

Stockton Unified School District

THIRD MONITORING REPORT TO THE
CALIFORNIA DEPARTMENT OF JUSTICE:
STATUS OF AGREEMENT COMPLIANCE

April 2022



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Table of Contents

Introduction.....	1
Use of Force: Policy & Reporting.....	3
Use of Force Policy.....	3
Use of Force Reporting.....	6
Training.....	7
District Training.....	7
Department Training.....	9
Other Tasks.....	10
Board Policies.....	10
Data Analysis & Reporting.....	11
Plan to Reduce Disproportionalities.....	11
De-Escalation & Diversion Protocols.....	12
Hiring of New Disability Coordinator.....	12
Community Advisory Group.....	12
Conclusion.....	13

Introduction

As detailed in our first two status reports, the Stockton Unified School District (“District”) entered into a Stipulated Judgment (“Judgment” or “Agreement”) with the California Attorney General’s Office in early 2019. This Agreement was the result of an Attorney General investigation into practices in the Stockton schools, focusing on use of force by its police department and concerns that too many issues were being channeled into the criminal justice system.¹

That Agreement established “affirmative corrective actions” that the District agreed to implement on a stipulated timeline. Some of these actions were directed at District policies and procedures. Others were the primary responsibility of the Stockton Unified School District Police Department (“SUSD PD” or “the Department”), which ultimately answers to District leadership and whose practices were a focal point of the original investigation.

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

These tasks and their implementation are overseen by the OIR Group, the District-selected “qualified third-party monitor.”² In this capacity, we provide a

¹ California Superior Court, People of the State of California, Ex Rel, Xavier Becerra, Attorney General of the State of California v. Stockton Unified School District, Case No. 34-2019-0024866 (2019).

² OIR Group is a team of police practices experts led by former federal prosecutor Michael Gennaco. Along with nearly two decades of experience in the field of independent civilian oversight of law enforcement, OIR Group team members had direct familiarity with the issues in Stockton: we worked with the Attorney General

resource to the parties as needed in achieving the completion and subsequent execution of designated tasks.

Over the past two years, and among a myriad of challenges ranging from executive leadership transitions to the global pandemic, the District and Department have worked diligently and in good faith to complete the majority of the 74 tasks detailed in the Agreement.³

In our previous Report published in November 2020, we reported that the District and Department had successfully completed 52 of the 74 total tasks. The remaining 22 tasks, which fell into one of two major categories, Use of Force and Training, were either “In Progress,” generally, or being specifically reviewed by a Working Group.

We are pleased to report that in this reporting period the Department has completed all tasks related to updating the Use of Force policy itself. In the following section, we provide a detailed assessment of the new policy and its importance.

The tasks related to training, both on this new use of force policy and on other new policies and practices, however, have unfortunately seen little progress. Clearly, the pandemic that has gripped this country for almost two years has played a key role in slowing down the training tasks required of the Agreement. In addition to making it difficult to schedule in-person training, those responsible for developing a training schedule have been directly

during the underlying investigation that eventually led to the Judgment. We were pleased to have been mutually agreed-upon by the parties to serve in the role of monitor. This initially included multiple visits to Stockton from our base of operations in southern California when travel was allowed, along with extensive correspondence, telephone conversations, consultations regarding individual issues, and document review.

³ Per the Agreement, some of the policies required revision to Board of Trustee’s Policies and Regulations. While the policies were all approved some months ago, it has taken some time to ensure that the District’s website contained the reformed Policies and Regulations (including relevant Attachments). While the current website is aligned with the updated guidance, the critical Disciplinary Matrix Attachment has yet to be included.

impacted by the virus. However, despite these hurdles, it is incumbent that the District and the Department redouble efforts in these areas.

This Report also briefly discusses progress on recurring tasks, such as data collection and analysis, the hiring of a new Disability Coordinator, and the Community Advisory Group.

Use of Force: Policy & Reporting

Use of Force Policy

One critical component of the Agreement was to modify the Department's Use of Force policy, #300. The Department, in collaboration with the Monitor and DOJ, completed these modifications in the period since our last report. We find the updates to be comprehensive and responsive to the requirements of the Agreement and beyond.

The Agreement defined several required modifications to the Use of Force policy to both align it with current best practices and to make it practicable in a school setting. The Department's previous policy, a standard Use of Force policy often-used by law enforcement throughout the State, needed to be modified to respond to particular policing challenges in dealing with a student population. The force options used by traditional law enforcement generally are not always the most effective or appropriate for this specific sub-set of the population generally, and especially when a minor student has a disability.

To that end, the Department updated its use of force policy in several notable ways, detailed in the list below. The new policy now includes force options that are prohibited or limited for use on students and emphasizes de-escalation, crisis intervention, and conflict resolutions over force. Most importantly, the new policy refers officers to the recently adopted "Discipline and Intervention Matrix," which limits how and when a law enforcement referral

can be used for discipline.⁴ The following modifications, detailed in the Agreement, were made to the Department's existing Use of Force Policy:

- Added references to the Discipline and Intervention Matrix throughout the policy to remind officers that force, or any police referral, may not be allowable and appropriate.
- Requires that officers use an "objectively reasonable" criteria for use of force, including the consideration that most enforcement occurs in a school setting on students, the majority of whom are minors
- When evaluating the "totality of the circumstances" to determine the most reasonable force, in addition to the current standards, officers should consider if a student has a known disability or mental health special needs and the emotional and physical capacity of the student
- Officers shall not use force to detain, overcome resistance, or pursue students for low-level disciplinary matters such as truancy, absent other exigent circumstances which must be documented
- Officers shall not use force in verbal confrontations
- Officers shall use the "least intrusive means to encourage compliance" and use de-escalation techniques prior to resorting to force
- Officers shall not enlist the aid of school staff to assist in using force
- Use of force shall be reported to a parent or guardian if force is used on a minor
- The Department shall provide medical attention as needed to anyone injured as a result of police actions. And the District shall advise parents or guardians of a student who is injured as a result of police use of force
- Officers shall not use any handcuffs or other restraints unless a student poses an immediate danger to self or others

Further, the Agreement detailed updates to the Use of Force Review process to ensure added accountability when officers use force, including documenting any force alternatives considered, defining the role of supervisors in evaluating uses of force, and adding an extra level of review by Lieutenants.

⁴ The Discipline and Intervention Matrix, part of Board Policy 5144, is a detailed flowchart showing levels/types of student behavior and the appropriate/ permissible intervention or disciplinary response. Most notable, it limits referrals to police officers to "serious student conduct offenses." This Matrix was created and adopted as part of the Agreement.

Finally, the Agreement called for additional tracking and meetings to identify performance issues and trends and a more robust performance evaluation system which, although not formally part of the Use of Force policy, are important for a wholistic review of force.

Again, as stated above, officers are to be trained on the new policy. Yet there has been little specifics from the Department on how and when such training will commence. The Department must now focus on ensuring that all officers are trained on these important precepts.

The newly approved policy addresses and completes the following seven outstanding Agreement “tasks:”

- **Task 53:** Revise policy to require Captain to regularly convene supervisors to review use of force incidents
- **Task 54:** Revise use of force review policy to require lieutenants to holistically review uses of force
- **Task 55:** Revise use of force policy to include parent/guardian notification of student injury
- **Task 57:** Revise UOF policy (#300) to include new UOF review process
- **Task 62:** Write supervisor expectations for documenting findings in UOF reviews
- **Task 64:** Ensure Performance Evaluation system reinforces alternatives to UOF
- **Task 65:** Revise UOF policy (#300) to include new definition of UOF per final judgement

The Use of Force Policy has been presented to the Community Advisory Group for comment. It is anticipated that at the next CAG meeting, there will be a presentation on the new policies. The Department is currently working on finalizing the Use of Force Policy and developing a training plan on the new features.

SUSPD's policy was recently updated to reflect a significant recent change in state law relating to use of force that went into effect on January 1, 2022:

Assembly Bill 490: This prohibits a law enforcement agency from allowing any techniques or transport methods that involve a substantial risk of positional asphyxia, or "situating a person in a manner that compresses their airway and reduces the ability to sustain adequate breathing."

The new policy contains a section prohibiting any positioning that would potentially induce positional asphyxia.

Recently, the Attorney General provided the Department additional laws that impact law enforcement. The Department has indicated its commitment to modifying policy to conform with the new laws. We urge the Department to ensure that its policy is allied with the new legislative requirements.

- [AB 26](#) (requires immediate reporting of potential excessive force; prohibits retaliation; adds relevant definitions)
- [AB 48](#) (limits use of force for crowd control purposes)
- [AB 89](#) (minimum age raised to 21; commission re: modern policing degree program)
- [AB 481](#) (acquisition of military equipment)
- [AB 958](#) (regarding law enforcement gangs)
- [SB 2](#) (minimum qualifications; disqualification; investigation into misconduct)
- [SB 16](#) (public disclosure of records re: unreasonable force, unlawful arrests, unlawful seizures)

Use of Force Reporting

The Agreement requires that the Department provide a quarterly report of all complaints related to allegations of excessive force, racial profiling, harassment, or discrimination by Department personnel (**Task 67**) and any related use of force incident reviews. The Department provided these reports for all four quarters. We are currently reviewing use of force incidents and the Department's review of them.

Similarly, the Agreement requires reporting on any uses of force by a non-sworn, security personnel, called CSMs or CSAs, or other school staff (**Task**

44). Neither the District nor Department have submitted any reports related to this task. As we discuss in more detail below, this delay may be due to a proposed change in “ownership” of these personnel that did not occur as intended. We encourage the District to complete all use of force reporting related to these positions.

We have also proposed, and the Department has agreed to include all uses of force per quarter in one stand-alone document. Such a reporting will ensure that all uses of force are easily locatable.

Training

While a large portion of the Agreement required policy revisions, a comparably significant piece of the Agreement focused on training all relevant personnel, both in the District and the Department, on the new policies. Indeed, changes to policies become reality only when they are put into practice by the responsible parties. For example, officers must be trained in the new Use of Force policy to know what the new expectations are when they perform in the field.

The Monitoring team has some concerns about the number of allowances that have been given to the District and Department with respect to the failure to complete annual training. The Agreement does not speak to exceptions and extensions and the District has not formally requested time extensions. While the pandemic has clearly impacted the District’s ability to timely comply with the training requirements, we are expectant that it will in short order at least develop a more rigorous training plan that will address the needs of the Agreement.

District Training

In our November 2020 Report, we reported that the District planned to create a training blueprint so that, when staff and students returned to on-campus, in-person learning, training could be delivered efficiently in short order.

While we have not yet seen a comprehensive training plan as required by the Agreement (**Task 30**), in late 2020, the District provided the Monitor training materials meant to address several training-related tasks, some of which were to occur on an annual basis per the Agreement. The District reported that it offered the following training sessions in the fall and winter of 2020:

- Twenty-six “SUSD Mental Health Crisis Protocol Training” sessions (adapted to a distance-learning, online format) that trained a total of 355 District personnel
- Two sessions of “Listening Leadership” training that covered the new Disciplinary Matrix as outlined in Board Policy 5144⁵
- A “Special Education” training day in September 2020 that discussed newly-adopted Board Policies related to the Agreement
- A “Search and Seizure” training day in October 2020 that included information about the new Board Policy on Search and Seizures, BP5145.5.12

It is unclear if any of these sessions have yet been offered in the 2021-22 school year.

The materials provided in late 2020 also included *proposed* training sessions, such as 21 proposed “SUSD 2020-2021 Positive Behavior Interventions & Supports” training days, and de-escalation training sessions.

Unfortunately, the District reported that the implementation of its proposed sessions and on-going training plan was significantly impacted by the COVID-19 pandemic: already-limited resources and personnel’s focus were strained by the transition to distance learning, campus closures, and other pandemic-related concerns.

And even with the return of a more regular on-campus schedule, the District reported that, due to reduced available staffing, it could not hire substitutes so that teachers and other personnel could attend trainings during work hours.

⁵ We do not know how many, if any, personnel completed this and the remaining listed sessions as the District only provided a class count/attendance record for Mental Health training.

The District has not completed following required training tasks:

- **Task 37:** Train CSMs, CSAs, and other school staff to not use force except in exigent circumstances
- **Task 39:** Train school administrators on all new policy
- **Task 40:** Train school administrators annually on implicit bias, cultural competence, and restorative practices
- **Task 41:** Use Dept of Ed's "Restraint and Seclusion Resource Document" to train school staff. This task also requires the District to create and maintain a list of staff members who are trained in these techniques, which has not been provided for review.
- **Task 45:** Annual training on search and seizure per BP 5145.12
- **Task 67:** Annual training of school staff involved in responding to student misconduct

To its credit, despite these setbacks, the District continues to plan for and offer limited training. For example, the District took advantage of the 2021 Fall student break during the week of October 10, 2021 to train some personnel in Non-Violent Crisis Intervention, a well-designed course provided by the Crisis Prevention Institute.⁶

The District has informed the Monitor that it plans to provide more training throughout the 2021-22 school year but, as of date of this status report, has not provided any formal plans or materials. We strongly encourage the District to prioritize this planning and implementation.

Department Training

Similar to the District, the Department's training plan was significantly stalled by the pandemic. Many of the trainings, they reported, required hands-on scenarios, which was impossible due to pandemic restrictions.

⁶ <https://www.crisisprevention.com/>

As of publication of this status report, the Department has not provided training plans but assured the Monitor that training will be a priority. Assurances aside, it is important for the Department to at least update its plans for the recurrent training required and the training on the new policies as set out in the Agreement.

One notable change in the last period is that non-sworn security-related personnel, referred to as CSMs and CSAs, were supposed to be moved into the Department's chain of command so that all security-related personnel would be under the same umbrella. The Department would be responsible for training and reporting requirements these personnel according to the requirements of the Agreement, which is both practicable and logical given the security-style services that they provide on campus. However, we learned that this transition did not occur as intended.

We have not learned of any concrete plans on how these personnel will be trained on the new policies. The incomplete tasks related to Department training include:

- **Task 36:** Initiate training officers in crisis intervention and de-escalation for mental health calls
- **Task 38:** Train officers on all new policies per agreement
- **Task 60:** Provide required training on UOF and de-escalation strategies

Other Tasks

Board Policies

All Board Policies and Administrative Regulations have been approved by the parties and approved by the District Board of Trustees. The District is reviewing its web-site to ensure that the updated policies and regulations are current and that all relevant attachments referred therein are accessible.

Data Analysis & Reporting

In 2019 during its initial investigation, the DOJ hired a subject matter expert to conduct data analysis of student discipline, such as suspension and expulsion among the District's campuses and student population. This analysis found that these disciplinary measures were used at a disproportionately higher rate on disabled and students of color.

The "next step" in the Agreement was for the District to continue to track these data points in a recurring dashboard that could be updated regularly to show how (and if) the policy changes and training requirements in the Agreement impacted disciplinary rates.

To date, the District has not yet completed this dashboard. The District reported that it is actively collecting data to be used for this purpose. We urge the District to finalize a dashboard or another data analysis tool in the coming period to begin measuring progress.

While the dashboard is not required by the Agreement, it does require the District to review monthly reports to identify disproportionalities in uses of restraint techniques (**Task 42**) and physical restraints (**Task 43**), and to create plans to remediate any concerning trends or individual behaviors. The District has not provided any material relating to these tasks to the monitoring team.

Finally, the Agreement requires that the Department publish an annual Report of Citizen Complaints on its website and provide a copy to the Community Advisory Group (**Task 71**). This task was not completed in 2021.

Plan to Reduce Disproportionalities

The Agreement requires that the District develop a plan designed to reduce proportionalities. The last review of the draft plan was in April 2021. The District needs to move this forward with community input, send a plan for review and approval and move toward implementation.

De-Escalation & Diversion Protocols

The Agreement required that the District and Department create and implement plans for alternatives to force, discipline, and arrest to reduce the disparities identified in these categories.

To that end, the Department has collaborated with partners in San Joaquin County Probation Department and community-based organizations to implement a “Youth Deflection Program,” which will divert youth that have committed low level crimes to a supportive, mentoring environment in lieu of arrest. This program fulfills the requirements of **Task 70**, and we look forward to seeing positive outcomes.

The Department has also provided protocols for use of de-escalation strategies (**Task 24**), though, as noted above, has not yet trained personnel on use of these techniques.

However, the District has not yet submitted any formal protocols or plans related to de-escalation. As noted above, the District reported that it has trained at least one cohort of personnel in Crisis Intervention, which, according to the available online curriculum, includes components of “verbal de-escalation skills.” We encourage the District to formalize a protocol and continue to train personnel in these strategies.

Hiring of New Disability Coordinator

The District recently hired a new Disability Coordinator and has advised her of the expectations of her position as set out in the Agreement.

Community Advisory Group

The Community Advisory Group (“CAG”), a group of governmental stakeholders and appointed representatives from the public, has continued to

meet quarterly on a virtual platform during this reporting period to review new policies and other related items. We commend the CAG, especially its leadership, for continuing to serve in this role despite the challenges of the pandemic.

As part of the Agreement, the CAG must also provide a quarterly summary of these meetings in a formal Report to be shared with the Monitor, the Superintendent, the Chief of Police, and the public (**Task 74**). The creation, review (**Task 72**), and dissemination of these reports has been, at times, delayed in this reporting period.

Conclusion

As we have previously reported, both the District and the Department initially demonstrated a serious commitment to achieving the goals of the agreement and ensure that a public safety response that is sensible in an educational campus was achieved. Both entities have made great strides consistent with that agreement and significant majority of the tasks have been achieved. Yet, particularly with the training requirements, the pandemic has resulted in a serious lag of implementation. Despite the real challenges that this scourge has presented to us all, we urge the District and Department to redouble its efforts on the training components so that the Stockton Unified School District's public can be assured that the most appropriate interventions for students are the ones in use.