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COMMUNITY READY CORPS,  
AKIL RILEY, IAN McDONNELL, NICO  
NADA, AZIZE NGO, and JENNIFER LI

16  
17 **UNITED STATES DISTRICT COURT**

18 **NORTHERN DISTRICT OF CALIFORNIA**

19 ANTI POLICE-TERROR PROJECT, ) Case No. 3:20-cv-03866-JCS  
COMMUNITY READY CORPS, AKIL )  
20 RILEY, IAN McDONNELL, NICO NADA, ) **STIPULATION AND [~~PROPOSED~~]**  
AZIZE NGO, and JENNIFER LI, on behalf ) **ORDER TO CERTIFY CLASS**  
21 of themselves and similarly situated )  
22 individuals, )  
)  
23 Plaintiffs, )  
24 vs. )  
)  
25 CITY OF OAKLAND, OPD Police Chief )  
SUSAN E. MANHEIMER, OPD Sergeant )  
26 PATRICK GONZALES, OPD Officer )  
27 MAXWELL D'ORSO and OPD Officer )  
CASEY FOUGHT, )  
28 )  
Defendants. )

1 WHEREAS, on April 30, 2021, the plaintiffs moved the Court for its order certifying this  
2 case as a class action (Dkt. #96); and

3 WHEREAS, the plaintiffs supported their motion for class certification with evidence and  
4 citations to the Court's rulings in this case (Dkt. ##14 (Kim Declaration), 24 (Hruby  
5 Declaration), 25 (Atherholt Declaration), 33 (Court's Order Granting Temporary Restraining  
6 Order), 54 (Court's Order granting preliminary injunction), 83 (Court's Order), 96  
7 (Declarations in support of motion for class certification)); and

8 WHEREAS, on October 18, 2021, the Court issued its Order denying plaintiffs' motion  
9 for class certification without prejudice (Dkt. 124); and

10 WHEREAS, in its Order denying class certification without prejudice, the Court stated,  
11 "Therefore, the Court concludes that this requirement [commonality] is not satisfied, though it  
12 is likely Plaintiffs will be able to cure this deficiency by narrowing the class definition and/or  
13 creating subclasses." (Dkt. #124, 9:13-15), and "Therefore, the Court finds that the typicality  
14 requirement is not satisfied with respect to the proposed class as currently defined. It is likely  
15 these defects can be remedied, however, by limiting the class definition and/or finding a named  
16 plaintiff who was injured by tear gas deployed by a mutual aid partner." (Id., 10:15-18); and

17 WHEREAS, the parties have diligently negotiated to reach agreement on a class  
18 definition that complies with the Court's Order.

19 ACCORDINGLY, the parties hereby stipulate and request that the Court order that this  
20 case may proceed as a class action under FRCP 23(b)(2) as follows:

21 This case shall be certified as a class action under F.R.C.P. 23(b)(2). The class certified  
22 shall be defined as "all persons injured by tear gas deployed by the Oakland Police Department  
23 or its mutual aid partners during the George Floyd protests on May 29-31, and June 1, 2020,  
24 while protesting peacefully in the City of Oakland, with respect to their claims against the City of  
25 Oakland for violations of their rights under the First Amendment, Fourth Amendment  
26 (excessive force), and Fourteenth Amendment to the United States Constitution and their state  
27 law claims of assault and battery, negligence, and violation of the Bane Act (Civil Code § 52.1)."  
28

1 The class representatives are Akil Riley, Maria Gisella Ramirez, Michael Cooper, Leila  
2 Mottley, Christine Stewart, Tayah Stewart, Qiaochu Zhang, and Jonathan Farmer. Plaintiffs'  
3 counsel are Siegel, Yee, Brunner & Mehta, Walter Riley, and James Burch.

4 Plaintiffs seek the following injunctive relief on behalf of the class:

- 5 a. Except as expressly modified below, OPD shall follow the provisions of Training  
6 Bulletin III-G, OPD Crowd Control and Crowd Management (2013) in all respects,  
7 including but not limited to the provisions of Section IX, "Mutual Aid & Multi-  
8 Agency Coordination." In addition to the information and materials specified  
9 therein for distribution to mutual aid agencies, OPD will provide copies of the  
10 permanent injunctive relief ordered in this matter to all such agencies. OPD shall  
11 not change the provisions of Training Bulletin III-G without the consent of  
12 plaintiffs.
- 13 b. Each OPD officer and each officer of Oakland's mutual aid partners shall wear a  
14 badge, nameplate, or other device on the outside of his or her uniform or helmet  
15 that bears the identification number or name of the officer as required by Penal  
16 Code § 830.10, at all times while engaged in law enforcement activities in  
17 connection with any protest or demonstration.
- 18 c. Each OPD officer and each officer of Oakland's mutual aid partners shall utilize a  
19 Personal Digital Recording Device (PDRD) and shall have that device activated  
20 and recording at all times while engaged in law enforcement activities in  
21 connection with any protest or demonstration.
- 22 d. No OPD officer or officer of Oakland's mutual aid partners shall use a motorcycle,  
23 police vehicle, dog, or horse for crowd control or dispersal. Motorcycles, police  
24 vehicles, and horses may be used for purposes of observation, visible deterrence,  
25 traffic control, transportation, and area control during law enforcement activities  
26 in connection with any protest or demonstration.
- 27 e. No OPD officer or officer of Oakland's mutual paid partners shall use stinger  
28 grenades, wooden bullets, rubber or rubber coated bullets, pepper balls, or similar  
munitions.
- f. No OPD officer or officer of Oakland's mutual paid partners shall use tear gas or  
other chemical agents, including orthochlorobenzalmalonitrile, for purposes of  
crowd control or crowd dispersal.
- g. No OPD officer or officer of Oakland's mutual paid partners shall use Direct Fired  
Specialty Impact Less-Lethal Munitions (SIM) for purposes of crowd control or  
crowd dispersal.
- h. Beginning no later than 90 days after an order issuing permanent injunctive relief,  
and no less than annually thereafter, OPD shall conduct a special training session

1 for the Chief of Police, all Deputy and Assistant Chiefs, Incident Commanders,  
2 Operations Commanders, and Tango Team members concerning Training Bulletin  
3 III-G and the injunctive relief ordered by the Court. Plaintiffs' counsel shall be  
4 provided the opportunity to provide input into the curriculum for the special  
5 training sessions and to attend those sessions.

- 6 i. Beginning no later than 90 days after an order issuing permanent injunctive relief,  
7 and no less than annually thereafter, OPD shall conduct a special training session  
8 for all officers who may be assigned to participate in law enforcement duties in  
9 connection with protests and demonstrations on the proper writing of incident  
10 reports. That training shall include explicit prohibition on the use of boilerplate  
11 and inaccurate or misleading language in such reports. Plaintiffs' counsel shall be  
12 provided the opportunity to provide input into the curriculum for the special  
13 training sessions and to attend those sessions.

14 Plaintiffs will not present evidence at trial of incidents involving the use of tear gas where  
15 no named plaintiff was present.

16 Defendants reserve the right to move to decertify the class at a later time.

17 IT IS SO STIPULATED.

18 Dated: January 6, 2022

19 SIEGEL, YEE, BRUNNER & MEHTA

20 By: /s/ Dan Siegel  
21 Dan Siegel

22 Attorneys for Plaintiffs  
23 ANTI POLICE-TERROR PROJECT,  
24 COMMUNITY READY CORPS,  
25 AKIL RILEY, IAN McDONNELL, NICO  
26 NADA, AZIZE NGO, and JENNIFER LI  
27 OAKLAND CITY ATTORNEY'S OFFICE

28 By: /s/ Kevin McLaughlin  
Kevin McLaughlin

Attorneys for Defendants  
CITY OF OAKLAND, *et al.*

1 **[~~PROPOSED~~] ORDER**

2 Good cause showing, this action shall proceed as a class action under FRCP Rule  
3 23(b)(2). The class certified is defined as follows:

4 "All persons injured by tear gas deployed by the Oakland Police Department or its mutual  
5 aid partners during the George Floyd protests on May 29-31, and June 1, 2020, while protesting  
6 peacefully in the City of Oakland, with respect to their claims against the City of Oakland for  
7 violations of their rights under the First Amendment, Fourth Amendment (excessive force), and  
8 Fourteenth Amendment to the United States Constitution and their state law claims of assault  
9 and battery, negligence, and violation of the Bane Act (Civil Code § 52.1)."

10 The class representatives are plaintiffs Akil Riley, Maria Gisella Ramirez, Michael  
11 Cooper, Leila Mottley, Christine Stewart, Tayah Stewart, Qiaochu Zhang, and Jonathan Farmer.  
12 Class counsel are Siegel, Yee, Brunner & Mehta, Walter Riley, and James Burch.

13 IT IS SO ORDERED

14 Dated: February  
15 ~~January~~ 1, 2022

16   
17 Hon. Joseph C. Spero  
18 United States Magistrate Judge