepper spray or who are otherwise in close
11 proximity to combustible materials; (d) individuals whose position or activity may
12 result in collateral injury (e.g., falls from height, operating motor vehicles, possibility
13 of drowning in water, etc.); (e) a youth who appears to be between the age of 14 and
14 17; and (f) an individual whom the officer has reason to believe may have a disability;
- 15 s. require that any employee who observes another employee use force that exceeds the
16 degree of force permitted by law and/or policy shall promptly intervene and then
17 report their observations to a supervisor;
- 18 t. where feasible, ensure its officers effectively employ cover, distance, time, tone, and
19 available resources to de-escalate and minimize the need for force;
- 20 u. provide that the conduct of both the officer and the subject leading up to the use of
21 deadly force must be included in the evaluation of the decision to use force (Pen.
22 Code, § 835a, subds. (a)(2) and (e)(3));
- 23 v. prohibit the use of deadly force against a person who is only a danger to him or herself
24 and does not pose a direct and immediate threat to officers or civilians (Pen. Code, §
25 835a, subd. (c)(2));
- 26 w. require officers to use de-escalation techniques, crisis intervention tactics, and other
27 alternatives to force when feasible (Gov. Code, § 7286, subd. (b)(1));
- 28 x. stress the sanctity of life throughout the policy;

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y. Address necessity as follows

- i. Define when force is necessary and require that officers use force only when reasonable and necessary to achieve a lawful objective;
- ii. Emphasize that the use of force is not a routine part of policing;
- iii. Require that officers use force in an unbiased manner, consistent with the anti-bias-based policing policy of BPD; and
- iv. Expressly require that officers use lethal force as a last resort and, before using such force, require, when feasible, exhaustion of all other means reasonably available under the circumstances, including de-escalation techniques and strategies, such as tactical repositioning;

z. Address proportionality as follows

- i. Explicitly require officers only to use a type of force that is proportionate to the threat and not excessive in light of the lawful objectives involved;
- ii. Provide specific guidance on what type of force is appropriate for the level of threat presented by the individual, and require officers to only use the amount of force that is both objectively reasonable under the totality of the circumstances, and necessary to effectuate arrest or achieve a lawful objective;
- iii. Provide express guidance on proportionality, to ensure officers understand the relationship that should exist between the law enforcement objective they are attempting to achieve, the threat presented, and the force required in a particular situation; the guidance may include adopting a spectrum, chart, or matrix, that can take the form of a graphical representation; and
- iv. Prohibit specific types of force that are inconsistent with the concepts of proportionality and necessity, such as retaliatory force;

aa. Address de-escalation as follows

- i. Make it an affirmative duty to de-escalate, before using force, requiring that officers shall employ de-escalation techniques and strategies whenever feasible, as required in Government Code section 7286(b)(1);

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- ii. Provide clear guidelines for the use of de-escalation techniques and strategies, such as using tactical repositioning and strategic communication skills, switching staff, modulating the tone employed, taking cover, or calling upon other resources, such as crisis intervention-trained officers, non-law enforcement agencies, or assistance from family members or friends, when and where appropriate;
- iii. Require officers to provide, when feasible, verbal warnings to individuals before using force, whether lethal or non-lethal, and require officers to (1) document, in any incident or use of force report, whether the individual had an opportunity to comply after the warning was issued and before an officer used force, and, (2) if no verbal warning was given, why one was not feasible; and
- iv. Require officers, when feasible, to employ cover, concealment, distance, time, and tactics to minimize the need for lethal force;

bb. Address the duty to intervene as follows

- i. Make it an affirmative duty for officers/employees to intervene, when in a position to do so, if they know or have reason to know that another officer/employee is about to use, or is using, unreasonable, unnecessary, or excessive force or is otherwise violating BPD’s use of force policy;
- ii. Require officers, following an incident involving the use of unreasonable, unnecessary, or excessive force, to promptly report to a supervisor the use of force and the efforts made to intervene;
- iii. Provide for possible discipline of any officer who so fails to intervene; and
- iv. Hold supervisors and managers accountable for prohibiting retaliation against any officer who so intervenes;

cc. Address an imminent threat as follows

- i. Continue to provide clear guidelines on what conditions may constitute an imminent threat justifying lethal force, consistent with California’s deadly

1 force standard expressed in Penal Code section 835a and Government Code
2 section 7286.

3 4. BPD shall continue to have policies and corresponding annual training governing each
4 type of force instrument that it authorizes officers to carry.

5 5. BPD agrees to clarify that its officers may not use force against individuals who may be
6 exhibiting resistive behavior, but who are under control and do not pose a threat to public safety,
7 themselves, or to officers. BPD agrees to continue to require that its officers assess the threat of
8 an individual prior to using force, and emphasize that a use of force must be proportional to the
9 threat or resistance of the subject. If a threat or resistance no longer exists, officers cannot justify
10 the use of force against a subject.

11 6. BPD will continue to require in policy, and emphasize in its training, that a strike to the
12 head with any impact weapon is prohibited unless deadly force is justified. Unintentional or
13 mistaken strikes to these areas must also be reported in the officer's use of force report, to ensure
14 that all reasonable care was taken to avoid them.

15 7. BPD will have a specific policy requiring that a subject of a use of force who is injured
16 or complains of injury receives medical treatment, photographs are taken of the existence or
17 absence of injury following a use of force, and all injuries be documented in the use of force and
18 arrest reports.

19 8. BPD, with regard to baton deployment, will provide policy and training guidance on the
20 appropriate times to use that type of force relative to other less-lethal options.

21 9. BPD officers shall not deploy oleoresin capsicum (OC) spray or any other chemical
22 spray (e.g. mace, tear gas, or other chemical irritants) on a person who is handcuffed or otherwise
23 restrained, unless the person presents an imminent threat to the safety of the officer or others, and
24 officers first attempt to exercise additional control over the person by using hands-on control
25 measures or arrest control techniques.

26 **B. Use of Canines**

27 10. BPD shall ensure its canine-related policies, training, and field deployment activities
28 are carried out in a manner consistent with "bark and hold" techniques. BPD's canine-related

1 policies and training shall continue to be based on searching and locating (bark and hold) subjects
2 to be apprehended rather than immediately resorting to employing force, except when exigent
3 circumstances or an immediate threat is evident. BPD will continue to ensure its canine policies
4 and related training are consistent with contemporary police best practices, including a process
5 for conducting and promoting ongoing feedback to promote continuous improvements in policies,
6 training, and practices in the field.

7 11. Canine handlers shall limit off-leash canine deployments, searches, and other instances
8 where there is an increased risk of a canine bite to those instances in which the potential use of
9 injuring force is reasonable, the suspect is wanted for a serious offense, or is reasonably suspected
10 to be armed, based upon individualized information specific to the subject.

11 12. A canine handler shall keep his or her canine within visual and auditory range during
12 deployments at all times, except when a canine clears a threshold (e.g., rounding a corner,
13 entering a room, ascending/descending a stairwell, or entering a confined space, such as a crawl-
14 space), or when canine deployment beyond the handler's visual and auditory range is necessary to
15 ensure the immediate safety of others.

16 13. All field supervisors and watch commanders shall continue to be familiar with BPD's
17 canine policy and use of force reporting requirements. A canine handler shall obtain approval
18 from a canine sergeant or lieutenant, a field sergeant, or the watch commander (sergeant or
19 higher) prior to deployment, unless the canine handler must react immediately in apprehension of
20 an escaping felon, or a subject is suspected to be armed based upon individualized information
21 specific to the subject who poses an imminent threat to others, or when protecting themselves or
22 others from assault. The approving supervisor shall not serve as the canine handler in the
23 deployment.

24 14. Prior to canine deployment, canine handlers shall issue three loud and clear warnings
25 that a canine will be deployed and advise the suspect to surrender, and warn the suspect that the
26 deployment of a canine can result in their sustaining a dog bite, unless such warnings pose an
27 imminent threat of danger to other officers on scene, the canine handler, or the public. The
28 canine handler shall ensure the warnings are capable of being heard throughout the area of the

1 deployment and will allow a sufficient period of time between each warning to provide a suspect
2 an opportunity to surrender. These warnings shall be given in Spanish and English if the suspect
3 is reasonably believed to be a Spanish-speaking Limited English Proficient (LEP) individual.

4 15. If a canine bites any individual, the handler or an on-scene officer shall immediately
5 contact a BPD dispatcher to request Emergency Medical Services response. If additional medical
6 attention is required for a person who has been bitten, the individual shall be transported to a
7 City-approved medical facility for treatment.

8 16. For each canine apprehension, the involved handler, and any other officers who used or
9 observed a use of force, shall complete a use of force report before the end of shift unless
10 approved by a supervisor.

11 17. In addition to the information that must be included in all use of force reports, a canine
12 handler's use of force report documenting a canine apprehension shall continue to include the
13 following: (1) whether there was contact between the canine and the subject, including contact
14 with the subject's clothing; (2) documentation of the duration of the canine's contact with a
15 subject; (3) the approximate distance of the canine from the handler at time of apprehension; and
16 (4) whether a warning was given and, if not, why not. In addition, in all apprehensions where
17 there is canine contact with visible injury sustained by someone, or a complaint of injury, a
18 supervisor not involved in the application of force shall be summoned to the scene if feasible for
19 the purpose of completing a Use of Force Report consistent with investigative requirements
20 established under the Agreement.

21 18. Unless personally involved in the incident, the canine supervisor (a canine sergeant or
22 lieutenant) shall evaluate each canine deployment for compliance with BPD policy, this
23 Agreement, and state and federal law, and provide written documentation of this evaluation. If
24 the canine supervisor is unavailable or was directly involved in the incident, this evaluation will
25 be completed by a staff member of higher rank. Deployment reviews, using KATS K-9 Activity
26 Training System or a similar tracking system, shall also be evaluated by the Operations Captain,
27 with each person in the chain of command required to review and document their evaluation of
28 the incident.

1 19. BPD agrees to continue maintaining and enhancing its canine certification program to
2 ensure that: (1) canines and their handlers demonstrate control and proficiency in specific, widely
3 accepted obedience and criminal apprehension exercises; (2) canines and their handlers receive a
4 minimum of 16 hours of training every four weeks; (3) the trainer keeps detailed records of
5 whether each canine team has met specific control criteria for each control exercise, and what
6 remedial training was given if a canine team was deficient in any area; and (4) the trainer reports
7 all deficiencies to the unit supervisor. The program shall ensure that canines are certified
8 annually by a nationally recognized trainer or organization, and that a canine is not deployed
9 unless its certification is current. BPD agrees to ensure that the certifying agency's standards are
10 consistent with BPD policy and standards.

11 20. BPD agrees to continue to employ the services of a qualified trainer who is capable of
12 providing certified canine training, and who delivers such training and maintains training records
13 in accordance with BPD policy and this Agreement.

14 21. BPD agrees to continue to centrally record and track each canine team's training
15 records, certification records, and health records, regardless of whether individual handlers also
16 maintain records.

17 22. BPD agrees to continue to track canine deployments and canine apprehensions on a
18 monthly basis to assess its canine unit and individual canine teams. For tracking purposes related
19 to evaluation of incidents, including the Early Intervention System, a "canine deployment" occurs
20 any time a canine is removed from the patrol vehicle for a potential or an actual engagement with
21 a subject.

22 23. BPD agrees to include canine deployments as an element of the Early Intervention
23 System, and to provide for the review, pursuant to the protocol for that system, of the
24 performance of any handler whose canine has bitten someone during the reporting period. Canine
25 data and analysis shall be included in BPD's Use of Force Annual Report.

26 24. BPD agrees to continue not to use the services of any of its canines without first
27 ensuring that the canine is controllable and otherwise able to meet the standards required by BPD
28 policy.

1 25. BPD will ensure no handler or canine will be deployed unless the handler and canine
2 are current on all training requirements and the canine is fully controllable during exercises.

3 26. BPD shall collect and maintain all records on canine training, deployment,
4 apprehension, and bites, and analyze canine-related data to develop, consistent with best
5 practices, training and operational recommendations for individual dogs, handlers, and the unit as
6 a whole.

7 27. BPD shall establish procedures for auditing canine training, deployment, and
8 administrative documentation, to be performed by the Quality Assurance Unit.

9 28. The responsibilities of the Canine Commander shall be explicitly described in a
10 position description that identifies both operational and administrative expectations, and the
11 knowledge, skills and abilities required to effectively manage canine operations. The duties
12 involved shall include submission of a comprehensive quarterly report to the Chief summarizing
13 all canine deployments that occurred during the reporting period, identification of any patterns or
14 trends of note, evaluation of and efforts to minimize risk exposure, and recommendations for
15 improvements in policy, training, and support for field operations the Canine Unit is engaged in.
16 This report shall describe and address all claims for damages and litigation associated with the
17 unit's operations that were filed during the reporting period.

18 29. BPD shall amend its canine policy to (a) prohibit the deployment of canines for crowd
19 control and when the subject appears to be under the age of 18, unless such deployment is
20 specifically approved by an executive/command-level officer (rank of Captain or higher), (b)
21 require the approvals of any deployment of a canine as provided for in subdivision (a) of this
22 paragraph be fully justified and documented in the use of force report, (c) specifically address
23 what force may be used by an officer to defend a canine, and (d) prohibit any canine team that
24 fails to graduate or obtain certification to be deployed in the field until graduation or certification
25 is achieved.

26 **C. Use of Force Reporting Policy**

27 30. BPD agrees to continue to require officers to report all uses of force greater than a
28 standard handcuffing. A reportable use of force is as follows:

1 a. Any use of force which is required to overcome subject resistance to gain compliance,
2 that results in death, injury, complaint of injury in the presence of an officer, or
3 complaint of pain that persists, and which does not result in an allegation of excessive or
4 unnecessary force; or

5 b. Any use of force involving the use of personal body weapons, chemical agents,
6 impact weapons, extended range impact weapons, vehicle interventions, firearms, and
7 any intentional pointing of a firearm at a subject, regardless of whether the use of force
8 results in any injury or complaint of injury or pain.

9 31. BPD shall require its officers to completely and accurately describe the force used or
10 observed, including describing in detail the actions of the suspect necessitating the use of force
11 and the specific force used in response to the suspect's actions; any warning provided to the
12 subject prior to the use of force, and if no warning given, why one was not feasible; any injuries
13 or complaints of injuries; whether persons who have been sprayed with OC spray have been
14 promptly provided with a neutralizing agent or solution to flush the affected area; and any
15 medical treatment or refusal of medical treatment of the suspect. BPD will work with the
16 Monitor to develop a best practice model to decontaminate subjects sprayed with OC spray. This
17 reporting requirement also relates to any use of force incidents that occur when employees are
18 off-duty but engaged in exercising police powers.

19 32. BPD will categorize reportable uses of force into levels (i.e., Level 1, 2, and 3) based
20 on seriousness and specify associated roles and responsibilities of involved officers, supervisors,
21 and investigative personnel at each level regarding reporting and review. Level 1 shall be the
22 category of force at the lowest level with Level 3 being the highest level of force. The specific
23 levels of force and the types of force that constitute those categories will be defined by the
24 Monitor in consultation with the California Department of Justice (DOJ).

25 33. All levels of force, including non-reportable levels of force, should be clearly identified
26 and described in the use of force policy.

27 34. The use of force reporting policy shall explicitly prohibit the use of conclusory
28 statements without supporting detail, shall include original language in all statements as opposed

1 to boilerplate language, and reports documenting use of force. Officers shall be held accountable
2 for material omissions or inaccuracies in their use of force statements, which may include being
3 subject to disciplinary action.

4 35. BPD agrees to continue to require officers who use or observe force to notify their
5 supervisors immediately following any reportable use of force incident or upon receipt of an
6 allegation of unreasonable or unreported use of force by any officer. Officers who use or observe
7 force and fail to report it shall be subject to disciplinary action, up to and including termination.

8 36. BPD shall specify the reporting, investigation, and review requirements for each level
9 of force, including reporting requirements for the involved and witness officers, the
10 responsibilities of the investigating supervisor, criminal and administrative investigator
11 responsibilities, and review requirements.

12 37. All officers who use reportable force shall be required to complete a use of force
13 statement, as shall officers who witness a Level 2 or Level 3 use of force. The name and rank of
14 every officer on scene shall be included in the supervisor's use of force report, even if that officer
15 did not witness the Level 2 or Level 3 use of force. The use of force reports shall also include a
16 physical description of the height, weight, gender, and race of each officer at the scene.

17 38. The Critical Incident Review Board (CIRB) shall review all Level 3 uses of force and
18 any other matters referred to it by Internal Affairs, the Chief, Assistant Chief, or division
19 commander.

20 39. BPD shall identify in the use of force policy the nature and extent of the use of force
21 information it will release to the public.

22 40. BPD will continue to inform the public and develop a policy and process to inform the
23 public about all officer-involved shootings and deaths in custody. As soon as practical following
24 any officer-involved shootings and deaths in custody, BPD will provide information to the public
25 which is legally allowed and which does not compromise an ongoing investigation.

26 41. BPD will develop a policy that provides for a liaison to the families of individuals
27 involved in an officer shooting or to an individual who sustains serious bodily injury as a result of
28 BPD officer actions. The policy will require the liaison to address the family of such individuals

1 with respect and to provide as much information as possible to address the questions that family
2 members may have and which does not compromise the ongoing investigation.

3 **D. Use of Force Supervisory Investigations**

4 42. For all reportable uses of force, the investigating supervisor shall conduct a thorough
5 investigation. This investigation will require supervisors to:

- 6 a. respond to the scene, examine the subject of the force for injury, interview the subject
7 for complaints of pain, and ensure that any injured subject receives medical attention
8 from an appropriate medical provider;
- 9 b. ensure identification and collection of all relevant evidence, including camera
10 recordings;
- 11 c. direct the canvassing for, and interview of, civilian witnesses; and
- 12 d. collect statements from witness officers; and review all officer use of force statements
13 for adequacy, accuracy, and completeness.

14 43. Following the investigation, the supervisor shall complete a supervisory investigation
15 documented in a "Supervisor's Report on Use of Force." This Report shall include:

- 16 a. the supervisor's narrative description of the incident, including a complete and
17 comprehensive description of all of the physical and testimonial evidence related to the
18 incident;
- 19 b. documentation of all evidence of an injury or lack thereof;
- 20 c. identities of all officers involved in or witnessing the force; and
- 21 d. whether interviews of individuals with LEP were conducted in the interviewee's
22 primary language, and if so, by whom.

23 44. An employee at the rank of lieutenant or higher shall conduct a review of the
24 supervisor's investigation of the use of force, which review will include at least the following:

- 25 a. An assessment of the investigating supervisor's use of force investigation to ensure it
26 is complete, thorough, and objectively conducted, and provides all supporting documents
27 and statements from involved officers and witnesses;

28

1 b. a recommendation as to whether the officer's actions appear to be within BPD policy
2 and consistent with state and federal law, and an assessment of the incident for tactical
3 and training implications; and

4 c. documentation of any training or tactical concerns, and/or corrective action taken or
5 recommended.

6 45. Upon completion of the lieutenant's review, the investigative reports shall be
7 forwarded through the chain of command, which will review the report to ensure that it is
8 thorough and complete, and that the analysis and subsequent findings are supported by a
9 preponderance of the evidence and documented. A final determination of whether the incident is
10 within policy must be made by a manager at the rank of captain or higher, if the use of force (a)
11 resulted in a complaint of pain or an observable injury, or (b) involved a weapon. The
12 commanding officer shall conduct an analysis and adjudication based upon a preponderance of
13 the evidence and ensure any corrective actions, to include training and discipline, policy
14 modifications, or risk management and mitigation measures, are carried out and documented.

15 46. BPD will hold officers accountable for uses of force that violate policy or law, and
16 continue to require sergeants and lieutenants to refer uses of force that may violate law or BPD's
17 use of force policy to Internal Affairs for further investigation or review.

18 47. BPD will hold supervisors accountable for not detecting, adequately investigating, or
19 responding to force that is unreasonable or otherwise contrary to BPD policy.

20 48. BPD managers will be responsible for identifying and reporting force trends and for
21 taking preventive steps to curb problematic trends, including issuing or revising policies,
22 directives, training bulletins, or providing additional mentoring and supervision to individual
23 officers.

24 49. BPD managers will regularly review and track "training and tactical review" related
25 findings, recommendations, and comments to ensure that informal supervisory feedback does not
26 replace the need for formal discipline.

27 50. BPD will work with the Monitor to update and modernize its CIRB policy so that it is
28 consistent with this Agreement and tracks with contemporary policing best practices. The

1 purpose of the CIRB will be to work in conjunction with the Administrative Review Process to
2 conduct a timely and more holistic evaluation, beyond just individual policy compliance of all
3 critical incidents. The board's evaluation shall encompass the actions of all involved personnel
4 (including non-force users, supervisors, and support personnel) and issues of training, tactics,
5 supervision, equipment and pre/post incident response and aftermath. BPD is currently
6 considering including different ranks of officers on the CIRB, will also consider including a
7 member of the community, and will work with the Monitor to develop a policy that includes
8 community input.

9 51. At minimum, BPD will convene the CIRB for all Level 3 uses of force, any use of
10 force that results in serious bodily injury or death, and any other matters referred to it by Internal
11 Affairs, the Chief, Assistant Chief, or division commander.

12 52. With regard to officer-involved shootings, the CIRB reports will provide a detailed
13 rationale for their findings and examine not just the deadly force that was used, but the entirety of
14 the officer-involved shooting incident, including tactics used or not used leading up to the use of
15 force and the need for any additional policies or training or improvements to existing policies or
16 training, including but not limited to those identified in the after-action report (AAR). BPD will
17 develop a process for review, feedback, and ongoing assessments to support continuous
18 improvements based on observations and recommendations identified in CIRB and AAR reports.
19 The AAR will include any and all identified findings and recommendations made by the CIRB,
20 including, but not limited to, all recommendations for improvements in training (both for the
21 individual officers involved and for the entire agency), policies, procedures, tactics, equipment,
22 technology, organization, or any other issues that could contribute to improving future individual
23 or organizational performance. Within 90 days of the CIRB's findings, the Quality Assurance
24 Unit lieutenant will ensure all identified issues are addressed and documented in a formal report
25 that clearly states the findings, and how any identified issues were addressed. The Quality
26 Assurance Unit will submit a report documenting that all identified issues either have been or are
27 being addressed, and provide a status report regarding those issues, documenting how the CIRB's
28

1 findings and directions were addressed. The Quality Assurance Unit will be required to
2 reevaluate the corrections at defined time frames to ensure the desired outcomes are achieved.

3 53. BPD will work with the Monitor to include as part of its commendation policy an
4 award or commendation that recognizes employees who demonstrate exceptional skill in
5 employing de-escalation and community policing practices in the field.

6 **E. Use of Force Training**

7 54. BPD will work with the Monitor to determine the use of force training to be provided
8 to all officers. The topics will include the following:

- 9 a. proper use of force decision making, including when force may be unnecessary in
10 response to minor resistance (biennial);
- 11 b. role-playing scenarios and interactive exercises that illustrate proper use of force
12 decision making, including training officers on the importance and impact of ethical
13 decision making and peer intervention (annual);
- 14 c. principles of procedural justice, and avoiding the use of force in response to minor
15 resistance (biennial);
- 16 d. de-escalation techniques that encourage officers to make arrests without using force
17 (annual);
- 18 e. threat assessment, including how race and/or bias can impact officers' threat
19 assessments (biennial); and
- 20 f. for supervisors, initial and annual refresher training on conducting use of force
21 investigations, how to effectively direct officers to minimize uses of force and to
22 intervene effectively to prevent or stop unreasonable force, using BPD's accountability
23 and disciplinary systems after encountering a potentially unreasonable use of force, and
24 supporting officers who report unreasonable or unreported force or who are retaliated
25 against for using only reasonable force or attempting to prevent unreasonable force
26 (annual).

27 55. BPD shall establish a training committee made up of, but not limited to, Training and
28 Logistics Division personnel, Internal Affairs personnel, Quality Assurance Unit personnel, and

1 use of force experts responsible for assessing the effectiveness of the curricula against current
2 policies and the integration of use of force scenario-based training and adult learning theory.

3 56. BPD shall have clear guidelines for selecting training instructors, with prior
4 performance history being a significant factor in the selection criteria.

5 57. BPD shall convene its FTO's and the force-related training instructors no less than
6 once a year to review, update, and ensure BPD is providing consistent, high-quality, and
7 contemporary training in the use of force, and which is consistent with BPD policies.

8 58. BPD use of force training that is particularly relevant to organizational roles and
9 responsibilities shall also be provided to supervisors, managers, and command staff.

10 **F. Use of Force Analysis**

11 59. Within one year of the Effective Date of this Judgment and at least annually thereafter,
12 BPD will analyze the BPD use of force data and the force-related outcome data, to identify
13 significant trends, and identify and correct deficiencies revealed by such analysis.

14 60. BPD's force analysis will include an assessment of the frequency and nature of uses of
15 force that are referred to Internal Affairs for investigation; the subject of misconduct complaints;
16 the subject of civil lawsuits related to criminal obstruction- or resisting-arrest-type charges that
17 are dismissed or declined by the prosecutor; or that involve repeat-officers or units.

18 61. BPD will continue to determine whether policy or training curricula changes must be
19 made as a result of its analysis of use of force incidents.

20 62. BPD will document the results of the use of force analysis in a public report. BPD will
21 agree to a specifically delineated framework to meaningfully engage with community
22 stakeholders in developing the revised policies described above.

23 63. BPD will agree to put together a community advisory working group or panel and will
24 make a good faith effort to have representatives from various diverse stakeholder groups,
25 including, but not limited to, the Kern County Public Defender's Office, California Rural Legal
26 Assistance (CRLA), the American Civil Liberties Union (ACLU), United Farm Workers (UFW),
27 the Dolores Huerta Foundation (DHF), the NAACP, Greater Bakersfield Legal Assistance
28

1 (GBLA), PICO Bakersfield, as well as members of Sikh and LGBTQ+ community groups.

2 During the first year of the panel or working group's existence, it will meet at least bimonthly.

3 The panel or working group will thereafter meet with BPD at least quarterly to provide input into
4 policy and procedure, provide insight into the community's concerns, and educate the community
5 about BPD. At least one BPD manager, at the rank of lieutenant or higher, shall serve as the
6 agency's ongoing liaison to the panel and actively participate in those meetings and discussions,
7 provide that panel with adequate staff support to carry out its mission, and must regularly report
8 on the group's progress and expectations to the Chief of Police.

9 64. BPD agrees to work with its community advisory working group or panel when
10 revising policies that are of particular interest to the community including, but not limited to, its
11 use of force and related policies, bias-free policing policies, community policing, civilian
12 complaints, and diversity in recruiting, hiring, and promotion policies.

13 **II. STOPS, SEIZURES, AND SEARCHES**

14 65. BPD will reiterate, train, and emphasize that all investigatory stops, seizures, and
15 searches are conducted in accordance with the rights, privileges, and immunities secured or
16 protected by the Constitution or laws of the State of California and the United States. BPD will
17 reiterate, train, emphasize and ensure that investigatory stops and searches are part of an effective
18 overall crime prevention strategy, do not contribute to counter-productive divisiveness or tension
19 between BPD and the community, and are adequately documented for tracking and supervision
20 purposes. To achieve these outcomes, BPD shall implement the requirements below.

21 66. BPD will implement policies to be developed in consultation with the Monitor, to
22 ensure that officers document, and BPD supervisors review and evaluate: (1) investigatory stops
23 and pat-down searches, to determine whether they are supported by reasonable suspicion; (2)
24 whether arrests are supported by probable cause and BPD policy; and (3) whether investigatory
25 stops, searches, and arrests, even if comporting with law and policy, indicate a need for corrective
26 action or review of agency policy, strategy, tactics, or training.

27 67. BPD officers should be required to identify themselves by name and rank at the
28 beginning of encounters with individuals unless doing so is not safe.

1 68. BPD agrees to prohibit interfering, threatening, intimidating, blocking or otherwise
2 discouraging a member of the public, who is not violating any other law, from taking photographs
3 or recording video (including photographs or video of police activities) in any place the member
4 of the public is lawfully present. Such prohibited interference includes:

- 5 a. Ordering a person to cease taking photographs or recording video;
- 6 b. Demanding, absent a lawful purpose, that person's identification;
- 7 c. Demanding that the person state a reason why he or she is taking photographs or
8 recording video;
- 9 d. Detaining, absent a lawful purpose, that person;
- 10 e. Intentionally blocking or obstructing cameras or recording devices (not including
11 physical barricades or screens used as part of a tactical operation or crime scene);
- 12 f. Seizing and/or searching a camera or recording device without a warrant or consent of
13 the subject possessing the device;
- 14 g. Using, absent a lawful purpose, force upon that person; or
- 15 h. Detaining or arresting an individual for violating any other law where the purpose of
16 the detention or arrest is to prevent or retaliate for recording police activity.

17 **A. Investigatory Stops and Detentions**

18 69. BPD will reiterate, train, and emphasize that officers will only conduct investigatory
19 stops or detentions where the officer has reasonable suspicion that a person is in the process of
20 committing a crime, or has committed a crime.

21 70. BPD will enhance and revise its current training with respect to investigatory stops by
22 emphasizing the following elements: (1) introducing themselves at the initiation of contact with a
23 civilian when reasonable and practical; (2) stating the reason for an investigatory stop or
24 detention as soon as practicable; (3) ensuring that an investigatory stop or detention is no longer
25 than necessary to take appropriate action; (4) acting with professionalism and courtesy throughout
26 the interaction; and (5) conducting a pat-down search only if the officer has specific and
27 articulable facts justifying the pat-down search.

28

1 71. BPD will reiterate, train and emphasize to officers that race, color, ethnicity, national
2 origin, religion, gender, gender identity, disability, or sexual orientation is not to be used as a
3 factor, to any extent or degree, in establishing reasonable suspicion or probable cause, except as
4 part of actual and credible description(s) of a specific suspect or suspects in any criminal
5 investigation.

6 72. BPD officers shall document all stop data required by Racial and Identity Profiling Act
7 of 2015 and the statute's implementing regulations.

8 73. BPD will reiterate, train, and emphasize that officers should use accurate and specific
9 descriptive language and not rely solely on "boilerplate" or form language in any reports
10 describing factual circumstances of investigatory stops, detentions, and searches.

11 74. BPD shall collect and analyze data related to searches based on probation or parole
12 status. BPD shall assess the efficacy of this tactic and its impact on the community and make
13 policy changes accordingly.

14 **B. Searches**

15 75. BPD will reiterate, train, and emphasize to officers that race, color, ethnicity, national
16 origin, religion, gender, gender identity, disability, or sexual orientation is not to be used in
17 exercising discretion to conduct a search, except as part of an actual and credible description of a
18 specific suspect or suspects in any criminal investigation.

19 76. BPD officers will not conduct arbitrary searches. The request to conduct a consensual
20 search will be reasonable. An officer must be able to articulate a valid reason under law and BPD
21 policy for initially having stopped an individual.

22 77. All BPD officers equipped with body-worn cameras (BWC's) or audio recorders will
23 record all requests for consent to search and the individual's response. Where a subject is LEP,
24 the officer shall affirmatively inform the subject in the appropriate non-English language, or
25 arrange for the subject to be so informed in the subject's speaking language.

26 78. BPD policy shall provide that before conducting a consensual search of a residence, the
27 officer must have an objectively reasonable belief that the individual granting the consent has the
28 lawful authority to do so. All consensual searches of a residence must be authorized in writing,

1 regardless of whether they are captured by the BWC, by the individual giving consent. If consent
2 is granted, a supervisor shall be contacted, briefed on the circumstances, and authorize approval
3 before a search is conducted.

4 79. BPD will make clear that it is the law and BPD policy that officers will only conduct
5 probation or parole searches of individuals when knowledge of a probation or parole search
6 condition has been established prior to the search. BPD will work with the Monitor to develop a
7 policy that provides guidance on this matter and that prohibits randomly or presumptively asking
8 individuals for their probation or parole status, without first having a basis for the inquiry.

9 80. BPD shall continue to ensure that all employees, including non-sworn personnel, have
10 completed the training required by Penal Code section 13519.4, subd. (g) and the required
11 refresher courses as provided for in Penal Code section 13519.4, subd. (i).

12 **C. Stop, Search, and Seizure Policies and Training**

13 81. BPD shall provide all officers with initial training and periodic roll call training on its
14 Racial or Bias-Free Based Profiling Policy at least quarterly, and dispatch personnel initial
15 training on bias-free policing, stops, searches, and seizures, including the requirements of this
16 Agreement, to ensure sworn personnel are capable of conducting these activities in a manner
17 consistent with the provisions and expectations of this section and the Agreement. Such policies
18 will be informed and adopt applicable recommendations made by the State of California Racial
19 and Identity Profiling Advisory Board reports, and other recognized police best practices
20 resources. In addition, BPD will work with the Monitor to develop a training based upon these
21 policies that shall be taught by a qualified instructor with expertise in bias-free policing,
22 constitutional criminal procedure, and Fourth and Fourteenth Amendment issues. The training
23 shall:

- 24 a. ensure officers understand the Fourth and Fourteenth Amendments and related legal
25 restrictions on searches and seizures, including consent searches, probation and parole
26 searches, bias-free policing, bias by proxy for all officers and dispatch personnel, as well
27 as additional limitations under BPD policy;
- 28 b. address the differences between various police contacts by:

- i. the scope and level of police intrusion;
- ii. differences between probable cause, reasonable suspicion, and mere speculation; and
- iii. true voluntary consent;

c. provide guidance on the facts and circumstances, in addition to legal and policy limitations, that should be considered in initiating, conducting, terminating, and expanding a stop or search, including consent searches and probation and parole searches;

d. incorporate role playing scenarios and other adult-learning mechanisms to facilitate officer ability to exercise good judgment about whether and how to stop and search individuals; and

e. provide guidance on consensual encounters, stopping and/or searching individuals for discretionary and non-violent offenses, including providing guidance about procedural justice, alternatives to conducting investigatory stops and searches, and the impact on civilians of conducting apparently arbitrary stops and searches.

D. Supervisory Review

82. BPD agrees to implement additional accountability and supervision practices outlined below, and ensure that existing policies are followed, to ensure that unlawful stops, searches, and seizures are detected and effectively addressed.

83. BPD will work with the Monitor to establish a process for sergeants to regularly audit officers. Sergeants shall continue to regularly audit their assigned officers' stop, search, and seizure documentation, in addition to arrest reports and citations, for completeness, accuracy, and legal sufficiency. Lieutenants shall ensure that at least one call from the computer-aided dispatch (CAD) log for each officer under their supervision is audited two times every 30 days. Sergeants shall conduct further review as indicated by weekly audits and other indicia, document their findings, and submit that documentation for review and approval to their manager.

84. If an officer's stop, search, or seizure documentation does not provide sufficient detail or articulate sufficient legal and policy justification for the action, the supervisor shall review the

1 action with the officer to determine whether there was sufficient legal and BPD policy
2 justification.

3 85. BPD sergeants and lieutenants shall evaluate and enhance BPD's processes and
4 procedures to address all violations or deficiencies in stops, searches, and seizures, including non-
5 disciplinary corrective action for the involved officer, and/or referring the incident for
6 disciplinary action when other corrective measures have been ineffective or ignored.

7 86. The BPD Compliance Coordinator shall track repeated violations of the provisions of
8 this Agreement or deficiencies and the corrective action taken, if any.

9 87. BPD agrees to continue to hold accountable sergeants and lieutenants for appropriately
10 and thoroughly reviewing reports and documentation related to stops, searches, and seizures, and
11 requiring officers to articulate sufficient rationale under law and BPD policy.

12 88. BPD will analyze the stop data it collects under the Racial and Identity Profiling Act of
13 2015 (RIPA), and consult with the Monitor of the Judgment on a semiannual basis to obtain
14 supplemental recommendations from the Monitor for revisions to its policies and training, based
15 upon that analysis.

16 **III. RESPONDING TO AND INTERACTING WITH PEOPLE WITH**
17 **BEHAVIORAL HEALTH DISABILITIES OR IN CRISIS**

18 89. BPD will continue to evaluate and improve its policies with respect to calls involving a
19 person in mental health crisis or suffering from a mental health disability. Among other things,
20 this policy will continue to emphasize a preference, when responding to calls involving a person
21 in mental health crisis or suffering from a mental health disability, that officers be dispatched who
22 are specifically trained in dealing with these subjects and in the application of de-escalation
23 techniques for handling such crises. Dispatch protocols will continue to emphasize preference for
24 relying upon the Kern County Mobile Evaluation Team (MET) for handling such incidents.
25 When MET resources are unavailable and no immediate threat of harm to others is evident, other
26 trained personnel will be utilized if feasible, and de-escalation tactics will be given highest
27 preference in an effort to resolve these incidents without resorting to the use of force.
28

1 90. Sworn staff, call takers, and dispatch personnel will receive training that emphasizes
2 recognizing a person may be suspected of having a behavioral health disability or be in crisis by
3 taking into account a number of factors, including self-reporting, information provided by
4 witnesses or informants, BPD's previous knowledge of the individual, or an officer's direct
5 observation.

6 91. Officers will be trained not to make assumptions regarding the dangerousness of an
7 individual based on that individual's disability.

8 92. BPD will continue to use a Crisis Intervention Team Training (CIT) first-responder
9 model of police-based crisis intervention with community, health care, and advocacy partnerships
10 to assist individuals with behavioral health disabilities and individuals who are in crisis.

11 93. The goals of the CIT program will continue to be to equip officers with methods to
12 properly interact safely with persons with behavioral health disabilities or in crisis; de-escalate
13 crises and reduce the unnecessary use of force against individuals with behavioral health
14 disabilities or in crisis; minimize arrests; improve the safety of patrol officers, individuals with
15 behavioral health disabilities or in crisis and their families, and others within the community;
16 refer individuals to Kern County's behavioral health crisis system; and reduce the potential for an
17 inappropriate involvement of individuals with behavioral health disabilities with the criminal
18 justice system.

19 94. BPD will continue to work toward ensuring all patrol officers receive a 40-hour CIT
20 training. BPD will continue to provide CIT training to all cadets in its academies and all lateral
21 transfers. In addition, sworn personnel who are newly promoted to a supervisory position shall
22 receive a refresher CIT training as part of their leadership training.

23 95. BPD will continue to provide CIT training on responding to individuals in crisis to all
24 of its recruits and will continue working toward training all officers. BPD will work with the
25 Monitor to determine the necessary amount of in-service training. The annual training will be
26 adequate for officers to demonstrate competence in the subject matter and will include specified
27 topics.

28

1 96. All BPD dispatchers, and their supervisors will receive CIT training that is adequate to
2 enable them to identify, dispatch, and appropriately respond to calls for service that involve
3 individuals in crisis.

4 97. Within 180 days of the effective date of this Agreement, BPD will designate a sworn
5 employee at the rank of sergeant or above to act as a Crisis Intervention Coordinator
6 (Coordinator) to better facilitate communication between BPD and members of the behavioral
7 health provider community and to increase the effectiveness of BPD's crisis intervention
8 program. BPD will ensure that the Coordinator is empowered to fulfill all duties of the
9 Coordinator required by this Agreement.

10 98. BPD will develop a protocol to evaluate the effectiveness of its policies for responding
11 to calls for service involving a person in crisis or with a mental health disability. The protocol
12 will include audits and improvement loops to be developed by the Monitor in consultation with
13 the DOJ.

14 99. BPD will work with the Monitor to include as part of its commendation policy an
15 award or commendation that recognizes employees who demonstrate exceptional skill in
16 employing their CIT training in the field.

17 **IV. MANAGEMENT AND SUPERVISORY OVERSIGHT**

18 100. BPD will, in consultation with the Monitor and with approval by the DOJ, continue to
19 develop and implement policies, guidelines, and training to ensure all supervisors and managers,
20 (a) exercise appropriate supervisory oversight of use of force incidents, (b) conduct objective and
21 impartial investigations of those matters, (c) remain accountable for meeting agency standards
22 and expectations, (d) engage with and listen to community feedback, (e) incorporate community
23 feedback when able and appropriate, and (f) develop and evaluate policing strategies and tactics
24 reflective of contemporary best police practices.

25 101. BPD will, in consultation with the Monitor and approval by DOJ, also develop and
26 implement mandatory supervisory training in accord with contemporary police practices that will
27 include techniques for effectively guiding and directing the actions of their subordinate personnel,
28

1 promoting effective and constitutional police practices, and stressing the importance of de-
2 escalating conflict situations whenever possible.

3 102. BPD will, in consultation with the Monitor and approval by the DOJ, develop specific
4 metrics and guidelines for evaluating the effectiveness of the supervision of its officers, and
5 perform evaluations based on these metrics and guidelines on an annual basis. Based on its
6 review of this practice, the Monitor and/or DOJ will make supplemental recommendations as to
7 revisions to the metrics and guidelines to continue to improve the effectiveness of the supervision
8 of BPD's officers.

9 103. All policies, metrics and guidelines will incorporate processes for internal or external
10 reviews, audits, and/or continuous improvement loops in order to ensure the reforms are effective
11 and sustainable.

12 **V. LANGUAGE ACCESS**

13 104. BPD agrees to effectively communicate with and continue to provide timely and
14 meaningful access to police services to all members of the Bakersfield community, regardless of
15 their limited ability to speak, read, write, hear, or understand English. To achieve this outcome,
16 BPD agrees to:

- 17 a. work and meaningfully engage with its community advisory panel or working group
18 and community stakeholders to develop and implement a language access policy that is
19 consistent with Title VI of the United States Code (42 U.S.C. § 2000d et seq.), to provide
20 meaningful access to BPD programs and services for individuals who have a limited
21 ability to speak, read, write, or understand English, and for individuals that are hard of
22 hearing or deaf;
- 23 b. jointly designate, with the City of Bakersfield, a language access coordinator who will
24 coordinate with BPD and review BPD's language access policy for compliance with
25 applicable federal and California law;
- 26 c. provide training on its language access plan for all officers, communication
27 supervisors, call-takers, and dispatchers that addresses procedures consistent with BPD
28 policy for responding to calls requiring language access services.

1 105. BPD will consult with the Monitor, DOJ and the language access coordinator to
2 review its language access policies to ensure that the services provided align with the community
3 needs and how these services compare with similar entities.

4 **VI. RECRUITMENT, HIRING, AND PROMOTIONS**

5 **A. Recruitment of Sworn Personnel**

6 106. To maintain high-level, quality service, ensure officer safety and accountability, and
7 promote constitutional, effective policing, BPD and the City's Human Resources Department will
8 continue to review and revise as necessary its recruitment and hiring program to ensure that BPD
9 continues to successfully attract and hire a diverse group of qualified individuals.

10 107. According to the timeline specified in the Monitoring Plan, discussed in detail below,
11 BPD and the City's Human Resources Department will continue its development of a written
12 Recruitment Plan that includes clear goals, objectives, and action steps for attracting and retaining
13 a quality work force that reflects the diversity of the Bakersfield community.

14 108. The Recruitment Plan will, at a minimum, require the following:

- 15 a. Broad distribution of recruitment information, including information regarding career
16 opportunities, compensation, the testing and hiring process, and applicable deadlines and
17 requirements. Such information will, at a minimum, be readily accessible on the BPD
18 and the City's Human Resources Department websites and available upon request to
19 BPD or City officials;
- 20 b. That candidates continue to be allowed to submit initial applications online to the
21 City's Human Resources Department;
- 22 c. Opportunities for officers, civilians, and members of City government to continue to
23 assist BPD's efforts to attract a broad spectrum of qualified applicants;
- 24 d. That the City and BPD allow for continuous written testing for peace officer
25 applicants;
- 26 e. Recruitment outreach to a broad spectrum of community stakeholders, aimed at
27 increasing the diversity of its ranks, including race and gender, and applicants who are
28 community policing and problem-solving oriented. BPD and the City will continue to

1 explore opportunities for youth in the City's high schools to gain exposure to policing
2 through internship or other programs, and create ways to support interested youth in
3 fulfilling the requirements to join BPD; and

4 f. Expanding diverse hiring efforts, including outreach to national organizations and
5 resources which can assist and support BPD in their efforts to target and attract qualified
6 candidates who better reflect the community's demographics and can help meet the needs
7 and expectations of under-represented populations.

8 109. The Recruitment Plan will be submitted for the Monitor and DOJ's approval. BPD,
9 the City's Human Resources Department, and the Monitor will meet and confer to resolve any
10 objections the Monitor notes. BPD and the City's Human Resources Department will implement
11 the Recruitment Plan upon approval and as required by the Monitoring Plan.

12 **B. Hiring**

13 110. BPD and the City's Human Resources Department, with the aid of the Monitor, will
14 conduct an in-depth review of BPD's current hiring processes for officers and City hiring criteria,
15 to assess whether any process, criterion, or requirement has a disparate impact based on a
16 demographic category. If BPD and the City's Human Resources Department or the Monitor
17 determines that any step in the hiring process may result in a disparate impact based on
18 demographic category, BPD, the City's Human Resources Department, and the Monitor will
19 determine whether there are reasonable alternative selection procedures available that would
20 comply with City requirements and serve the City's needs while having less of a disparate impact,
21 and if so, BPD and the City will implement those alternative selection procedures.

22 111. BPD and the City will work with the Monitor to evaluate whether the written entrance
23 examination has a disproportionate impact based upon race and/or gender, and if so whether the
24 examination should be modified to reduce or eliminate the disparity.

25 112. BPD and the City will work with the Monitor to evaluate whether the pre-
26 investigative background questionnaire and personal history statement provided by Peace Officer
27 Standards and Training (POST) and any other materials utilized have a disproportionate impact

1 based upon race and/or gender, and if so whether those portions of the application process should
2 be modified to reduce or eliminate the disparity.

3 113. The City and BPD's recruitment, hiring, and promotions policies and practices will
4 continue to show a commitment to attracting, hiring, and promoting qualified candidates at all
5 ranks that reflect a broad cross-section of the community BPD serves.

6 114. The City and BPD will continue to ensure that its recruitment, hiring, and promotion
7 policies and practices are lawful, fair, and consistent with best practices, anti-discrimination laws,
8 and the terms of this Agreement.

9 115. The decision to suspend or not select a candidate based upon their background will
10 continue to rest at the lieutenant level or higher and the reason(s) shall be documented.

11 **C. Promotions**

12 116. Within six months of the Effective Date, BPD and the City's Human Resources
13 Department shall develop and implement a promotion policy that is adequate to satisfy the
14 requirements of this section.

15 117. As part of the promotion policy, BPD will continue to consider and expand upon the
16 following factors:

- 17 a. Effective use of community and problem-oriented policing strategies;
- 18 b. The number and circumstances of uses of force;
- 19 c. An officer's service as an FTO or Field Training Sergeant;
- 20 d. Disciplinary record;
- 21 e. Problem-solving skills;
- 22 f. Interpersonal skills;
- 23 g. Supervisory skills sufficient to ensure compliance with BPD policy and the
24 requirements of the Judgment;
- 25 h. Support for departmental integrity measures; and
- 26 i. Awards and commendations.

27 118. The promotion policy shall be designed to continue to ensure promotional decisions
28 are made without favoritism or unlawful discrimination; increase transparency and officer

1 awareness about the promotions process and promotions decisions, including, but not limited to,
2 identifying criteria for promotions; and incorporate enhanced strategies for promoting qualified
3 applicants who reflect a broad cross-section of the Bakersfield community.

4 119. The City's Human Resources Department and BPD will report annually to the City
5 Council, and to the public, on their websites, BPD's promotional activities and outcomes,
6 including the number of applicants, interviewees, and selectees, categorized by gender, race,
7 ethnicity, and national origin.

8 120. The City's Human Resources Department and BPD shall evaluate the promotion plan
9 every two years, to assess BPD's promotions processes for the ranks of senior officer, detective,
10 sergeant, lieutenant, and captain, to ensure that its policies and practices comply with the law, are
11 transparent, and are consistent with the Agreement. The assessment will include the senior
12 officer, sergeant, detective, lieutenant, captain, and assistant chief promotions processes. The
13 senior officer, sergeant, detective, lieutenant, captain, and assistant chief promotions assessment,
14 at a minimum, will identify:

- 15 a. The processes by which BPD selects candidates for promotion to senior officer,
16 sergeant, detective, lieutenant, captain, and assistant chief who possess a core set of
17 competencies, characteristics, and capabilities and, when applicable, who are effective
18 supervisors in compliance with BPD policy and the Agreement;
- 19 b. Methods for consideration of each candidate's work history, including disciplinary
20 actions taken and commendations received, in the selection process;
- 21 c. Department strategies for promoting qualified applicants who reflect a broad cross-
22 section of the City's community;
- 23 d. The frequency with which BPD and the City's Human Resources Department should
24 hold promotional exams;
- 25 e. Opportunities to increase transparency and officer awareness about the promotions
26 process and promotions decisions, including, but not limited to, identifying criteria for
27 promotions; and
28

1 f. Recommendations for any modifications to the current promotions processes that
2 would enable BPD and the City's Human Resources Department to address the
3 requirements of this section.

4 121. Within 60 days of the completion of the promotions assessment, BPD and the City
5 will develop an implementation plan to respond to any recommendations identified in the
6 assessment, including any recommended modifications to the promotions processes and a
7 timeline for implementation. Upon completion, the results of the assessment and its
8 implementation plan will be provided to the Monitor for review and approval. Within 120 days
9 of receiving the Monitor's approval, BPD and the City's Human Resources Department will
10 begin to implement the plan.

11 122. Within one year of the Effective Date of the Judgment, BPD and the City's Human
12 Resources Department will identify and publish, both internally and externally, for the ranks of
13 senior officer, detective, sergeant, lieutenant, captain, and assistant chief, the duties, eligibility
14 criteria, knowledge, skills, and abilities considered to select qualified candidates who are effective
15 supervisors in compliance with City policy and this Judgment.

16 123. Within one year of the Effective Date of this Agreement, BPD and the City's Human
17 Resources Department will develop strategies to increase transparency and awareness about the
18 promotions process for the ranks of senior officer, detective, sergeant, lieutenant, captain, and
19 assistant chief, including, but not limited to, criteria for promotions and promotion decisions.

20 124. The Bakersfield City Council will prepare a proposed charter amendment for the
21 November 2022 General Election which will seek to permit the appointment of a person from an
22 external agency to the position of Chief of Police.

23 **VII. COMMUNITY POLICING**

24 125. BPD agrees to enhance, promote, and strengthen partnerships within the community,
25 to continue engaging constructively with the community to ensure collaborative problem-solving
26 and bias-free policing, and to increase transparency and community confidence in BPD. To
27 achieve this outcome, BPD agrees to implement the requirements set forth below. As noted
28 above, BPD also agrees to form and maintain a community advisory panel or working group, and

1 to develop and amend its use of force policies, community policing strategy and policies, bias-
2 free policing policies, and civilian complaint policies with input from the community advisory
3 panel or working group and other stakeholders within the community.

4 126. BPD will agree to develop a strategic plan to meaningfully engage with community
5 stakeholders and work with its newly formed community advisory panel or working group, as
6 described below, in developing the revised policies described above.

7 **A. Community and Problem-Oriented Policing**

8 127. BPD agrees to broaden its current efforts to actively participate in community
9 engagement efforts, including participating in local community meetings, making itself available
10 for community feedback, and working with the community on the development of diversion
11 programs. BPD agrees to enhance its engagement with all members of the community, including
12 its critics. BPD agrees to create additional easy points of access for community feedback and
13 input, such as providing “community feedback” or “talk to your lieutenant” links on its website
14 and social media pages.

15 128. A variety of sworn personnel, up through the chain of command, shall continue to
16 actively attend community meetings and events. BPD agrees to develop a plan for such
17 attendance. The plan shall indicate the number and types of events to be attended on a regular
18 basis and take into account the need to enhance relationships with particular groups within the
19 community, including, but not limited to, youth, LEP individuals, and communities of color.

20 129. BPD agrees to provide structured annual in-service training on community policing
21 and problem-oriented policing methods and skills for all officers, including unit supervisors and
22 lieutenants. This training shall include:

- 23 a. methods and strategies to improve public safety and crime prevention through
24 community engagement;
- 25 b. scenario-based training, including roll call training, that promotes the development of
26 new partnerships between BPD and the community targeting problem solving and
27 prevention;
- 28 c. leadership, ethics, and interpersonal skills;

- d. community engagement techniques, including how to establish formal partnerships and actively engage community organizations, including youth, immigrant, and LGBTQ+ communities;
- e. problem-oriented policing tactics for both employees and community members;
- f. conflict resolution and verbal de-escalation of conflict; and
- g. cultural awareness and sensitivity training.

130. BPD will continue to incorporate into its organizational strategies and policing philosophy the Final Report of The President's Task Force on 21st Century Policing and its concepts.

131. To continually improve police-community partnerships, BPD will assess and report on the impact of community engagement initiatives. BPD will issue annual public reports and post them on its website, on its community engagement efforts, identifying successes, obstacles, and recommendations for future improvement.

132. BPD agrees to seek the assistance of its community advisory panel or working group and community advocates in widely disseminating information to the public, in English and Spanish, and as set forth in other requirements of this Agreement.

B. Community Survey

133. BPD agrees to assist the Monitor in conducting a reliable, comprehensive, and representative biennial survey of members of the City community regarding their experiences with and perceptions of BPD and of public safety.

134. To conduct the biennial community survey, the City shall provide funding for the Monitor, as part of the City's annual budget set forth below to select and retain an individual or entity that shall:

- a. develop a baseline of measures on public satisfaction with policing, attitudes among police personnel, and the quality of police-citizen encounters;
- b. design, conduct, and analyze baseline and subsequent annual surveys of a representative sample of City residents, law enforcement personnel, and detained arrestees;

- 1 c. review and consider prior law enforcement surveys in Bakersfield and other cities, in
2 designing the survey;
- 3 d. engage in formal and informal conversation with City residents, BPD officers and
4 command staff, and DOJ representatives, and observe community meetings;
- 5 e. ensure that the resident and arrestee surveys are designed to capture a representative
6 sample of City residents including members of each demographic category; conduct the
7 survey in English, Spanish, and other languages as necessary to ensure representation of
8 the entire Bakersfield community; and
- 9 f. formally discuss the survey methodology with BPD supervisors and DOJ and consider
10 these opinions in the development of the initial survey and improvements to subsequent
11 surveys.

12 135. BPD agrees to cooperate with the design and conduct of the survey by, for example,
13 helping to organize focus groups of officers and obtaining and providing previous survey
14 instruments and data.

15 136. The report of the baseline survey and subsequent annual surveys shall be publicly
16 distributed and posted on the BPD website.

17 **VIII. PERSONNEL COMPLAINT REVIEW**

18 137. BPD will continue to ensure that all allegations of personnel misconduct are received
19 and documented, are fully and impartially investigated, adjudicated based on a preponderance of
20 the evidence, and that all personnel who commit misconduct are held accountable pursuant to a
21 disciplinary system that is fair and consistent. To achieve these outcomes, BPD and the City
22 agree to implement the requirements below.

23 **A. Complaint Intake**

24 138. BPD shall continue to make personnel complaint forms and informational materials,
25 including brochures and posters, available at appropriate City or municipal properties in
26 Bakersfield, including, at a minimum, BPD stations, courts, City libraries, and the BPD website
27 and social media sites, and shall make a concerted effort to provide them to community groups,
28 churches, and other non-governmental stakeholders.

1 139. BPD will continue to accept all personnel complaints, including anonymous and third-
2 party complaints, for review and investigation. Complaints may be made in writing or verbally,
3 in person or by mail, telephone (or TDD), facsimile, or electronic mail, as well as in the field.
4 Any LEP individual who wishes to file a complaint about a BPD officer or employee shall be
5 provided with a complaint form and informational materials in the appropriate non-English
6 language and/or be provided appropriate translation services in order to file a complaint.

7 140. The refusal to accept a personnel complaint, discouraging the filing of a complaint, or
8 providing false or misleading information about filing a complaint, shall continue to be grounds
9 for discipline, up to and including termination.

10 141. BPD's civilian complaint policies and procedures will be amended to incorporate, at
11 minimum, the best practices contained in the California Racial & Identity Profiling Advisory
12 Board's 2019 Annual Report, at pages 41-44.

13 142. BPD will make its complaint brochure that explains the complaint procedures
14 available in Spanish or any other language that the City must provide to voters during an election.
15 BPD will also amend its website so that complaint forms can be submitted electronically.

16 143. BPD will amend its complaint form to collect the information delineated in the
17 California Racial & Identity Profiling Advisory Board's 2020 Annual Report, at pages 82-84.
18 The complaint form and information provided on the website shall be amended to state that
19 retaliation for making a complaint or cooperating in a complaint investigation is contrary to BPD
20 policy.

21 **B. Complaint Classification**

22 144. BPD will enhance its complaint investigation related policies, to ensure that they are
23 complete, clear and consistent. BPD will implement mechanisms to ensure that all personnel
24 allegations are accurately classified at all investigative stages, from intake through adjudication,
25 so that each allegation receives the appropriate level of review required under policy.

26 145. BPD will ensure that personnel complaints are not misclassified as inquiries. Toward
27 this end BPD, as approved by the Monitor and DOJ, will establish a clear definition to identify
28 what conduct constitutes a civilian complaint. The definition of a civilian complaint should

1 include the Internet posting of a video by a community member, depicting apparent officer
2 misconduct towards a community member and other non-traditional sources of complaints. Any
3 contact from the public designated as a public inquiry must also be reviewed by Internal Affairs.
4 Internal Affairs shall independently review the contact to determine whether it should be
5 categorized as civilian complaint or public inquiry. BPD will agree to modernize its public
6 inquiry system.

7 146. In consultation with the Monitor and subject to DOJ approval, BPD will revise
8 policies to clarify and strengthen requirements related to which allegations of misconduct by BPD
9 personnel, if true, would require imposition of discipline, as opposed to non-disciplinary action,
10 to address the misconduct.

11 147. BPD shall continue to investigate every allegation of misconduct that arises during an
12 investigation, even if an allegation is not specifically articulated as such by the complainant and
13 will work with the monitor to enhance this process.

14 148. In order to ensure that all personnel complaint investigations are thorough, fair, and
15 resolved in a timely and appropriate manner, BPD will continue to designate Internal Affairs to
16 serve as central coordinator and quality control hub for all personnel complaint intake,
17 investigation, adjudication and review processes, even for those cases not requiring a full
18 administrative investigation. BPD will work with the Monitor to enhance this process.

19 **C. Investigations**

20 149. All investigations of BPD personnel complaints, including reviews, shall continue to
21 be as thorough as necessary to reach reliable and complete findings, and the investigation shall
22 address all substantive issues raised by the reporting party. In each investigation, BPD shall
23 consider all relevant evidence, including circumstantial, direct, and physical evidence, as
24 appropriate, and make credibility determinations based upon that evidence. BPD investigators
25 will not use leading questions when interviewing officers and will not permit officers to submit a
26 written statement in lieu of an interview with investigators. There will continue to be no
27 automatic preference for an officer's statement over a non-officer's statement, nor will BPD
28 disregard a witness' statement merely because the witness has some connection to the

1 complainant or because of any criminal history. BPD shall continue to make efforts to resolve
2 material inconsistencies between witness statements. BPD will work with the Monitor to enhance
3 this process.

4 150. BPD will continue not to permit any involved supervisor, any supervisor who
5 authorized the conduct that led to the complaint, or any supervisor who has a conflict with the
6 BPD personnel subject to the investigation to conduct the investigation into the complaint.

7 151. The misconduct investigator shall seek to identify all persons at the scene giving rise
8 to a misconduct allegation, including all BPD officers. The investigator will make all reasonable
9 efforts to interview all witnesses and any other person at the scene giving rise to the misconduct
10 allegation. The investigator shall note in the investigative report the identities of all officers and
11 persons who were on the scene but assert they did not witness and were not involved in the
12 incident. The investigator shall conduct further investigation of any such assertions that appear
13 unsupported by the evidence.

14 152. All witnesses, including, if authorized by the Public Safety Officers Procedural Bill of
15 Rights Act, officers witnessing or involved in an incident that becomes the subject of a personnel
16 complaint, shall provide a written statement regarding their involvement in and/or observations of
17 the incident, or be interviewed as described below.

18 153. Consistent with current policy, interviews shall continue to be recorded. BPD will
19 also conduct all interviews separately. An interpreter not involved in the underlying complaint
20 will be used when taking statements or conducting interviews of any LEP complainant or witness.

21 154. Every BPD misconduct investigation should include a comprehensive investigative
22 summary to ensure that the evidentiary bases for the investigation's findings are clearly supported
23 and accessible to command staff who make disciplinary recommendations.

24 **D. Management Review and Adjudication of Complaints**

25 155. All personnel investigations shall continue to be reviewed and approved in writing by
26 the accused employee's commanding officer. The reviewing commanding officer shall continue
27 to ensure that all substantive allegations were identified and investigated, even if the allegation
28

1 was not specifically articulated by the complainant. BPD will work with the Monitor to enhance
2 this process.

3 156. The reviewing commanding officer will continue to adjudicate each substantive
4 allegation using the preponderance of evidence standard and classify each allegation using the
5 Penal Code standards of Sustained, Not Sustained, Exonerated, or Unfounded (Pen. Code, §§
6 832.5, 13012).

7 157. When an allegation is sustained, the reviewing commanding officers will continue to
8 recommend the appropriate corrective action or penalty, taking into consideration the seriousness
9 of the offense, the offense's impact on the community, and the employee's work history. BPD
10 will work with the Monitor to enhance this process.

11 158. To ensure fairness, transparency, and predictability, BPD will codify its disciplinary
12 recommendation process to ensure that discipline is uniformly applied and takes into account the
13 1) seriousness of the offense; 2) impact or potential impact on the Department and its members;
14 3) employee's work history and acceptance of responsibility; 4) employee's prior disciplinary
15 history; and 5) impact on public trust.

16 159. The reviewing commanding officers will continue to ensure that the disposition of
17 each complaint and allegation(s) therein are recorded accurately in the Department's database
18 used to track such employee actions.

19 **E. Complaint Review and Investigation Training**

20 160. BPD agrees to provide updated and revised training to officers and supervisors about
21 proper complaint intake, classification, and investigation techniques. BPD will provide training
22 about how to record complaints from individuals who may not be proficient in English, and the
23 consequences for failing to properly take and objectively investigate complaints from the public.

24 161. All personnel involved in conducting personnel complaint investigations at BPD shall
25 receive initial training on conducting these misconduct investigations and shall receive refresher
26 training each year. This training shall include instruction in:

- 27 a. investigative skills, including proper interrogation and interview techniques, gathering
28 and objectively analyzing evidence, and data and case management;

- 1 b. the particular challenges of personnel complaint reviews/investigations, including
2 identifying alleged misconduct that is not clearly stated in the complaint or that becomes
3 apparent during the investigation, properly weighing credibility of both civilian witnesses
4 and officers, using objective evidence to resolve inconsistent statements, and the proper
5 application of the preponderance of the evidence standard;
- 6 c. relevant state, local, and federal law, including state employment law related to
7 officers and the rights of public employees, as well as criminal discovery rules such as
8 those set out in *Garrity v. New Jersey* (1967) 385 U.S. 493, *Lybarger v. City of Los*
9 *Angeles* (1985) 40 Cal.3d 822, and *Brady v. Maryland* (1963) 373 U. S. 83; and
- 10 d. BPD rules and policies, including the requirements of this Agreement, and protocols
11 related to criminal and administrative investigations of alleged officer misconduct.

12 162. All personnel responsible for the review of personnel complaint investigations at BPD
13 shall receive initial training on reviewing personnel complaint investigations and shall receive
14 refresher training annually thereafter. The training shall include instruction in:

- 15 a. Ensuring that all witnesses and accused officers are accounted for in the investigation
16 and that they are asked about allegations they may have witnessed or in which they were
17 allegedly involved;
- 18 b. Ensuring that summarized statements accurately reflect the recorded interviews;
- 19 c. Ensuring that evidence is identified, analyzed, and interpreted in the investigation;
- 20 d. Ensuring any risk-management issues are identified and addressed, such as inadequate
21 policies, insufficient training, inadequate or inoperable safety equipment, and ineffective
22 field supervision;
- 23 e. Determining the appropriate corrective action and/or penalty, when appropriate; and
- 24 f. Relevant state and local laws dealing with conducting personnel investigations and
25 disciplinary actions.

26 **F. Personnel Complaint Audits**

27 163. BPD shall conduct an annual, randomized audit of BPD's complaint intake,
28 classification, investigations, and the adjudication of those matters. This audit will assess

1 whether complaints are accepted and classified consistent with policy, investigations are
2 complete, and complaint dispositions are consistent with a preponderance of the evidence. Audits
3 will be submitted through the chain of command to the Chief for a determination regarding
4 recommendations made and further action required.

5 164. BPD will, on a quarterly basis, submit a report to the Monitor identifying all cases in
6 which employees were found to have committed misconduct, and detailing the steps taken to hold
7 them accountable for their conduct. The Monitor will then submit a report to BPD and to DOJ
8 providing its expert opinion as to whether the cases identified and the steps taken have been
9 sufficient or insufficient, and provide recommendations as to improvements, if any, that should be
10 made to the process for holding such personnel accountable.

11 165. BPD's Internal Affairs Unit will regularly assess the effectiveness of the complaint
12 process; analyze the complaints to determine if there is a need for a re-evaluation of existing
13 policies, procedures, or trainings; ensure regular audits of complaint investigations to ensure the
14 quality of those investigations, summarized statements accurately reflect recorded interviews, and
15 standards are being met; and make reports of complaint statistics available to the public on a
16 regular basis. BPD will also utilize its Internal Affairs Division to assess the effectiveness of its
17 complaint process, and the process for determining which complaints are investigated by Internal
18 Affairs Division.

19 166. BPD will publish an annual report of personnel complaint data that reflects the
20 categories of complaints received and the final disposition of those complaint investigations that
21 have been completed as well as the status of any complaint investigations still pending. The
22 report will be made available to the public on BPD's public website, once approved by the Chief
23 and the Monitor. This report will reflect data for the preceding calendar year and will be released
24 by April 1 of each year.

25 **MONITORING**

26 167. This Stipulated Judgment shall be overseen by a qualified third-party Monitor, who
27 shall be provided complete access to BPD's and the City's information and documents to ensure
28 compliance with this Judgment and whose reasonable costs and expenses shall be paid for by the

1 City. The City is committed to allocating all costs necessary to comply with the terms of the
2 Judgment, and if the City believes that any Monitoring costs are not reasonable, the City shall
3 meet and confer with DOJ within 15 days of the receipt of each invoice. The Monitor shall
4 provide the DOJ and the City with monthly invoices detailing each expense along with any
5 documentation necessary to justify each expense.

6 **A. Selection of Monitor**

7 168. Within 15 days of the service of the Notice of Entry of Judgment, the Parties shall
8 meet and confer to select a Monitor and/or monitoring team (Monitor) to oversee the terms of this
9 Judgment. As described in greater detail below, the Monitor will assess the City's progress in
10 implementing, and achieving compliance with, the Judgment; report on the status of
11 implementation to the Parties and the Court; work with the Parties to address any barriers to
12 compliance; and assist the Parties to informally resolve disputes or differences should they
13 emerge.

14 169. The Monitor shall be subject to the supervision of DOJ, consistent with this Judgment
15 and the Monitoring Plan, as defined below. The Monitor shall have the duties, responsibilities,
16 and authority necessary to carry out the terms of the Judgment. The Monitor shall not, and is not
17 intended to, replace or assume the role and duties of the Chief of Police or of the DOJ.

18 170. In order to assess and report on BPD's implementation of this Judgment and whether
19 implementation is resulting in constitutional policing, the Monitor shall conduct qualitative and
20 quantitative compliance reviews, audits, and outcome assessments as specified below, and such
21 additional audits, reviews, and assessments that the Monitor or Parties deem appropriate.

22 **B. Compliance Reviews and Audits**

23 171. The Monitor shall conduct compliance reviews or audits as necessary to determine
24 whether BPD has implemented and continues to comply with the Material Requirements of this
25 Judgment. A "Material Requirement" in this Judgment is a requirement of the Judgment that has
26 a significant relationship to achieving the purposes of this Judgment.

27 172. To achieve "Full and Effective Compliance" under this Judgment, the City and BPD
28 must demonstrate that they have (a) incorporated all Material Requirements of this Judgment into

1 policy, (b) trained relevant personnel as necessary to fulfill their responsibilities pursuant to the
2 Material Requirements, and (c) ensured that each Material Requirement is being carried out in
3 practice. No specific numerical test shall be required to demonstrate Full and Effective
4 Compliance, so long as BPD is demonstrating substantial compliance and adherence with the
5 Material Requirements, continual improvement, and the overall purpose of the Material
6 Requirements has been met. Non-compliance with mere technicalities, or temporary or isolated
7 failure to comply during a period of otherwise sustained compliance, will not constitute failure to
8 achieve or maintain Full and Effective Compliance. At the same time, temporary compliance
9 during a period of otherwise sustained noncompliance will not constitute compliance with this
10 Judgment.

11 173. Compliance reviews and audits will contain both qualitative and quantitative elements
12 as necessary for reliability and comprehensiveness. Where appropriate, the Monitor will make
13 use of audits conducted by BPD's Quality Assurance Unit, taking into account the importance of
14 internal auditing capacity and independent assessment of this Judgment.

15 174. Where the Monitor recommends and the Parties agree, the Monitor may refrain from
16 conducting a compliance audit or review of a requirement previously and consistently found to be
17 in compliance by the Monitor pursuant to audit or review. Thereafter, BPD and/or the City will
18 be deemed to have achieved compliance with those requirements for purposes of this Judgment,
19 absent evidence to the contrary.

20 175. The Monitor, in conjunction with BPD, will conduct an ongoing audit of incidents
21 where an officer brandishes a firearm in the presence of a member of the public. The audit will
22 include a review of all civilian complaints and an appropriate sample of police reports, including
23 use of force incidents, related to any use or such brandishing of a firearm.

24 **C. Outcome Assessments**

25 176. In addition to compliance reviews and audits, the Monitor shall conduct qualitative
26 and quantitative outcome assessments to measure whether BPD's implementation of this
27 Agreement has eliminated practices that resulted in DOJ's filing of the complaint. These
28

1 outcome assessments shall include collection and analysis, both quantitative and qualitative, of
2 the following outcome data:

3 a. Use of Force Measurements, including:

- 4 i. the rate of force used by BPD per arrest, reporting district (i.e. street address,
5 neighborhood, or reporting district), type of arrest, and demographic category;
- 6 ii. the number and rate of uses of force resulting in training or tactical reviews,
7 with formal discipline and/or with informal corrective action; and
- 8 iii. the number and rate of use of external force complaints that result in formal
9 administrative investigations/reviews, and in which each finding is supported
10 by a preponderance of the evidence.

11 b. Stop and Search Measurements, including:

- 12 i. the number and rate of stops and searches for which there is sufficient
13 documented reasonable suspicion, overall and broken down by geographic area,
14 type of arrest, and demographic category;
- 15 ii. the number and rate of searches that result in a finding of contraband, overall
16 and broken down by authority to conduct search, reporting district, type of
17 arrest, and demographic category;
- 18 iii. the number and rate of arrests, overall and broken down by type of arrest and
19 demographic category; and
- 20 iv. the number of consensual searches conducted overall and broken down by
21 reporting area, type of arrest and demographic category.

22 c. Supervision Measurements, including initial identification of officer violations and
23 performance problems by supervisors (including sergeants, lieutenants, and captains),
24 and effectiveness of supervisory response.

25 d. Complaints made by the public, the various categories of those complaints, and the
26 findings made.

27 177. In conducting audits, reviews, and outcome assessments, the Monitor may use any
28 relevant data collected and maintained by BPD that the Monitor and DOJ deem reliable and

1 sufficiently complete, provided that the Monitor has determined, and the Parties agree, that this
2 data is reasonably reliable and complete.

3 **D. Monitoring Plan and Review Methodology**

4 **Monitoring Plan**

5 178. The Monitor will develop and complete a Monitoring Plan, including proposed
6 deadlines for implementation for conducting the compliance reviews and audits (Monitoring
7 Plan). It is the Parties' intent that the development of the Monitoring Plan will likely require
8 input from BPD, and BPD agrees to work with the Monitor toward this end. This Monitoring
9 Plan will include specific deadlines and timelines for the first year of implementation of the
10 Judgment, including: (1) deadlines for the development of policies and training materials, and (2)
11 schedules for conducting compliance reviews and outcome assessments. The Monitoring Plan
12 will be submitted to DOJ for approval within 90 days of the Monitor's appointment.

13 179. Upon approval by DOJ, the Monitor will submit the Monitoring Plan to BPD for final
14 review and approval. BPD will have 30 days to either approve or propose changes to the
15 Monitoring Plan. If BPD proposes changes, the Monitor and DOJ will have 15 days to accept or
16 object to those changes. If the Monitor and DOJ object to any of the proposed changes, the
17 Monitor will provide the rationale for the objection, in writing, and the Parties will attempt to
18 confer to resolve the disagreement.

19 180. If after good faith attempts, disagreement regarding the Monitoring Plan remains
20 unresolved between the Parties and/or Monitor so that the Monitoring Plan is not approved by the
21 Parties, and the disagreement remains unresolved, the Monitor will make the final determination.

22 181. For each subsequent year, the Monitor will develop a detailed Monitoring Plan for
23 implementation of the Judgment. The approval of the subsequent Monitoring Plans will follow
24 the same process as that set forth in paragraphs 178 through 180 of this Judgment.

25 182. At least 30 days prior to the initiation of any outcome measure assessment or
26 compliance review, the Monitor shall submit a proposed methodology for the assessment or
27 review to the Parties. The Parties shall submit any comments or concerns they have regarding the
28 proposed methodology to the Monitor within 15 days of receipt of the Monitor's notification.

1 The Monitor shall modify the methodology as necessary to address any concerns, or shall inform
2 the Parties in writing of the reasons they are not modifying the methodology as proposed.

3 **Development of Policies, Procedures, and Training**

4 183. BPD will submit all related policies, training curricula, and lesson plans required to be
5 written, revised, or maintained by the Agreement to the Monitor and DOJ prior to publication and
6 implementation. The Parties will share draft policies and meet as needed to reach agreement on
7 whether revised policies and training materials are in compliance with the requirements of the
8 Judgment, the Constitution, federal and statutory law, best practices, and current professional
9 standards.

10 184. Forty-five days before a compliance deadline, as set out in the Monitoring Plan, the
11 Parties will submit the policy, training curriculum or lesson plan to the Monitor for review. The
12 Monitor will provide written comments to DOJ and BPD, which the DOJ shall consider in
13 determining whether to approve the policy, training curriculum, and lesson plan.

14 185. If BPD, DOJ, and the Monitor do not all agree that the policy, training curriculum or
15 lesson plan is consistent with this Agreement, legal requirements, and best practices, either Party
16 or the Monitor will provide the rationale for its objection in writing and the Parties and Monitor
17 will attempt to confer to resolve the disagreement. If the disagreement remains unresolved, DOJ
18 will make the final determination.

19 186. BPD will begin implementation of policies and procedures within 30 days of DOJ
20 approval or the Court's decision if a dispute arises, unless otherwise specified or agreed to by the
21 Parties in the Monitoring Plan.

22 187. Within 30 days after issuing a policy or procedure pursuant to this Judgment, BPD
23 shall ensure that all relevant BPD personnel have received, read, and understand their
24 responsibilities pursuant to the policy or procedure, including the requirement that each officer or
25 employee report violations of policy; that supervisors of all ranks shall be held accountable for
26 identifying and responding to policy or procedure violations by personnel under their command;
27 and that personnel will be held accountable for policy and procedure violations. BPD shall
28 document that each relevant BPD officer or other employee has received, read, and sufficiently

1 understands policy. Training beyond roll-call or similar training will be necessary for many new
2 policies to ensure officers understand and can perform their duties pursuant to the policy.

3 188. Within 180 days from the Effective Date of the Judgment, BPD shall ensure that each
4 BPD sworn personnel member attends a training briefing on the content of this Judgment and the
5 responsibilities of each officer and employee pursuant to it. BPD shall begin providing this
6 training briefing within 45 days of the Effective Date of the Judgment.

7 189. All training will include periodic testing to ensure that employees are appropriately
8 comprehending, retaining, and applying the knowledge and skills conveyed during the training
9 required by the Agreement. Based on results of testing, BPD will provide additional periodic
10 training as needed to officers, supervisors, and lieutenants that is sufficient in duration and scope
11 to ensure that all officers can consistently and effectively carry out BPD's policies.

12 190. BPD shall completely and accurately record information regarding BPD officers'
13 training attendance.

14 **E. Monitor Recommendations and Assessments**

15 191. The Monitor may also make recommendations to the Parties regarding measures
16 necessary to ensure timely, Full and Effective Compliance with the Judgment and its underlying
17 objectives. Such recommendations may include a recommendation to change, modify, or amend
18 a provision of the Judgment, a recommendation for additional training related to the Judgment, or
19 a recommendation to seek technical assistance.

20 192. The Monitor may also, at the request of either Party, provide technical assistance
21 consistent with the Agreement.

22 193. The Monitor shall conduct a comprehensive assessment one year after the Effective
23 Date to determine whether and to what extent: (1) the outcomes intended by the Agreement have
24 been achieved, and (2) any modifications to the Judgment are necessary for continued
25 achievement in light of changed circumstances or unanticipated impact (or lack of impact) of a
26 requirement. Based upon this comprehensive assessment, the Monitor shall recommend what
27 modifications to the Judgment, if any, are necessary to achieve and sustain intended outcomes.
28 Where the Parties agree with the Monitor's recommendations, the Parties shall work to adopt

1 mutually acceptable modifications of the Judgment. BPD will have the option to delay this
2 comprehensive assessment for one additional year if they deem this to be the appropriate time
3 period for the comprehensive assessment. If BPD decides to seek this delay of the
4 comprehensive assessment, they will advise the Monitor and DOJ within six months of the
5 Effective Date of this Judgment.

6 **F. Monitor Reports**

7 194. The Monitor will issue to DOJ and BPD a report every year that details the progress
8 in implementing the Judgment and achieving compliance with the Judgment. The reports will
9 include:

- 10 a. a description of the work conducted by the Monitor during the reporting period;
- 11 b. a listing of each Judgment requirement indicating which requirements have been: (1)
12 incorporated into policy; (2) the subject of sufficient training for all relevant BPD
13 officers and employees; (3) reviewed or audited by the Monitor to determine whether
14 they have been fully implemented in actual practice, including the date of the review or
15 audit; and (4) found by the Monitor to have been fully implemented in practice;
- 16 c. the methodology and specific findings for each audit or review conducted, redacted as
17 necessary for privacy concerns. The underlying data for each audit or review will not be
18 publicly available but will be retained by the Monitor and provided to either or both
19 Parties upon request;
- 20 d. for any requirements that were reviewed or audited and found not to have been fully
21 implemented in practice, the Monitor's recommendations regarding necessary steps to
22 achieve compliance;
- 23 e. the methodology and specific findings for each outcome assessment conducted; and
- 24 f. a qualitative assessment of BPD's progress in achieving the desired outcomes for each
25 area covered by the Judgment, noting issues of concern or particular achievement; and a
26 projection of the work to be completed during the upcoming reporting period and any
27 anticipated challenges or concerns related to implementation of, and achieving
28 compliance with, the Judgment.

1 195. The Monitor shall provide a copy of the reports to the Parties in draft form at least 30
2 days prior to its due date. The Parties will meet to discuss any comments on the report, and the
3 Monitor shall consider the Parties' comments and edit the report if appropriate before issuing the
4 report.

5 196. The reports shall be public with the exception of material covered by applicable
6 privacy or confidentiality laws. Any parts of the reports that identify specific officers or
7 supervisors will not be made public. To facilitate public access to the reports, BPD shall post the
8 reports to its public website.

9 197. Except as required or authorized by the terms of this Agreement or the Parties acting
10 together, the Monitor, including, for the purposes of this paragraph, any agent, employee, or
11 independent contractor thereof, shall not make any public statements or issue findings with regard
12 to any act or omission of BPD, or their agents, representatives, or employees; or disclose non-
13 public information provided to the Monitor pursuant to this Agreement. Prior to making any
14 press statement regarding their employment or monitoring activities under this Agreement, the
15 Monitor shall first provide notice to both the DOJ and BPD and obtain prior authorization from
16 DOJ.

17 **G. Public Statements, Testimony, and Conflicts of Interest**

18 198. The Monitor may testify as to their observations, findings, and recommendations
19 before the Court with jurisdiction over this matter; however, no Monitor shall testify in any other
20 litigation or proceeding with regard to any act or omission of BPD or any of its agents,
21 representatives, or employees related to this Agreement or regarding any matter or subject that the
22 Monitor may have received knowledge of as a result of his or her performance under this
23 Agreement. This paragraph does not apply to any proceeding before a court related to
24 performance of contracts or subcontracts for Monitoring this Agreement.

25 199. Unless such conflict is waived by the Parties, the Monitor shall not accept
26 employment or provide consulting services that would present a conflict of interest with the
27 Monitor's responsibilities under this Agreement, including being retained (on a paid or unpaid
28 basis) by any current or future litigant or claimant, or such litigant's or claimant's attorney, in

1 connection with a claim or suit against BPD, the City, or its departments, officers, agents, or
2 employees. This provision does not preclude the Monitor from being retained by DOJ on other
3 matters unrelated to BPD.

4 200. The Monitor is not a state or local agency, or an agent thereof, and accordingly the
5 records maintained by the Monitor shall not be deemed public records subject to public
6 inspection.

7 201. The Monitor shall not be liable for any claim, lawsuit, or demand arising out of the
8 Monitor's performance pursuant to this Agreement.

9 **H. Communication Between Monitor and Parties**

10 202. The Monitor will maintain regular contact with the Parties in order to ensure effective
11 and timely communication regarding the status of the BPD's implementation of, and compliance
12 with, the Agreement. To facilitate this communication, the Monitor will conduct meetings every
13 two months, or as needed, which will include participation by BPD, representatives of the City
14 Attorney's office, and DOJ.

15 **I. Access and Confidentiality**

16 203. To facilitate its work, the Monitor may conduct on-site visits and assessments without
17 prior notice to the City or BPD. The Monitor shall have access to all necessary individuals,
18 facilities, and documents, which shall include access to Agreement-related trainings, meetings,
19 and reviews such as critical incident reviews, executive force review committee meetings, and
20 disciplinary hearings.

21 204. The City or BPD shall provide the Monitor with office space and reasonable office
22 support, such as office furniture, secure internet access, telephone, secure document storage, and
23 photocopying, faxing, and scanning equipment, that the Monitor may require while in the City.

24 205. BPD shall ensure that the Monitor shall have full and direct access to all City and
25 BPD staff, employees, and facilities that the Monitor reasonably deems necessary to carry out the
26 duties assigned to the Monitor by this Agreement. The Monitor shall cooperate with the City and
27 BPD to access people and facilities in a reasonable manner that, consistent with the Monitor's
28 responsibilities, minimizes interference with daily operations.

1 206. BPD shall ensure that the Monitor shall have full and direct access to all BPD
2 documents and data that the Monitor reasonably deems necessary to carry out the duties assigned
3 to the Monitor by this Agreement, except any documents or data protected by the attorney-client
4 privilege. The attorney-client privilege may not be used to prevent the Monitor from observing
5 reviews, meetings, and trainings such as use of force review boards; disciplinary hearings; or
6 discussions of misconduct complaint investigations. Should BPD decline to provide the Monitor
7 access to documents or data based on attorney-client privilege, BPD shall inform the Monitor and
8 DOJ that it is withholding documents or data on this basis and shall provide the Monitor and DOJ
9 with a log describing the documents or data.

10 207. For the purpose of implementing this Agreement, DOJ and its consultative experts
11 and agents shall have full and direct access to all BPD staff, employees, facilities, and documents
12 and data who have pertinent information about BPD. DOJ and its consultative experts and agents
13 shall cooperate with BPD to access involved personnel, facilities, and documents in a reasonable
14 manner that, consistent with DOJ's responsibilities to enforce this Agreement, minimizes
15 interference with daily operations.

16 208. The Monitor or DOJ shall provide the City with reasonable notice of a request for
17 copies of documents or data. Upon such request, the City and/or BPD shall provide in a timely
18 manner copies (electronic, where readily available) of the requested documents to the Monitor
19 and DOJ.

20 209. The Monitor shall have access to all records and information relating to criminal
21 investigations of BPD officers as permissible by law. The Monitor shall have access to all
22 documents in criminal investigation files that have been closed by BPD. The Monitor shall also
23 have reasonable access to all arrest reports, warrants, and warrant applications whether or not
24 contained in open criminal investigation files. Where practicable, arrest reports, warrants, and
25 warrant applications shall be obtained from sources other than open criminal investigation files.

26 210. The Monitor and DOJ shall maintain all non-public information provided by BPD and
27 the City in a confidential manner. Other than as expressly provided in this Agreement, this
28 Agreement shall not be deemed a waiver of any privilege or right the BPD or City may assert,

1 including those recognized at common law or created by statute, rule or regulation, against any
2 other person or entity with respect to the disclosure of any document.

3 **J. BPD Compliance Coordinator**

4 211. The Parties agree that BPD will hire and retain or assign a current BPD management
5 level employee to serve as the Compliance Coordinator for the duration of this Judgment. The
6 Compliance Coordinator will serve as a liaison between BPD, the City, the Monitor, and DOJ,
7 and will assist with ensuring BPD's compliance with the Agreement. At a minimum, the
8 Compliance Coordinator will:

- 9 a. coordinate compliance and implementation activities;
- 10 b. facilitate the timely provision of data, documents, and other access to BPD employees
11 and material to the Monitor and DOJ, as needed;
- 12 c. ensure that all documents and records are maintained as provided in the Agreement;
- 13 and
- 14 d. assist in assigning compliance tasks to BPD personnel, as directed by the Chief or his
15 designee. The Compliance Coordinator will take primary responsibility for collecting the
16 information the Monitor requires to carry out the terms of the Agreement.

17 **K. Monitor Budget and Payment**

18 212. The City shall bear all fees and costs of the Monitor. In approving budgets, the
19 Parties recognize the importance of ensuring that all fees and costs borne by the City are
20 reasonable. The Parties shall work with the Monitor to reach mutually agreed upon reasonable
21 limits on the Monitor's fees and costs. Within 10 days of entry of judgment, the City shall
22 deposit with the DOJ a minimum of \$250,000, which shall be held in an interest-bearing account.
23 The Department of Justice shall pay the Monitor from this account. The Attorney General shall
24 notify the City any time the balance in said account reaches less than \$50,000, and the City shall,
25 within 10 days of receiving such notice, deliver to the DOJ sufficient funds to return the account's
26 balance to \$250,000. When the Judgment has been terminated, all funds remaining in the account
27 shall be returned to the City.

1 213. Within 90 days of appointment, the Monitor shall submit to the Parties for approval a
2 proposed budget for the first year of implementation of the Agreement. The proposed budget will
3 describe the qualifications of all the persons or entities to be hired or employed by the Monitor as
4 well as the Monitoring tasks that they will perform. The Monitor, at any time after their
5 appointment, may request to be allowed to hire, employ, or contact such additional persons or
6 entities as are reasonably necessary to perform the tasks assigned to the Monitor by the
7 Agreement, provided that those expenditures fall within the approved budget. The Monitor will
8 notify the City and DOJ in writing if the Monitor wishes to select such additional persons or
9 entities. The notice will identify and describe the qualifications of the person or entity to be hired
10 or employed and the Monitoring task to be performed. The City and DOJ must both approve of
11 the person or entity before they may be hired or employed, although substantial deference will be
12 afforded to the Monitor's choice. Any person or entity hired or otherwise retained by the Monitor
13 will be subject to the provisions of the Agreement.

14 214. Thereafter, the Monitor shall submit annually a proposed budget for the Parties'
15 approval in accordance with the process set forth above. Notwithstanding any other provision of
16 this Agreement, the City shall not be responsible for any costs of the Monitor or related activities
17 that exceed the approved budget.

18 215. At any time, the Monitor may submit to the Parties for approval proposed revisions to
19 the approved budget, along with any explanation of the reason for the proposed revision. Such
20 proposed changes may only be implemented upon written agreement of the Parties. In the event
21 that a dispute arises regarding the reasonableness or payment of the Monitor's fees and costs, the
22 Parties and the Monitor shall attempt to resolve such dispute cooperatively prior to seeking the
23 assistance of the Court to resolve the dispute.

24 216. The Monitor will submit monthly monitoring invoices to the City for approval, and
25 the City will notify the DOJ within 30 days, in writing, that the DOJ is authorized to pay the
26 Monitor's invoice. The City will not unreasonably withhold approval; however, if a dispute
27 arises the City will notify the Monitor and work toward resolving the disagreement. If the
28

1 disagreement cannot be resolved through a meet and confer process with all Parties, then the City
2 may file a motion requesting that the court resolve the dispute.

3 217. In the event that the Monitor is no longer able to perform their functions, the City and
4 DOJ will together select a replacement Monitor, acceptable to both. The Parties' selection of the
5 Monitor will be made pursuant to a method jointly established by DOJ and the City. If the Parties
6 are unable to agree on a Monitor or an alternative method of selection within 60 days of the
7 Monitor's incapacitation, each Party will submit the names of three candidates, or three groups of
8 candidates, along with resumes and cost proposals, to the Court, and the Court will select and
9 appoint the Monitor from among the qualified candidates/candidate groups.

10 218. Should either of the Parties to the Agreement determine that the Monitor or any
11 member of the Monitor's consulting teams, their agents, employees, or independent contractors
12 have exceeded their authority or failed to satisfactorily perform the duties required by the
13 Agreement, the Party may petition the Court for such relief as the Court deems appropriate,
14 including replacement of the Monitor, and/or any individual members, agents, employees, or
15 independent contractors. Any Party bringing such a petition is required to meet and confer with
16 the other Party at least 21 days prior to such a petition in a good faith attempt to resolve the
17 concern.

18 **COURT JURISDICTION, MODIFICATION OF THE JUDGMENT,
19 AND ENFORCEMENT**

20 219. The Parties agree jointly to file this Judgment with the Superior Court of the State of
21 California, County of Kern, in a matter to be captioned *People of the State of California v. City*
22 *of Bakersfield, et. al.*, Civil Action No. BCV21101928 and stipulate to entry of judgment. The
23 stipulation shall request that the Court enter the Judgment, and conditionally dismiss the
24 complaint in this action without prejudice, while retaining jurisdiction to enforce the Judgment.
25 The stipulation shall further request that this action be removed from the Court's active caseload
26 until further application by the Parties or order of the Court. The Parties will request that the
27 Court retain jurisdiction over this action and that the Court's conditional dismissal will not
28 prejudice any party to the action.

1 220. This Judgment resolves all of the State of California Department of Justice's claims
2 under the state and federal constitutions and Civil Code section 52.3 against BPD and the City.
3 No prior drafts or prior contemporaneous communications, oral or written, will be relevant or
4 admissible for the purposes of determining the meaning of any provisions herein in any litigation
5 or other proceeding.

6 221. The Judgment is binding upon all Parties hereto, by and through their officials, agents,
7 employees, and successors. If the City establishes or reorganizes a government agency or entity
8 whose function includes overseeing, regulating, accrediting, investigating, or otherwise reviewing
9 the operations of BPD or any aspect thereof, the City agrees to ensure these functions and entities
10 are consistent with the terms of the Agreement and will incorporate the terms of the Agreement
11 into the oversight, regulatory, accreditation, investigation, or review functions of the government
12 agency or entity as necessary to ensure consistency.

13 222. The Judgment is enforceable only by the Parties. No person or entity is intended to be
14 a third-party beneficiary of the provisions of the Judgment for purposes of any civil, criminal, or
15 administrative action, and accordingly, no person or entity may assert any claim or right as a
16 beneficiary or protected class under the Judgment. The City and BPD deny the allegations in the
17 Complaint. Nothing in this Judgment is intended to be used by third parties to create liability by
18 or against the City or BPD or any of their officials, officers, agents or employees under any
19 federal, state, or municipal law, including 42 United States Code section 1983.
20

21 223. Unless stated otherwise in the Agreement, if either party disagrees with any aspect of
22 the implementation of the Agreement, that party will engage in good faith informal consultation
23 with the other party and the Monitor to attempt to resolve the disagreement. If the disagreement
24 persists, that party will, within 10 days of the apparent impasse, inform the other Parties and the
25 Monitor in writing of the fact of the disagreement. Within 21 days thereafter, the Parties will
26 meet and confer on the disagreement at a mutually agreeable time. If necessary, any party may
27 petition the Court thereafter to resolve the dispute pursuant to the provisions below.
28

1 224. All notices relative to this Agreement shall be given in writing and shall be personally
2 served or sent by certified mail and be effective upon actual personal service or depositing in the
3 United States mail. The parties shall be addressed as follows, or at any other address designated
4 by notice:

5 A. Notice to City of Bakersfield will be addressed as follows:

6 City of Bakersfield – City Hall North
7 City Attorney’s Office
8 1600 Truxtun Avenue, 4th Floor
9 Bakersfield, CA 93301

10 B. Notice to BPD will be addressed as follows:

11 Bakersfield Police Department
12 Greg Terry, Chief of Police
13 1601 Truxtun Avenue
14 Bakersfield, CA 93301

15 C. Notice to California Department of Justice will be addressed as follows:

16 Office of the Attorney General
17 Nancy A. Beninati
18 Supervising Deputy Attorney General
19 P.O. Box 70550
20 1515 Clay Street, Suite 2100
21 Oakland, CA 94612

22 Or

23 Office of the Attorney General
24 Anthony V. Seferian
25 Deputy Attorney General
26 300 S. Spring Street
27 Los Angeles, CA 90013

28 225. To ensure that the requirements of the Agreement are properly and timely
implemented, the Court will retain jurisdiction of this action for all purposes, including but not
limited to any disputed changes to policies, procedures, training, and practices, until such time as
the City has achieved Full and Effective Compliance with the Material Requirements of the
Agreement, and maintained such compliance for no less than one year.

 226. The State of California acknowledges the good faith of the City and BPD in trying to
address the measures that will ensure constitutional policing in the City. The State of California,

1 however, reserves its right to seek enforcement of the provisions of the Agreement if it
2 determines that the City and/or BPD have failed to fully comply with any provision of this
3 Agreement. The State of California agrees to consult with officials from the City and BPD before
4 commencing enforcement proceedings.

5 227. The Monitor, City, and DOJ may jointly stipulate to make changes, modifications,
6 and amendments to this Agreement. Such changes, modifications, and amendments to this
7 Agreement will be encouraged when the Parties agree, or where the reviews, assessments, and/or
8 audits of the Monitor demonstrate, that provision of this Agreement as drafted is not furthering
9 the purpose of this Agreement or that there is a preferable alternative that will achieve the same
10 purpose. The Parties may jointly move for approval of any proposed changes, modifications,
11 and/or amendments, which will become effective upon approval by the Court. No change,
12 modification, or amendment to the Judgment will have any force or effect if not set forth in
13 writing, signed by all the Parties to the Judgment, and approved by the Court.

14 228. Any time limits for performance imposed by the Judgment may be extended by the
15 mutual agreement, in writing, of DOJ, BPD, and the City, and/or by order of the Court for good
16 cause shown by any Party.

17 229. The Parties shall notify each other of any court or administrative challenge to this
18 Judgment.

19 230. Nothing in this Agreement is intended to: (a) alter the existing collective bargaining
20 agreements; or (b) impair the collective bargaining rights of employees under State and local law.
21 Nothing in this Agreement is intended to amend or supersede any provision of State or local law.
22

23 231. To the extent that any Party previously implemented a litigation hold to preserve
24 documents, electronically stored information, or things related to the matters described in this
25 Agreement, the Party is no longer required to maintain such a litigation hold.

26 232. The Attorney General's Office may make reasonable requests to BPD for additional
27 information demonstrating its compliance with any provision(s) of this Agreement. BPD shall
28

1 furnish such information within 30 days after the request is made, unless another date is agreed
2 upon in writing.

3 233. Jurisdiction is retained by the Court to enforce the Judgment for a period of five years,
4 unless that time is extended pursuant to paragraph 228 above, or reduced pursuant to paragraph
5 240 below, for the purpose of enabling any party to the Judgment to apply to the Court at any
6 time for such further orders and directions as may be necessary or appropriate for the construction
7 or the carrying out of this Agreement, for the modification of any of the injunctive provisions
8 hereof, for enforcement of compliance herewith, and for the punishment of violations hereof, if
9 any.

10 234. This Judgment shall take effect immediately upon entry thereof.

11 235. Nothing in this Agreement alters the requirements of federal or state law to the extent
12 these laws may currently, or upon future amendment will, offer greater protection.

13 236. Nothing in this Agreement limits the powers vested in the Attorney General by the
14 California Constitution and state statutory law, including Government Code section 11180 et seq.,
15 to oversee or enforce any California laws or regulations, whether addressed in this Agreement or
16 not. The Attorney General may utilize these powers to monitor the City's and BPD's compliance
17 with the terms of the Agreement, or to address distinct and unrelated investigation or enforcement
18 of the laws of the State of California. Nothing in this Agreement shall abrogate the
19 confidentiality of any materials or information obtained by DOJ during its investigation of BPD,
20 except as provided by law.

21 237. The injunctive provisions of this Agreement shall apply to the City and BPD, as well
22 as their successors, directors, officers, employees, agents, independent contractors, partners,
23 associates, and representatives of each of them with respect to their activities in the State of
24 California.

25 238. The clerk is ordered to enter this Judgment forthwith.
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1 **TERMINATION OF THE JUDGMENT**

2 239. The Parties anticipate that BPD and the City can reach Full and Effective Compliance
3 with the Material Requirements of this Agreement within five years of the Effective Date.

4 240. The Parties may jointly petition the Court to terminate this Agreement at any time
5 after three years of the Effective Date if the Parties believe that BPD has reached Full and
6 Effective Compliance with the Material Requirements of this Agreement, and has maintained that
7 compliance for one year. If, at any time after three years from the Effective Date, the Parties
8 disagree about whether BPD has been in Full and Effective Compliance for one year, either party
9 may seek to terminate the Agreement, by petitioning the court for an order terminating the
10 Agreement. In the case of termination sought by the City or BPD, prior to filing a motion to
11 terminate, the City and BPD agree to notify DOJ in writing when the City or BPD has determined
12 that BPD is in Full and Effective Compliance with this Agreement, and that such compliance has
13 been maintained for no less than one year. Thereafter, the Parties shall promptly confer as to the
14 status of compliance. The Monitor will certify whether he or she agrees that the City and BPD
15 are in Full and Effective Compliance with the Material Requirements of this Agreement, or
16 portions of the Agreement, for at least one year, at the time of the notification. No later than 21
17 days thereafter, the Parties will meet and confer at a mutually agreeable time as to the status of
18 compliance. If, after a reasonable period of consultation and the completion of any additional
19 audit or evaluation that DOJ and/or the Monitor may wish to undertake, including on-site
20 observations, document review, or interviews with the City and BPD personnel, the Parties
21 cannot resolve any compliance issues, the City and/or BPD may file a petition to terminate the
22 Agreement. The Monitor's certification shall be admissible at the hearing on said petition. At all
23 times, BPD shall bear the burden of demonstrating Full and Effective Compliance with the
24 Material Requirements of this Agreement.

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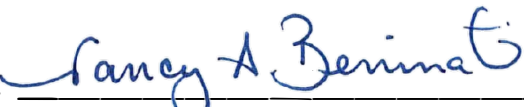
IT IS SO STIPULATED.

Respectfully submitted this 23rd day of August 2021.

For the STATE OF CALIFORNIA:

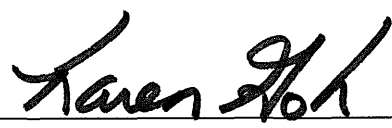
Rob Bonta

Michael L. Newman
Senior Assistant Attorney General
Nancy A. Beninati
Supervising Deputy Attorney General
Marisol León
Tanya Koshy
Joshua Piovia-Scott
Kendal L. Micklethwaite
Anthony V. Seferian
Deputy Attorneys General

By: 
Nancy A. Beninati
Supervising Deputy Attorney General
*Attorneys for Plaintiff, The People of the
State of California*

For the CITY OF BAKERSFIELD and the BAKERSFIELD POLICE DEPARTMENT:

CITY OF BAKERSFIELD

By: 
Karen Goh
Mayor

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APPROVED AS TO CONTENT:
CITY MANAGER


By:



Christian Clegg
City Manager

BAKERSFIELD POLICE DEPARTMENT

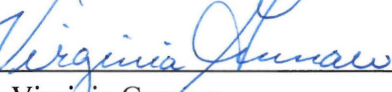
By:



Greg Terry
Chief of Police

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

By:



Virginia Gennaro
City Attorney

COUNTERSIGNED:

By:



Randy McKeegan
Finance Director

IT IS HEREBY ORDERED, ADJUDGED AND DECREED.

DATE: 08/27/2021

Signed: 8/27/2021 10:54 AM



JUDGE OF THE SUPERIOR COURT
Thomas S. Clark