
Oakland Police Department



Negotiated Settlement Agreement

Combined Fifth and Sixth Semi-Annual Report



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FOREWORD

A MESSAGE FROM THE CHIEF OF POLICE

It has been one year since I was appointed Chief of Police of the Oakland Police Department. As a native of Oakland and after serving thirty-eight years with the Alameda County Sheriff's Department, I feel a close affiliation to OPD. Not only am I honored to be selected as the Department's new Chief, I am fully prepared to engage myself in every way as a full fledged member of a very proud organization.

I am entirely aware that OPD is in a period of immense transition, in particular reaching full compliance with the Negotiated Settlement Agreement (NSA). In this first year, which I regard as the year of Transition and Assessment, I expected and understood that many pressures would exert strains on our abilities to function. In that regard, I must tell you that I have found our membership, civilian and sworn, to have maintained an exemplary posture of dedication and effectiveness. However, there is considerable work to be done to gain our rightful place in Law Enforcement.

Respectful community policing, with responsibilities and accountabilities clearly defined, is the very emphasis of the NSA. The NSA is essential to the Department's efforts to re-establish comprehensive community policing, make officers accessible to the citizens, and be held accountable for their actions. Serving a City that believes in its police force will not only improve community relations but increase the number of crimes solved and reduce complaints.

We have embraced the Agreement with staggered efforts and results over the past three years, but in the past 12 months we have coalesced and accelerated our energies with an enthusiasm that included the NSA in every aspect of our operations. During this past year, we have been carefully scrutinizing all components of our framework, while maintaining police services 24/7. This has been done through a number of meetings, through-out the organization, and with citizens, consultants, experts, and others in and outside of law enforcement. Training sessions and seminars have been attended by our personnel at all levels with record frequency. Assignments and tasks have increased dramatically to meet our operational and administrative demands while we have been engaged in planning efforts for the future. We will each do our part, from my office through-out the chain of command, to efficiently redefine our methods. The Department is a contemporary law enforcement agency that continually strives to uphold the confidence instilled by the community it serves.

The Oakland Police Department has made significant strides in the past year toward reaching full compliance of the Settlement Agreement and will continue to do so in this year. My goals for the next reporting period include: the implementation of the comprehensive Personnel Information Management System (PIMS), full training and policy implementation for all NSA related policies, and continued improvements in the Internal Affairs Division. We will continue to focus on the completion of policies through compliance, observations, audits, and reporting efforts.

While the contractual provisions of the NSA will continue to be an overriding template, we will be looking beyond the NSA with an eye for expansion to greater effectiveness in overall

operations. As a Department we will focus in six key areas in which change is necessary: improved responsiveness; fulfill the vision of community policing; fiscal responsibility; improved accountability; achieve the highest standards of policing; and adopt new methods and technology. For further details on these six key areas please see Appendix A: *Vision and Plan of Action to Reduce Crime and Improve Accountability* (March 2006).

This is a Department with a proud history and there is little doubt our best resource is the people that work here. They exemplify integrity, a sense of purpose and commitment to the goals set before them. I conclude by saying we will do our duty, set the examples, and lead the way. We will be the best.

Wayne G. Tucker
Chief of Police

A MESSAGE FROM THE INSPECTOR GENERAL

In September 2005, I was appointed the Inspector General and was faced with the challenges presented by the full implementation of the Negotiated Settlement Agreement (NSA). In the three years since the signing of the NSA, this Department has been affected on every level. Former Inspector General, Captain Ronald Davis, now Chief of Police in East Palo Alto, spoke of “reform” in the last Office of Inspector General (OIG) Semi-Annual Report. To date, there are no other words to describe either the intention or the effect that the NSA has had on our Department.

Chief Ronald Davis was quite correct in his assessment that the OPD is a Department rich with traditions and based on a solid set of core values. Yet, the NSA, and certain events leading up to it, sorely shook our establishment as we knew it. Because the NSA is the lawful contract under which we must operate, the debate regarding the presumptions that created it are over. We now look at our past patterns and practices only for lessons learned and insight that will help achieve full implementation of the NSA. As a Department we eagerly move forward, and continually look to implement policies and systems that will be some of the best in the Nation. The NSA is merely the catalyst for change and our efforts to comply are the platform for long term improvement.

During this reporting period, Judge Thelton Henderson expressed confidence in Chief Wayne Tucker’s ability to fully implement the NSA at the Oakland Police Department. The Judge also expressed his displeasure with the setbacks in the Internal Affairs Division and the delays in policy development; as a result he issued several court orders requiring action by specific dates. There will be severe consequences for failing to meet any requirements and the entire organization is galvanized to ensure compliance.

In January 2005, John Burris and James Chanin noted, in a Joint Status Conference with Judge Thelton Henderson, considerable misgivings with the Department’s efforts toward compliance. The most striking comments were the ones that officers and commanders had expressed negative comments and attitudes towards the Agreement. When members of OPD react negatively to our reforms, it leaves us little room to counter the Independent Monitoring Team’s determinations of our shortcomings. The OPD has no defense if the members, particularly staff at higher levels, are not in line with the Chief’s direction of change.

During 2005, the OIG developed plans to help the Department move towards compliance. The plans incorporated a more comprehensive and collaborative effort on the part of all commanders and managers. As a result, commanders and managers, as well as OIG staff, have conducted probing audits to ensure compliance with the NSA. The audits identified our shortcomings, and we have made many of the necessary corrections as a result. The audits show that the Department aggressively conducts an introspective analysis of our own practices in an effort to identify and correct deficiencies. We are committed to this process and remain confident that the hard work will leave a positive legacy for future generations of OPD; in fact, this may be one of the greatest legacies this generation of OPD can leave for the Oakland Community.

The new policies related to Complaint Intake and the Internal Affairs Division were completed in December and represents a culmination of several years of work. There are concerns about the new policies, particularly the Disciplinary Matrix. There is a sense of “walking on eggshells” by members of OPD, at all ranks, as reflected in the comments received during the IAD policies training. The Disciplinary Matrix is meant to set the standard for fairness and consistency in discipline. It clearly lays out the consequences for specific violations of the Manual of Rules. Over time, this will become clearer through actual practice. We have now reached a stage where we should not refer to our new policies as the “NSA Policies,” and we should take pride in calling them “our” policies.

The OIG trusts that the following body of this report will allay many of the previous misgivings and give us at the department renewed confidence that we can fully implement the NSA. It is with some satisfaction, and a few concerns, that the misgivings of the previous 4th Semi-Annual Report and the latest Seventh Quarterly Report of the Independent Monitor Team have been aggressively pursued. For each of the issues pending, we will discuss our efforts and explain our status. In addition, the extent of our accomplishments should indicate to all concerned that our efforts have been successfully reworked by Chief Wayne Tucker. Hopefully, through strong leadership and a new-found unity of purpose, we have set the pace and spirit for something greater than mere compliance.

Paul Figueroa
Captain of Police
Office of Inspector General

EXECUTIVE SUMMARY

INTRODUCTION

In January 2003, the City of Oakland entered into the Negotiated Settlement Agreement (hereinafter referred to as Agreement) with the Plaintiffs in the Delphine Allen, et al. v. City of Oakland case. The Agreement mandates that the Oakland Police Department implement a series of policy and procedural changes. During 2005 and into 2006, the Department has significantly increased momentum in implementing both the letter and spirit of the Agreement. This is the Department's Combined Fifth and Sixth Semi-Annual Report to the United States District Court. In this report, the Office of Inspector General (OIG) summarizes the Department's compliance status and efforts to implement provisions of the Agreement. The report covers the reporting periods from January 1, 2005 through December 31, 2005.

During this reporting period, a new police chief was appointed to the Department. Since his appointment, Chief Wayne Tucker has directed numerous institutional changes, steering the Department towards full compliance with the Agreement. The OIG is pleased with the tremendous progress the Department has made in policy development and training. In addition, continued efforts by personnel at all levels are moving the Department towards compliance with actual practice. While more progress has been made this past year than the first two years of the Agreement, challenges remain with regard to implementing the Agreement's provisions. As a result, the Department will continue to identify areas where improvement is needed and develop new strategies to achieve compliance.

PURPOSE OF THE AGREEMENT

The purpose of the Agreement is to promote police integrity and prevent conduct that deprives persons of the rights, privileges and immunities secured or protected by the Constitution or laws of the United States. The Agreement's focus is directed towards the following eight core areas: Internal Affairs Investigations; Use of Force Reporting; Discipline; Personnel Information Management Systems (PIMS); Field Supervision; Training; Management Oversight; and Auditing and Review Systems. The stakeholders include the citizens of Oakland, the City of Oakland, the Plaintiffs and the Oakland Police Officer's Association. An Independent Monitoring Team assesses and evaluates compliance with the provisions of the Agreement.

COMPLIANCE EFFORTS

Since the publication of the last report, the Department has experienced considerable increases in both tempo and accomplishment. Renewed efforts to achieve compliance have resulted in more strategic planning. During 2005, the Department devised a plan consisting of a series of deliverables that were carried out in two phases. All of the deliverables in Phase I and most of the deliverables in Phase II have been successfully implemented. In July 2005, the OIG began to implement another more comprehensive compliance plan (the 12/31 Plan) that required the direct involvement of commanders and managers throughout the Department. As a result, members at all levels have been mobilized to address each task, promoting both engagement and accountability. Although the plan's goal of achieving compliance with all the Agreement's provisions by December 31, 2005 was not met, the Department has made numerous

accomplishments, resulting in considerable progress towards compliance and management accountability. These plans to achieve compliance are identified in more detail in the Accomplishments Section of this report.

In addition, personnel throughout the Department continue to support the Agreement by engaging in policy development, review and implementation, and conducting audits of actual practice. Also, the OIG facilitates monthly meetings with stakeholders and regularly reports to command staff, the City Administrator and the City Attorney's Office on the status of compliance.

ACCOMPLISHMENTS AND CHALLENGES

The Department has made numerous accomplishments during this reporting period. As stated above, the Department has stepped up efforts to develop plans aimed at achieving compliance and involving personnel throughout the Department more directly. In addition to the compliance plans, the Department has increased staff engagement through a command staff retreat focused on the Agreement and a comprehensive Management Assessment Program (MAP). MAP is a bi-weekly meeting that addresses challenges, successes and accountability with regards to task implementation. Commanders have been tasked with conducting reviews of select tasks to monitor compliance and results are shared at the MAP meetings.

The Department has also made structural changes and significant investments in training for personnel. The Internal Affairs Division (IAD), which is heavily impacted by the Agreement's requirements, has been restructured and staffing has increased dramatically. Personnel in IAD and many other Divisions have been sent all over the country to receive training in areas such as internal investigations, discipline, use of force, and compliance management. Furthermore, the Mayor and Chief of Police have reinforced the Agreement's importance and their commitment to it through a letter and leadership video distributed to all Department personnel.

As a result of the increased planning efforts and staff engagement, the Department completed the Internal Affairs Manual and Discipline policy. As of the publication of this report, the Use of Force policies have been completed as well. Substantial training compliance has been achieved on 17 policies. The Department is on pace to achieve training compliance on all of the new policies before the next status hearing in Federal Court.

While the renewed efforts of the Department have resulted in tremendous progress, challenges with achieving substantial compliance continue to surface. The IAD is being required to change the way it does business, which is time and resource intensive. There continues to be a backlog of cases and IAD investigators need additional training. Timelines dictated by the new policy will be difficult to meet, given the major systematic changes being implemented. Current technology and systems are not always adequate to track implementation in an efficient and effective way. The Department has made progress but continues to struggle with providing adequate documentation to prove compliance. A more comprehensive summary of the accomplishments and challenges is located in the body of the report.

COMPLIANCE SUMMARY UPDATE

There are three phases of compliance: policy compliance, training compliance and actual practice compliance. Policy compliance is achieved when a policy regarding a specific task is completed and approved by the IMT. Training compliance is achieved when the Department has trained and can provide the supporting documentation for 95% of the required personnel. The Department is considered to be in compliance with actual practice once the IMT has deemed the Department compliant after conducting an audit of the task. The table below depicts the current status and progress summary of Task compliance:

Task Status	Tasks In Compliance 2004	Tasks in Compliance 2005
Tasks Due as of December 31, 2006	44 of 51	51 of 51
Tasks in Policy Compliance	21 of 51	43 of 51
Tasks in Training Compliance	Unavailable	17 of 36
Tasks in Actual practice Compliance	4 of 50	7 of 50 ¹

During this reporting period, all Agreement Tasks have reached their respective compliance due dates. The reported status of each Task in this report is current as of December 31, 2005. The Department has achieved policy compliance for 43 of 51 tasks. However, the use of force reporting and investigation policies (Tasks 24, 25, 26, 30, and 31), which is an additional five tasks, have been published as of the date of this report. These additional five tasks bring the number of tasks in policy compliance to 48. The Personnel Information Management System (Tasks 40 and 41) has no published policy, but considerable efforts are being made to develop the policy, including site visits to other law enforcement agencies who have similar systems.

In addition to the 17 tasks in training compliance as of December 31, 2005, the Department has trained 97% of personnel on DGO M-3, *Complaints Against Department Personnel or Procedures*, which covers 10 tasks. The IMT has deemed the Department in compliance with seven tasks for actual practice. As the IMT continues to conduct audits, we expect this number to rise.

The Status of Tasks table identifies the publication date for the policies associated with each task. The details and implementation activity for all tasks are outlined in the Task Implementation Section of this report.

¹ Note that the number of Tasks totals 50 rather than 52. This is because Tasks 17 and 52 are not included in the tracking; Task 17 is a summary Task with no associated deliverables and Task 52 is housekeeping.

STATUS OF TASKS CURRENTLY DUE (AS OF DECEMBER 31, 2005)			
TASK DESCRIPTIONS	TASK NUMBERS	DUE DATE	PUBLICATION DATE
Internal Affairs Division Policy & Procedures Manual	Tasks 1, 3, 5, 9, 10, 11, 13, 28, 29	August 13, 2004	December 6, 2005
Complaints Against Departmental Personnel	Tasks 2, 4, 5.1, 6, 7, 8, 12, 14, 15, 16	June 15, 2004	December 6, 2005
Audit, Review and Evaluation of IAD Functions	Task 17	January 20, 2004	No deliverables
Approval of Field Arrest by Supervisor	Task 18	January 20, 2004	May 13, 2004
Unity of Command	Task 19	January 20, 2004	April 12, 2004
Span of Control for Supervisors	Task 20	August 14, 2003	April 19, 2004 / April 14, 2004
Performance Appraisal	Tasks 21, and 44	July 07, 2004	April 27, 2004
OPD/DA Liaison Commander (MLL)	Task 22	April 15, 2003	December 16, 2003
Command Staff Rotation	Task 23	January 20, 2004	April 12, 2004
Use of Force Reporting	Task 24	July 20, 2004	Not Published
Use of Force Reporting & Report Responsibilities	Task 25	July 20, 2004	Not Published
Use of Force Review Board	Task 26	July 20, 2004	Not Published
OC Log & Check-out Procedures	Task 27	July 20, 2004	October 1, 2003
Use of Force – Investigation of Criminal Misconduct	Task 28	July 20, 2004 – M-4 August 13, 2004 – IAD Manual	Not Published
IAD Investigation Priority	Task 29	July 20, 2004 – M-4 August 13, 2004 – IAD Manual	December 6, 2005
Firearms- Discharge Board of Review	Task 30	July 20, 2004	Not Published
Officer-Involved Shooting	Task 31	July 20, 2004	Not Published
Use of Camcorders	Task 32	July 20, 2004	July 7, 2003
Misconduct	Task 33	August 25, 2003	December 24, 2003 / April 13, 2004
Stop Data Forms –Vehicle Stops, Field Investigations...	Task 34	August 25, 2003	May 04, 2004
Use of Force Reports – Witness ID	Task 35	August 25, 2003	April 12, 2004
Procedures for Transporting Detainees and Citizens	Task 36	August 25, 2003	November 14, 2003
Internal Investigations – Retaliation Against Witnesses	Task 37	August 25, 2003	November 14, 2003
Citizens Signing Police Forms	Task 38	August 25, 2003	October 22, 2003
Personnel Arrested, Sued and/or Served with Civil...	Task 39	August 25, 2003	April 13, 2004
Personnel Information Management System (PIMS)	Task 40	June 28, 2005	Not Published
Use of Personnel Information Management System (PIMS)	Task 41	June 28, 2005	Not Published
Field Training Program	Task 42	April 16, 2004	May 27, 2005
Academy Training Plan	Task 43	February 15, 2005	April 6, 2005
Consistency of Discipline	Task 45	June 15, 2004	December 6, 2005
Promotional Consideration	Task 46	December 1, 2003	December 6, 2005
Community Policing Plan	Task 47	August 01, 2003	April 15, 2004
Departmental Management & Annual Management Report	Task 48	July 2, 2003	November 14, 2003

STATUS OF TASKS CURRENTLY DUE (AS OF DECEMBER 31, 2005)			
TASK DESCRIPTIONS	TASK NUMBERS	DUE DATE	PUBLICATION DATE
Monitor Selection & Compensation	Task 49	Aril 15, 2003	In Full Compliance
Compliance Unit Liaison Policy	Task 50	March 4, 2003	In Full Compliance
Compliance Audits and Integrity Tests	Task 51	March 4, 2003	In Full Compliance

AUDITS AND REVIEWS

During this reporting period, the Audit and Inspections Unit conducted several reviews, including: Stop Data Collection Forms; Vice Narcotics Arrest Approval; Citizens Signing Police Forms; and Community Meetings. The Unit also conducted three audits required by the Agreement (Arrest, Offense, and Follow-up Investigation Reports; Personnel Review and Appraisals; and Mobile Data Terminals) and an audit of the Field Training Program. The details of these reviews and audits are summarized in the Audit and Reviews Section of this report.

CONCLUSION

The Department intends to fully comply with all aspects of the Agreement this coming year. The momentum gained during 2005 has been carried forward into 2006. Policy development, evaluation and revision, when necessary, will continue. The Office of Inspector General along with commanders and managers throughout the Department will continue to monitor compliance through audits and reviews. The Department's renewed emphasis on crime reduction does not run in opposition of the Agreement; rather, they are complimentary. A department with strong accountability measures will naturally provide more effective crime reduction.

INTRODUCTION

The Negotiated Settlement Agreement (hereinafter referred to as Agreement) entered into between the City and Plaintiffs in the Delphine Allen, et al. v. City of Oakland, et al., consolidated case number C00-4599 TEH (JL) otherwise known as the “Riders” cases, Section XIII. A. 1., states:

The City and OPD shall file regular status reports with the Court delineating the steps taken by OPD to comply with the provisions of this Agreement. Commencing within 120 days from the effective date of this Agreement, these reports shall be filed twice annually, at six-month intervals, until this Agreement is terminated.

In accordance with the provisions of the Agreement, the Oakland Police Department’s (Department) OIG has prepared this Combined Fifth and Sixth Semi-Annual Report. This public report will be filed with the Court and will document compliance implementation activities undertaken by the Department during the fifth and sixth reporting periods of the Agreement.

BACKGROUND

PURPOSE OF THE AGREEMENT

The purpose of the Agreement is to promote police integrity and prevent conduct that deprives persons of the rights, privileges and immunities secured or protected by the Constitution or laws of the United States. The overall objective of the Agreement is to provide for the expeditious implementation of the best available practices and procedures for police management. These practices include supervision, training and accountability mechanisms to enhance the Department's ability to protect the lives, rights, dignity and property of the community it serves.

FOCUS OF THE AGREEMENT

The Agreement places emphasis on the following eight core areas:

- Internal Affairs Investigations;
- Discipline;
- Field Supervision;
- Management Oversight;
- Use of Force Reporting;
- Personnel Information Management Systems;
- Training; and
- Auditing and Review Systems.

STAKEHOLDERS

The citizens of Oakland are the primary stakeholders to the Agreement. Additional stakeholders include the Court, the Independent Monitoring Team, and the Oakland Police Officer's Association (OPOA). Finally, as the Agreement is between the City and the Plaintiffs, the following City entities are also key stakeholders:

- Office of the Mayor;
- City Council;
- Office of the City Administrator;
- Office of the City Attorney; and
- The Oakland Police Department.

ROLE OF THE INDEPENDENT MONITORING TEAM (IMT)

The IMT is the agent of the Court and is subject to its supervision and orders under the Agreement. The IMT shall have only the duties, responsibilities and authority conferred by the Agreement. Their role shall be to assess and evaluate compliance with the provisions of the Agreement. However, it shall not be the intent of the IMT to replace the role or duties of the Chief of Police or other City officials. The IMT shall offer the City and OPD technical assistance regarding compliance with and implementation of the Agreement. Additionally, the IMT reports on OPD's implementation and compliance with the provisions of the Agreement. In

order to accomplish this, the IMT conducts audits, reviews and evaluations of OPD policies, procedures and practices.

ROLE OF THE OFFICE OF THE INSPECTOR GENERAL

The OIG is comprised of two units, the Compliance Unit and the Audit and Inspections Unit. The OIG assesses the effectiveness and efficiency of Departmental operations within the parameters of the Agreement and recommends improvements in policy and procedure to enhance processes and correct deficiencies. The OIG recommends cost savings through the economy of operations and the alternative use of resources, and investigates and recommends management action to correct waste and mismanagement. In addition, it facilitates the collection and processing of Agreement related data and documents; provides the IMT access to Department personnel as needed; and ensures that documents and records are maintained in accordance with the Agreement. Finally, the OIG prepares a semi-annual report depicting the Department's progress towards compliance with Agreement and conducts audits in accordance with the Agreement.

ADMINISTRATIVE SUPPORT EFFORTS

To support the overall objectives and goals of the Agreement, various administrative tasks must be carried out by the Department on an on-going basis. It is the responsibility of the OIG to ensure that these tasks are completed in a timely manner:

- monthly meetings with stakeholders;
- bi-weekly reporting by Compliance Assessors;
- providing weekly compliance updates to the Chief of Police and City Administrator and bi-weekly updates to command staff regarding the status of Agreement Tasks and overall compliance status;
- facilitating internal policy development and various stakeholder meetings;
- conducting reviews of completed policy areas;
- auditing practices to determine compliance with the Agreement; and
- developing and implementing compliance plans to assist the Department with achieving substantial compliance.

ACCOMPLISHMENTS AND CHALLENGES

During this reporting period, and up to the date of the publication of this report, the Department achieved a number of accomplishments. These accomplishments are identified and summarized below.

ACCOMPLISHMENTS

Completed Internal Affairs Procedures Manual

The IAD manual has been completed and disseminated along with Department General Order M-3: *Complaints Against Departmental Personnel*. These policies, coupled with the recommendations provided by Mr. Pete France, a consultant in Internal Affairs operations and procedures will enhance the overall operational efficiency of the Internal Affairs Division.

Management Assessment Program (MAP) and Crime Stop

By order of the Chief of Police, Special Order 8222, the *Weekly Management Assessment Program* went into effect February 24, 2005. The order mandates that weekly unit commanders and Crime Stop meetings be combined with a compliance review of the Agreement to form the weekly MAP meeting. Additionally, this Order reinforces that Agreement compliance and associated requests for information, data, services, etc. requested by the OIG shall be given the highest priority and considered a direct request from the Chief of Police.

During the first half of the year, MAP was conducted every week; the first two hours dedicated to the reform efforts and the last hour dedicated to Crime Stop. Since July 2005, MAP has been conducted every other week for one hour and Crime Stop has been conducted every week for two hours.

MAP reinforces the importance of the Agreement to the organization. The reforms required by the Agreement serve as the primary topic of discussion. MAP defines and stresses the primary goals of the Chief of Police, which are: reduce homicides and overall crime; eliminate sideshow activity; implement all reforms outlined in the Agreement; and significantly reduce overtime expenditures. Some of the topics covered included: stop data collection; community meetings; uses of force; internal investigations; arrest approvals; performance appraisals; and training and policy compliance. During these weekly meetings, managerial accountability is enhanced with “real time” data reporting. Deficiencies are identified and commanders are directed to provide explanations and or develop “fix it systems” to counter these deficiencies.

The purpose of Crime Stop meetings is to discuss crime patterns and trends, violence, reduction plans, targeted enforcement, deployment of CRTs, requests and work done by other units and other managerial accountability information (i.e., complaints, accidents, use of force incidents, and pursuits). Crime Stop Meetings are conducted each week.

Creation and Implementation of Phase I and Phase II Compliance Plans

Phase I – Recommendations to Achieve Compliance.

This plan was the antecedent to Phase II, *A Settlement Agreement Compliance Plan*. This phase provided for the expeditious policy review process of several significant policies: M-3, *Complaints Against Department Personnel or Procedures*; K-4, *Use of Force*; IAD

Investigations Manual and the *Department Discipline Policy*, including the *Discipline Matrix*. The review process also involved placing policy task managers on special assignment to complete the policies. This phase included the following deliverables: make training a priority for all approved policies; require work plans for all Tasks that are not in compliance; require division-level tracking systems and reviews to ensure compliance; provide follow-up on audit recommendations; demonstrate Agreement support from City Officials; reinstate weekly command staff meetings to review Agreement status; immediately address the timelines and quality of internal investigations; if needed, secure funds to cover the cost of training overtime and contract investigators; and immediately address the non-compliance issue of racial profiling. Phase I compliance plans, goals and objectives have been implemented and obtained.

Phase II – Settlement Agreement Compliance Plan

The goal of Phase II is to ensure the Department maintains the compliance course plotted in Phase I. Phase II of the Compliance Plan includes the following deliverables: a restructuring of the Internal Affairs Division; contracting with a national “expert” to conduct a “train-the-trainer” course for all IAD investigators and other select and directly impacted OPD personnel; developing an internal investigations template and checklist for IAD and division-level investigations; assigning backlog investigations to 19 “trained” sergeants; requiring OIG to conduct quality control audits of completed “backlogged” internal investigations; identifying administrative liaisons for each bureau; securing funds to implement recommendations for backlogged cases, and to develop a use of force tracking system; developing internal investigation tracking procedures; implementing all “approved” recommendations from OIG audits; continuing weekly command reviews of Agreement Tasks; incorporating Agreement-related Tasks in performance evaluations, promotional tests, FTO selection process, and special assignment testing processes; finalizing the PIMS contract and developing an implementation work-plan; developing a use of force tracking system; completing training on all policies; and creating managerial incentive and award programs. Most of the deliverables outlined in Phase II have been successfully implemented, however; some are on-going.

Creation of a New Compliance Plan – The 12/31 Plan

A new compliance plan was developed, which included the revision or development of Departmental policies, training on the policies and full implementation of the practices and procedures outlined in the policies. The plan goes beyond simply developing new policies and procedures. Systems and controls have been developed to ensure proper implementation of the policies and documentation of compliance. This phase of compliance identifies compliance assessors for each task. These assessors are responsible for assessing compliance regarding specific Agreement tasks. Compliance assessors are assisted by OIG staff to identify the relevant policies and procedures, systems, processes, and internal controls necessary to ensure compliance and successful audits.

Proficient systems and controls will clearly show levels of compliance and should identify deficiencies in a timely manner. This will allow managers to take corrective measures and perform their expected duties. The Assessors will identify the need for such systems and controls, evaluating current policies and procedures, conducting weekly compliance reviews, assessing training needs, and providing bi-weekly status reports. The compliance assessor is and will continue to be instrumental in the successful implementation of the Agreement.

Conducting a Command Staff Retreat Focusing on Implementation of the Agreement

A command staff retreat was conducted to focus on and reinforce the importance of the Agreement. The OIG hosted the successful retreat on Monday, January 24, 2005. Some of the attendees included Mayor Jerry Brown, City Administrator Deborah Edgerly, all Deputy Chiefs, and all four members of the IMT. The Mayor and City Administrator both expressed the importance and their commitment to the Agreement. The retreat included a question and answer session with the IMT and command staff, lasting approximately 1.5 hours. In the afternoon, a brainstorming session took place on the obstacles facing the Department, including identifying problems that are hindering the Agreement process. Retreat participants identified five areas that the Department needed to focus on and developed deliverables for each area. The five areas included accountability, training, chain of command, systems and communication. The need for more consistency was a common theme across all areas. The IMT were present and provided feedback which included, "... glad to see such a commitment from the City, especially with (City Administrator) Edgerly being there all day and the Mayor half a day." "...we are encouraged to see the involvement by the command staff, and now would wait for the action to follow the words. The level of commitment exhibited at the retreat was very encouraging."

Achieved and Exceeded Substantial Training Compliance

As of December 31, 2005, substantial training compliance had been achieved on 17 tasks and their related policies. As of the publication of this report, an additional 10 tasks have reached substantial training compliance, resulting from the intensive training efforts on DGO M-3 and the Departmental Discipline Policy.

Restructuring of the Internal Affairs Division (IAD)

In February 2005, two new commander positions were added to IAD to increase accountability and provide an additional level of oversight. A Captain was added to oversee the Division. A lieutenant position was added, resulting in two lieutenant positions in IAD. One Lieutenant oversees the Administrative Section and one oversees the Investigative Section.

Additionally, in November 2005, a Deputy Chief of Police was transferred to IAD to provide another level of oversight and accountability at the IAD.

Training Provided to the Internal Affairs Division

IAD investigators received "interview and interrogation" and "Internal Affairs Training." In addition, IAD investigators, commanders and designated sergeants received specialized "Internal Affairs" training by Pete France.

Increasing Training Efforts for personnel throughout the Department

Personnel, including many commanders, throughout the Department attended trainings and conferences all over the country during this reporting period. Training topics included police management; conducting investigations; auditing; managing compliance; use of force; and police patterns and practices.

Leadership Videos

Videos emphasizing the importance of the Department's reform efforts featuring the Mayor and Chief of Police were shown to Department members/employees. Additionally, a letter from the

Mayor was distributed to all OPD employees and members thanking them for their hard work and stressing the importance of the Agreement.

Weekly Command Reviews Conducted by Unit Commanders

Selected commanders conduct command reviews on a weekly basis, for which they audit Agreement requirements. Some of the areas they are required to audit include arrest approvals, stop data collection, and bi-weekly performance review meetings.

CHALLENGES

Need for Additional Training for IAD Officers

Although internal affairs training increased significantly in 2005, there is a need for additional training for the investigators currently assigned to IAD. The training becomes more critical as IAD expands its role beyond policy compliance, especially with Officer-Involved Shootings (i.e., identify training deficiency/needs, identify the need for policy changes/revisions, review/analyze officer safety/tactical issues, determine the adequacy of safety equipment, and other administrative issues). All of the investigators have received training by Mr. Pete France and a large number of them have attended a POST certified Internal Affairs School. As of the publication of this report, select IAD investigators have also attended an Internal Affairs School and a Lethal and Less Lethal Force Investigations seminar.

Increasing IAD Caseload

Because new policies have expanded the requirements for receiving citizen complaints, the number of complaints has increased substantially. In addition, the discovery of numerous allegations of misconduct that might not have been investigated appropriately over the last few years has put an extra load on IAD personnel. The significant increase in cases, coupled with the efforts of developing and implementing new tracking systems, has been time and resources intensive. IAD personnel have demonstrated their commitment to improving systems and ensuring that cases are investigated in accordance with the provisions outlined in DGO M-3.

Implementing New Timelines for Conducting Administrative Investigations

As the Department implements DGO M-3 and the Internal Affairs Manual, IAD personnel will be training staff and building new systems, while managing an increasing caseload. . The new timeline requirements outlined in DGO M-3 will present a challenge as staff is being trained. IAD commanders will be assessing the feasibility of the new timeline requirements to determine if adjustments are necessary.

Providing Adequate Documentation to Prove Compliance with Actual Practice

During the reviews and audits conducted in 2005, one of the most significant obstacles has been locating documentation that serves as proof of compliance. For many tasks, documentation has been inconsistently maintained or not maintained at all. Although the Department may be meeting the requirements of these tasks, there is no way to verify it. For example, a series of reviews and audits of community meeting attendance identified that some officers were failing to complete the appropriate forms when attending meetings and other systems of tracking attendance were insufficient. Also an audit of bi-weekly performance reviews identified that many supervisors were not consistently documenting when they conducted the reviews with their

subordinates. As each task is audited, deficiencies in tracking and documentation arise that must be fixed before actual practice compliance can be achieved.

Lack of Appropriate Technology and Issues with Implementing New Technology

The Department must operate in the most efficient manner in order to achieve substantial compliance with the Agreement's requirements. The Department has been behind the curve in modern technology for many years and is in the process of upgrading old technology and implementing new technology, such as field based reporting, IAD databases and the Personnel Information Management System (PIMS). While technology is being upgraded and implemented, temporary and/or less efficient measures are being used to meet compliance standards.

Implementing an Effective Review and Intervention Process for the Personnel Information Management System

The Department is creating a policy to clearly state the expectations for the behavior of our members and employees, the goal of which is to ensure productive and honorable careers for our members and employees. The policy will also lay out the process by which member's and employee's actions will be tracked and monitored. If employees meet a threshold for review, their supervisors will provide a written evaluation that will be vetted by several layers of supervision and management. In addition, a professional behavioral psychologist will review the documentation and recommend appropriate interventions where necessary.

The Department, however, is one of only a few law enforcement agencies that are implementing such an elaborate system. To date, there are no proven policies or thresholds that guarantee successful performance.

Improving the Quality of Witness Retaliation Investigations

There were a number of complaints from department employees that claimed retaliation for their testimony or statements regarding the misconduct of other departmental staff. There were significant criticisms regarding the quality of the investigations noted by the IMT. As a result, the Department must re-evaluate the cases and conduct a further investigation, when appropriate. In addition, the Department must review each allegation of retaliation with a representative from the City Attorney's Office and file regular reports with the Court.

COMPLIANCE SUMMARY UPDATE

COMPLIANCE UNIT OVERVIEW

The Compliance Unit continues to provide compliance oversight and review policies related to the Agreement. As identified in the Agreement, the Compliance Unit serves as the liaison between OPD, the IMT and the plaintiffs' attorneys, and assists with the Department's compliance with the Agreement. The Unit maintains project implementation tracking on Tasks assigned to the three bureaus and the Internal Affairs Division. Additionally, the OIG coordinates cross-organization implementation issues and works to resolve interpretation differences within the agreement.

The Agreement calls for the IMT to "conduct monthly meetings that shall include representatives of OPD, the Office of the City Attorney, the City Administrator's Office, the OPOA, and plaintiffs' counsel. The Compliance Unit continues to conduct these Monthly Meetings, on behalf of the "Monitor," which focus on the following topical areas:

- agreement language changes, and clarifications;
- labor management issues;
- policy, training and implementation progress and timelines;
- publication drafts; and
- audits and reviews conducted by the OIG and IMT.

The Compliance Unit prepares agendas and tracks meeting minutes, which are distributed to all participants to serve as a record of the meetings and discussions held among stakeholders. The meetings have produced changes and clarifications in the Agreement language, modifications to implementation timelines for several Tasks, and a modified review process for publication drafts. Stipulations have been prepared to formalize these agreements with the Court.

COMPLIANCE PROGRESS SUMMARY

For implementation, delegation and tracking purposes, Agreement reform provisions were separated into 52 separate Tasks. In order to achieve full compliance, three stages of compliance must be satisfied: policy, training, and implementation. Implementation activities and the compliance status of each Task are outlined in the Task Implementation Section of this report. The implementation progress is summarized in Table 1.

Table 1

Task Status	Tasks In Compliance 2004	Tasks in Compliance 2005
Tasks Due as of December 31, 2006	44 of 51	51 of 51
Tasks in Policy Compliance	21 of 51	43 of 51
Tasks in Training Compliance	Unavailable	17 of 36
Tasks in Actual practice Compliance	4 of 50	7 of 50 ²

There are a total of 52 tasks outlined in the Agreement; however the Department is only required to track 51. One task is classified as housekeeping and does not require deliverables. Task 17 (Audit, Review and Evaluation of Internal Affairs Division functions) refers to another policy task in the Agreement, leaving 50 tasks that are tracked for actual compliance.

Based on the numbers reported as of December 31, 2005, the Department has achieved policy compliance with 43 tasks. However, as of the date of this report, the use of force reporting and investigation policies have been published, which covers an additional five tasks. The three remaining tasks are associated with the Personnel Information Management System (PIMS) and use of force investigation of criminal misconduct. The Department is making significant progress towards policy completion for the outstanding policies.

As of December 31, 2005, the Department had achieved training compliance on 17 tasks. However, as of the date of this report, an additional 10 tasks have achieved training compliance due to the training efforts related to DGO M-3, *Complaints Against Departmental Personnel or Procedures*. The IMT has deemed OPD in actual practice with seven of 50 tasks. The Department may be in actual practice compliance with additional tasks, which have not yet been audited by the IMT. The IMT only deems the Department in compliance after they conduct an audit of a task.

Task Status

The Agreement Tasks identified below became due or past due within this reporting period. The status of each Task is reported here as of December 31, 2005. A number of Tasks are still not in compliance. A total of 51 Agreement Tasks have become due this period, and are listed below in Table 2.

² Note that the number of Tasks totals 50 rather than 52. This is because Tasks 17 and 52 are not included in the tracking; Task 17 is a summary Task with no associated deliverables and Task 52 is housekeeping.

STATUS OF TASKS CURRENTLY DUE (AS OF DECEMBER 31, 2005)			
TASK DESCRIPTIONS	TASK NUMBERS	DUE DATE	PUBLICATION DATE
Internal Affairs Division Policy & Procedures Manual	Tasks 1, 3, 5, 9, 10, 11, 13, 28, 29	August 13, 2004	December 6, 2005
Complaints Against Departmental Personnel	Tasks 2, 4, 5.1, 6, 7, 8, 12, 14, 15, 16	June 15, 2004	December 6, 2005
Audit, Review and Evaluation of IAD Functions	Task 17	January 20, 2004	No deliverables
Approval of Field Arrest by Supervisor	Task 18	January 20, 2004	May 13, 2004
Unity of Command	Task 19	January 20, 2004	April 12, 2004
Span of Control for Supervisors	Task 20	August 14, 2003	April 19, 2004 / April 14, 2004
Performance Appraisal	Tasks 21, and 44	July 07, 2004	April 27, 2004
OPD/DA Liaison Commander (MLL)	Task 22	April 15, 2003	December 16, 2003
Command Staff Rotation	Task 23	January 20, 2004	April 12, 2004
Use of Force Reporting	Task 24	July 20, 2004	Not Published
Use of Force Reporting & Report Responsibilities	Task 25	July 20, 2004	Not Published
Use of Force Review Board	Task 26	July 20, 2004	Not Published
OC Log & Check-out Procedures	Task 27	July 20, 2004	October 1, 2003
Use of Force – Investigation of Criminal Misconduct	Task 28	July 20, 2004 – M-4 August 13, 2004 – IAD Manual	Not Published
IAD Investigation Priority	Task 29	July 20, 2004 – M-4 August 13, 2004 – IAD Manual	December 6, 2005
Firearms- Discharge Board of Review	Task 30	July 20, 2004	Not Published
Officer-Involved Shooting	Task 31	July 20, 2004	Not Published
Use of Camcorders	Task 32	July 20, 2004	July 7, 2003
Misconduct	Task 33	August 25, 2003	December 24, 2003 / April 13, 2004
Stop Data Forms –Vehicle Stops, Field Investigations...	Task 34	August 25, 2003	May 04, 2004
Use of Force Reports – Witness ID	Task 35	August 25, 2003	April 12, 2004
Procedures for Transporting Detainees and Citizens	Task 36	August 25, 2003	November 14, 2003
Internal Investigations – Retaliation Against Witnesses	Task 37	August 25, 2003	November 14, 2003
Citizens Signing Police Forms	Task 38	August 25, 2003	October 22, 2003
Personnel Arrested, Sued and/or Served with Civil...	Task 39	August 25, 2003	April 13, 2004
Personnel Information Management System (PIMS)	Task 40	June 28, 2005	Not Published
Use of Personnel Information Management System (PIMS)	Task 41	June 28, 2005	Not Published
Field Training Program	Task 42	April 16, 2004	May 27, 2005
Academy Training Plan	Task 43	February 15, 2005	April 6, 2005
Consistency of Discipline	Task 45	June 15, 2004	December 6, 2005
Promotional Consideration	Task 46	December 1, 2003	December 6, 2005
Community Policing Plan	Task 47	August 01, 2003	April 15, 2004
Departmental Management & Annual Management Report	Task 48	July 2, 2003	November 14, 2003

STATUS OF TASKS CURRENTLY DUE (AS OF DECEMBER 31, 2005)			
TASK DESCRIPTIONS	TASK NUMBERS	DUE DATE	PUBLICATION DATE
Monitor Selection & Compensation	Task 49	April 15, 2003	In Full Compliance
Compliance Unit Liaison Policy	Task 50	March 4, 2003	In Full Compliance
Compliance Audits and Integrity Tests	Task 51	March 4, 2003	In Full Compliance

Table 2 -

* Task 5 is split between DGO M-3, The IAD Manual and the Jail P&P 5.01. The Jail P&P policy was published on May 13, 2004.

Task Tracking

The Compliance Unit documents Department implementation efforts. The Unit reports weekly to the Chief of Police and bi-weekly to the command staff on the status of Agreement Tasks and training activities.

Bi-weekly updates are maintained by the Compliance Unit. The Unit receives information from each Task's compliance assessor to monitor progress towards compliance. The information provided by compliance assessors is used to identify deficiencies and problem-solve, and to populate the Semi-Annual Report.

Training Compliance

The Training Division coordinates and tracks training on Agreement related policies. Training rosters are completed for each task and the information is logged into the Training Management System. Based on the completed rosters, the Training Division identified members and employees who did not appear to have been trained and followed up regularly to ensure that supervisors provided training to those individuals. The Training Division continues to provide accurate, real-time reports, with supporting rosters, to show training compliance. Training is ongoing as policies are published and lesson plans are developed.

Table 3 depicts the Department's overall training status.

TABLE 3: STATUS OF TRAINING COMPLIANCE (AS OF MARCH 2, 2006)

Publication Type/ Number	Task	Publication Title	# Not Trained	# Requiring Training	% Trained
BFO 03-02	20	19APR04-Supervisory Span of Control	3	715	99.58%
BFO 03-03*	47	30DEC05-Community Meetings	516	731	29.41%
DGO A-18	22	16DEC03-Management Level Liaison	7	713	99.02%
DGO A-3	19	12APR04-Department Organization	10	1050	99.05%
DGO A-7	48	14NOV03-Annual Report	1	47	97.87%
DGO B-6	21/44	27APR04-Perform Reviews and Appraisals	22	1050	97.90%
DGO B-7*	47	30DEC05-Public Appearance	188	1050	82.10%
DGO B-8	42	27MAY05-Field Training Program	9	715	98.74%
DGO B-20	43	06APR05-Department Training Program	19	1050	98.19%
DGO D-16	33	Check-In and Orientation Procedures	1	47	97.87%
DGO M-3	2, 4, 5, 6, 7, 8, 12, 14, 15, 16, 45	06DEC05-Complaint Manual	26	1050	97.52%
DGO M-18	18	13MAY04-Arrest Approval	6	715	99.16%
DGO M-19	34	15NOV04-Racial Profiling	7	715	99.02%
IB	38	Citizens Signing Police Report	7	795	99.12%
SO8055	36	14NOV03-Transport of Person	19	876	97.83%
SO8061	27	01OCT03-Control O.C. Spray	7	795	99.12%
SO8064	39	13APR04-Civil Action Procedures	7	765	99.08%
SO8066	35	12APR04-Witness Identification	8	830	99.04%
SO8092	37	23NOV03-Retaliation Against Witnesses	10	1050	99.05%
SO8136	33	13APR04-MOR370.18	11	1050	98.95%
SO8257	18	20MAY05-Supervisor Approval of Arrest	14	780	98.21%
SO8262	36	12SEP05-Transport of Person	28	780	96.41%
TB III-A.5*	47	TB III-A.5-30DEC05-COMMUNITY ORIENTED POLICING	221	780	71.67%
TB III-G		28OCT05-Crowd Control	21	715	97.06%
			926	17369	94.67%

Note: Personnel on leave (Military, Sick, Admin-Leave, etc.) for more than 60 days prior to the date of this report have been excluded because they were not available to receive training.

*The three policies that are not in training compliance, according to Table 3, are related to Task 47. These policies were revised in December 2005 and training is currently taking place. The Department achieved substantial training compliance on the old versions.

AUDIT AND REVIEWS

THE AUDIT AND INSPECTIONS UNIT OVERVIEW

In accordance with the Agreement, upon implementation of policies and procedures pursuant to the Agreement, the Department is to conduct annual audits of the following:

1. Arrest and offense reports, and follow-up investigation reports;
2. Use of force incident reports and use of force investigations;
3. Complaint processing and investigation;
4. Mobile Data Terminal traffic;
5. Personnel evaluations; and
6. Citizen accessibility to the complaint process and the availability of complaint forms.

While the above-listed audits are mandated by the Agreement, the Audit and Inspections Unit of the OIG is also committed to conducting audits of other key areas of the Agreement, including issues or concerns that are central to the objectives of the Department and the Chief of Police.

SUMMARY OF AUDITS CONDUCTED

During 2005, the Audit and Inspections Unit published four audits, three of which were Agreement required audits. The three Agreement required audits included “Arrest, Offense and Follow-up Investigation,” “Personnel Review and Appraisals” and “Mobile Data Terminals.” The Audit Unit also audited the Field Training Program.

Arrest, Offense and Follow-up Investigations Audit

This audit included a review of the completeness and consistency of arrest, offense and follow up reports, as well as an assessment of compliance with the Agreement, specifically Tasks 18 and 38. We examined a random sample of 96 Consolidated Arrest Reports (CAR) and their associated offense and follow-up reports, as well as all Use of Force (UOF) reports from April 2005. During the data collection process, the Audit Unit discovered deficiencies in the Records Division, which are also addressed in this audit.

The Department is in compliance with the policy development and training for Tasks 18 and 38. It is also in compliance with the implementation of Task 38 which mandates how citizens sign police forms.

The Department is not in compliance with the implementation of Task 18, Approval of Field Arrests by Supervisor. Arrest approval was documented with a signature and time on the CAR in 88% of the sample; the presence of the supervisor on the scene was documented in 72% of the sample. It is clear from our review that supervisors are reviewing and approving the majority of arrests at some point. However, it is not clear that this review is being conducted on the scene as required by Task 18 of the Agreement.

The majority (99%) of CARs contained the minimum probable cause required, and none of the records reviewed contained significant discrepancies in probable cause between the CAR and offense report. We also reviewed offense reports to determine if witness identification was

documented and found that although 91% of offense reports were reviewed and signed by a supervisor, most reports did not include any documentation of witness information. While the Department does not appear to be in compliance with Task 18, it has made significant strides towards compliance since last reviewed by the Independent Monitoring Team (IMT).

The Audit Unit reviewed eight UOF reports for the documentation of arrest approval. Four of the UOF packets did not include CARs; therefore, we were unable to assess compliance with Task 18. Of the remaining four packets, one was not fully in compliance with the Agreement requirements. In addition, some UOF packets had deficiencies in other areas, including the use of boilerplate language, inconsistent reporting of witness information and no documentation of the chain of command review.

During the assessment of completeness and consistency of information, we found that Miranda admonishments and invocations are not being documented properly and that follow-up reports are not always completed or consistently recorded in the Law Records Management System (LRMS). In addition, the Audit Unit discovered that documentation of reasonable suspicion for stops on warrant arrests is not required by OPD policy, making it impossible to determine if officers are conducting lawful stops at the time of the warrant arrest.

Personnel Review and Appraisal Audit

This audit assessed compliance with Tasks 21 and 44 of the Agreement. The OIG gathered a random sample of the 575 personnel appraisals submitted to the Personnel Section during the most recent six month period prior to conducting the audit. OIG examined meeting documentation from individual supervisors to assess compliance with the Task. After examining a judgment sample, sufficient enough documentation was lacking to substantiate non-compliance for Task 21.

While auditing the Department's compliance with Task 21, the OIG found that Departmental policy was deficient. The policy lacked specific timelines for document retention by supervisors. Consequently, many supervisors and managers had discarded documentation after they assumed it was no longer needed.

Also, the policy required supervisors to retain meeting documentation. Taking into consideration the fluidity of personnel transfers in the BFO, this made real time compliance tracking inefficient and in many cases impossible for managers.

After the publication of this audit, the OIG developed a Supervisory Meeting Form to standardize meeting documentation throughout the Department. The Chief also issued a Special Order modifying Department policy to collect meeting documentation in each Bureau. This new collection process provides centralized up to date recordkeeping for managers to monitor compliance on a continual basis.

To assess compliance with Task 44, the OIG examined personnel files of the previously determined sample. As reported in a previous audit conducted by the IMTs, we found that a substantial number of performance appraisals did not include documentation required by the

Agreement³. Although percentages of compliance in the individual areas seem to have risen since the IMT audit, this audit showed that the Department had not yet reached a compliance level of 95%.

This audit was completed in September 2005. Since that time, this topic has been at the forefront of discussions at MAP meetings and individual managerial meetings Department-wide. The BFO has led the effort to fix this problem by working with OIG auditors and the Personnel Section to institute a Personnel Appraisal Checklist for supervisors. This checklist provides a guide for supervisors to follow so that they may ensure that every personnel appraisal is accurate, complete and all Agreement-required information is included. Additionally, every personnel appraisal from the BFO is proofread by BFO administrative staff and double checked for compliance with the Agreement. Personnel appraisals that are out of compliance are returned to the supervisor for revision and resubmission.

In October 2005, a snapshot audit of BFO personnel appraisals completed using the checklist showed that compliance levels were well above 95%. Other Bureaus in the Department have already implemented similar checklists and procedures. This Task is expected to be in full compliance during the next audit.

Mobile Data Terminals Audit

At the start of our audit, 85% (187 of 220) of the Department's total fleet of computer equipped vehicles had been upgraded to the VTEK System. The percentage of fleet vehicles upgraded to the new operating system rose to 89% (195 of 220) by the conclusion of our audit.

Approximately 517 members and employees are authorized to use the VTEK system, but during this audit period only 59 of those transmitted car-to-car messages. Data reviewed indicate that very few members or employees communicate via the MDT. In the data reviewed, there were large gaps of time during which no messages were transmitted. Although there were gaps, we are confident that all successfully transmitted messages were accounted for because of the unique number system assigned to each transaction by the database.

Transmissions occurred predominantly among officers assigned to the Ranger Section. This section is minimally staffed and responds to locations throughout the city, making MDT communication beneficial to officer safety.

There were 545 individual messages transmitted in the 62 days covered by this audit, with an average of nine (9) transmissions per day. The number of daily transmissions was significantly lower than the number in the previous audit. None of these messages were found to contain

³ Negotiated Settlement Agreement, § X. A. 1. Supervisors and commanders shall document, in performance appraisals, that they are aware of the nature and progress of complaints and investigations against members/employees, and shall consider such complaints and investigations in their performance appraisal of subordinates. 2. Supervisors and commanders shall document, in performance appraisals, that they have carefully monitored members': uses of force; "sick" and "injured" leaves; arrests for narcotics related possessory offenses not made as a result of searches conducted pursuant to arrests for other offenses; arrests involving charges of Penal Code §§ 69, 148 and/or 243(b) (c); and vehicle accidents.

inappropriate language or language that constitutes a Manual of Rules (MOR) violation. One questionable message transmitted outside the audit parameters was forwarded to the Deputy Chief of the Bureau of Field Operations (BFO) for appropriate action. This is an improvement from the past audit in which five conversations were forwarded to the Internal Affairs Unit for investigation and eight conversations that did not rise to the level of MOR violations were forwarded to the Deputy Chief of BFO.

The most significant problem with the MDT system is that it does not archive transmissions. Data must be manually downloaded by a technician every three to five days to ensure it is stored permanently. This was a significant finding in the previous audit which the Department has not addressed. Current Department policy does not prohibit the collection and archiving of MDT data; however, the Department has not been maintaining the data necessary to complete the Agreement required audit. In addition, aside from the OIG's annual audit of MDT traffic, the Department is not reviewing mobile message data.

Although the VTEK system is almost fully implemented, the problem of data loss remains. However, unlike the Legacy system which was subject to automatic data over-writing every three to five days because of operating system shortcomings, the VTEK system is based on a relational database and has greater flexibility in data collection and storage. Despite this greater flexibility, OPD has not researched methods for data collection and storage with Motorola.

During the 2004 MDT audit, the OIG made the ITU Manager aware that MDT data collection and storage directly affects the Department's ability to conduct the Agreement required audits and is necessary for our progress toward full compliance. The OIG also made a recommendation in the 2004 audit that MDT data be archived using parameters set by the IT staff based on Department audit requirements.

Although one year has passed since the previous audit, the ITU has not implemented OIG's recommendation. During interviews, the ITU Manager repeatedly expressed his fear that archiving messages transmitted by OPD personnel could result in the data being subpoenaed and discovered in a court of law. Recently, the ITU has begun archiving the data as a result of the recent OIG audit.

Because the reviewing of MDT transmissions is relatively new for OPD, the Audit Unit consulted with outside agencies⁴ in the Bay Area to better understand industry standards. The following questions regarding MDT capabilities and policies were posed to different agencies:

- Do vehicles have the ability to transmit private messages?
- Are messages captured in a database?
- Is this database archived?
- Is the data reviewed or audited on a regular basis?
- What policies are in place to govern what information is stored and for how long?

⁴ Alameda County Sheriff, Alameda PD, Concord PD, Hayward PD and San Leandro PD.

All agencies contacted have an MDT system that allows officers to transmit private messages. The majority of agencies contacted (four out of five) archive this data for a minimum of 100 days; which is the period mandated by the California Government Code (34090.6) for archiving radio and telephone communications. Agencies archiving data use the information to conduct routine audits of content and internal investigations.

Field Training Program Audit

The audit of the Field Training Program included an assessment of compliance with select Agreement requirements for Task 42. Although we identified some areas that were not in compliance with the Agreement, in general, the Field Training Program is closely monitored by the Field Training Program Coordinator (FTPC) and has the internal controls and tracking systems necessary to achieve full compliance. During the data collection process, we discovered deficiencies in the storage and distribution of daily details, which are also addressed in this audit.

The Department did not meet the Agreement requirement that a full-time sergeant be assigned to the FTPC position for, at minimum, the first year of the Agreement. A sergeant was only assigned to the position for seven months and was replaced with an officer. As required by the Agreement, the Field Training Officer (FTO) incentives were increased to encourage more qualified and experienced candidates to apply. It should be noted that the increased pool of qualified candidates could also be attributed to the FTPC's recruiting efforts.

Many of the Agreement requirements for FTO selection were met; however, there were some criteria that were not documented. The FTO selection packets did not include documentation on relationships with the community, quality of citizen contacts and commitment to OPD philosophy. Also, documentation on ethics, professionalism commitment to community policing, problem solving and leadership abilities was poor or unavailable for the 17 FTO nominees who were being recertified. While no certified FTOs appeared to have excessive citizen complaints, sustained investigations or use of force incidents for the two years prior to selection, there was no documentation of how the decisions to appoint FTOs were made by the reviewers, especially if certain FTOs had more citizen complaints or use of force incidents than the average.

The FTPC organizes and closely monitors how trainees are assigned and rotated. We found the Department in compliance with trainee assignment and rotation. In addition, the FTPC conducts routine audits of all evaluations and reports. When problems or concerns with trainees or FTOs are uncovered, the FTPC ensures that they are addressed and monitored.

The Agreement requires that the FTPC and Academy staff conduct focus groups with trainees to identify discrepancies between what is taught in the Academy and the Field Training Program. The focus groups have been conducted as required and results have been shared with the appropriate commanders. However, the process for preparing focus group results and implementing the recommendations needs to be improved.

SUMMARY OF REVIEWS CONDUCTED

The Audit and Inspection Unit was also involved in conducting reviews of various Agreement tasks. These reviews were conducted in order to reveal any deficiencies in the Department's

current practice and enable the Chief and Command Staff to take immediate corrective action. The following reviews were conducted during the current calendar year:

- Stop Data Collection Forms;
- Vice Narcotics Arrest Approval;
- Citizens Signing Police Forms; and
- Community Meetings.

Stop Data Collection

Staff compared the number of stop data forms submitted, over different time periods, to the number of citations and stops in the CAD system during the same time periods. Based on these reviews, staff discovered that the submission of stop data forms appeared to be consistent with citations written and stops documented in the CAD system.

Vice Narcotics Arrest Approval

A sample of Narcotics arrests were reviewed for compliance with M-18, Approval of Field Arrest by Supervisor. Staff discovered that while supervisors were approving arrests at the scene, there was no clear documentation proving that this was occurring. To make tracking this Task more manageable, the Chief signed a new Special Order that requires Supervisors to confirm their presence and approval or disapproval of arrests via the mobile data terminal or radio communications.

Citizens Signing Police Forms

Staff conducted a review on a sample of crime reports and statements signed by citizens. Although officers were for the most part complying with the Settlement Agreement, they weren't always complying with the Departments policy, requiring that citizens sign their name and date along the diagonal line. This review led to a revision and clarification of Departmental Policy.

Community Meetings

Staff conducted a series of reviews of Community Meeting requirements in the Bureau of Field Operations. During these reviews, staff discovered that poor documentation, faulty policy and confusion regarding who was required to attend a Community Meeting created problems with compliance. As a result, the policy regarding community meeting attendance was rewritten. In addition, BFO established an administrative unit which has led to more efficient tracking.

TASK IMPLEMENTATION

Implementation activities for each specific Task are detailed on the following pages. In some Tasks, lead-in language is provided and referenced for clarity. These lead-ins are paraphrased reiterations of the Agreement provisions, and in no way alter the requirements of the Agreement.

Task 01: IAD Staffing and Resources

Settlement Agreement Section III. A; page 7, lines 3-8 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

Training Compliance Date: June 1, 2005

Extension Granted: April 15, 2004 (Revised policy compliance date: August 13, 2004)

Settlement Agreement Language:

- “By August 13, 2004, OPD must revise certain policies and procedures related to IAD investigations and create an IAD procedural manual for conducting complaint investigations.” (This requirement applies to Tasks 1–16 and is reiterated in Task 10.)
- “By August 13, 2004, OPD must train all personnel to ensure they have received, understand and comply with new and revised Departmental policies and procedures.” (This requirement applies to Tasks 1–16 and is reiterated in Task 10.)
- “By August 13, 2004, the IAD procedural manual must address: assignment and rotation of officers; training and qualifications of members and other personnel in IAD; appropriate background checks of IAD personnel; and confidentiality of IAD information.”

Status:

Policy Compliance	X
Training Compliance	
Actual Practice Compliance	

Deliverables:

- Internal Affairs Division Policy and Procedures Manual (IAD Manual “Manual”)

Implementation Activities⁵

The Manual was published on December 6, 2005. As of the publication date of this report, most IAD staff members have been trained on the Manual. The IAD is currently reviewing the procedures outlines in the Manual to make appropriate assignments for staff and ensure that each requirement is documented. The Manual is also being evaluated against current practices and IAD commanders expect some modifications once the review is complete.

⁵ Implementation Activities for Task 1 are associated to the Manual, and will also be the same for Tasks 3, 5, 9, 10, 11, 13, 28, and 29 (also associated to the Manual). The Manual has a number of associated tasks. For convenience, an Ibid referral reference will be used to redirect the reader, when referring again to the Manual’s associated tasks that have the same Task Implementation Activity.

Task 02: Timeliness Standards and Compliance with IAD Investigations

Settlement Agreement Section III. B.; page 7, lines 9-17 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

Compliance Date: April 15, 2003

Extension Granted: June 1, 2004 (Policy compliance date: December 1, 2003)

Subsequent Extension Granted: April 15, 2004 (Revised policy compliance date: June 15, 2004)

Settlement Agreement Language:

- “By June 15, 2004, OPD must develop and, by July 1, 2004, implement timeliness standards for the completion of Internal Affairs investigations, administrative findings and recommended discipline.”
- “IAD command and the Department’s command staff must regularly monitor compliance with these timeliness standards.”
- “If IAD experiences an unusual proliferation of cases and/or workload, IAD staffing must be increased to maintain timeliness standards.”

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*
- Departmental General Order M-3.1, *Informal Complaint Resolution Process*
- Departmental General Order M-3.2, *Citizen’s Police Review Board*

Implementation Activities⁶

The Department published Departmental General Order M-3, *Complaints Against Department Personnel or Procedures* on December 6, 2005. During this reporting period, the policy has been reviewed and revised numerous times. Some of the issues that delayed publication include timelines for conducting internal investigations, clarification of definitions and language regarding the Jail’s procedures. The Jail closed June 30, 2005, and as a result the associated language in DGO M-3 needed to be revised. As a result, DGO M-3 was rewritten.

The Department continues to show its commitment to the SA by beginning the most rigorous training program since the inception of the SA for M-3, the IAD Manual and the Department’s Discipline Policy. On December 10, 2005, the Department held a training session for all

⁶Implementation Activities for Task 2 are associated to the DGO M-3 documents, and will also be the same for Tasks 2, 4, 5, 6, 7, 8, 12, 14, 15 and 16 (also associated to DGO M-3). The DGO M-3 policies have a number of Tasks associated with them. For convenience, an Ibid referral reference will be used to redirect the reader, when referring again to DGO M-3’s associated tasks that have the same Task Implementation Activity.

supervisory and management personnel Department-wide. To ensure quality of instruction, this training session was conducted by commanders of the IAD and the members from the City Attorney's Office. In addition, a series of two hour sessions for non-supervisory staff began on December 12, 2005. As of the publication of this report, 97% of Department personnel have been trained on DGO M-3.

Task 03: IAD Integrity Tests

Settlement Agreement Section III. C.; page 7, lines 18-22 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

Training Compliance Date: June 1, 2005

Extension Granted: April 15, 2004 (Revised policy compliance date: August 13, 2004)

Settlement Agreement Language:

- “By June 1, 2005, IAD must conduct integrity tests in situations where members/employees are the subject of repeated allegations of misconduct.”
 - “By June 1, 2005, IAD must set frequency standards, among other parameters, for such integrity tests.”
-

Status:

Policy Compliance	X
Training Compliance	
Actual Practice Compliance	

Deliverables:

- Internal Affairs Division Policy and Procedures Manual

Implementation Activities⁷

The provisions of this Task have been included in the Manual. The IAD Integrity Tests have been divided into two categories: Planned Integrity Tests and Selective Integrity Tests. Both tests are designed to thoroughly investigate allegations of misconduct in order to maintain the integrity of the Department as well as to preserve the confidence of the community. The premise behind integrity testing is that this tool will be used to evaluate general compliance with Departmental policy or in circumstances when normal investigative techniques fail or are likely to fail, to provide the preponderance of evidence needed to reach a logical conclusion.

Ibid, page 26 to review associated Manual Implementation Activity for this Task.

⁷ Implementation Activities for Task 3 are associated to the Manual, and will also be the same for Tasks 1, 5.3 – 5.7, 9, 10, 11, 13, 28, and 29 (also associated to the Manual). The Manual has a number of Tasks associated with it. For convenience, and reducing repetitive “Activity” text, an Ibid referral reference will be used to redirect the reader (to associated pages), when referring again to the Manual’s associated tasks, which have the same Task Implementation Activity.

Task 04: Complaint Control System for IAD

Settlement Agreement Section III. D.; page 7, line 23 – page 8, line 17 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

Compliance Date: May 27, 2003

Extension Granted: June 1, 2004 (Policy [DGO M-3] compliance date: December 1, 2003)

Subsequent Extension Granted: April 15, 2004 (Revised policy [DGO M-3] compliance date: June 15, 2004)

Settlement Agreement Language:

- “By June 15, 2004, OPD must develop a policy regarding an informal complaint resolution process to be used by supervisors and IAD to resolve minor complaints not rising to the level of Class I misconduct. The Settlement Agreement sets forth certain criteria that must be included in this informal complaint resolution process.”
 - “By October 1, 2004, OPD must implement this informal complaint resolution process.”
 - “By June 15, 2004, OPD must develop a policy establishing a central control system for complaints and Departmental requests to open investigations. The Settlement Agreement sets forth certain criteria that must be included in this central control system.”
 - “By October 1, 2004, OPD must implement this central control system.”
-

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- Section III. D. 2., for this Task requires a “*central control system for complaints and Departmental requests to open investigation*. Although the procedures have not yet been codified in writing for its use, IAD currently has an automated database for tracking investigations and disciplinary actions.
- Revised Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*
- Special Order 8071, *Tracking and Monitoring Internal Affairs Division Cases*

Implementation Activities⁸

Special Order 8071, *Tracking/Monitoring IAD Cases* was drafted in November of 2003. Since that time, the provisions of this SO were included in DGO M-3 and the Investigations Manual.

⁸ Implementation Activities for Task 4 are associated to the DGO M-3 documents, and will also be the same for Tasks 2, 4, 5, 6, 7, 8, 12, 14, 15 and 16 (also associated to DGO M-3). The DGO M-3 policies have a number of Tasks associated with them. For convenience, an Ibid referral reference will be used to redirect the reader, when referring again to DGO M-3’s associated tasks that have the same Task Implementation Activity.

IAD will monitor Division level Investigations assigned to Bureaus. The Division Commanders/Deputy Chiefs will establish their own case tracking mechanisms and polices.

Ibid, page 27 to review associated DGO M-3 implementation activities for this Task.

Task 05: Complaint Procedures for IAD

Settlement Agreement Section III. E.; page 8, line 18 – page 11, line 7 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: BOS

M-3 POLICY

Compliance Date: August 19, 2003

Extension Granted: June 1, 2004 (Revised policy compliance date: December 1, 2003)

Subsequent Extension Granted: April 15, 2004 (Revised policy compliance date: June 15, 2004)

IAD MANUAL

Policy Compliance Date: June 1, 2005

Extension Granted: April 15, 2004 (Revised policy Compliance Date: August 13, 2004)

Settlement Agreement Language:

- “By June 15, 2004, OPD must develop a policy to provide immediate access to a supervisor to all citizens seeking to file a complaint. The Settlement Agreement sets forth certain criteria to be followed if there is delay greater than three hours in providing access to a supervisor or if the complainant refuses to travel to or wait for a supervisor.
- By June 15, 2004, OPD must develop a policy to provide Oakland City Jail inmates the opportunity to file a complaint against OPD officers/employees. The Settlement Agreement sets forth certain criteria that must be included in this policy.
- “By June 15, 2004, OPD must develop policies setting standards for IAD investigations and dispositions of citizen complaints, including that: OPD must consider all relevant evidence; make credibility determinations where feasible; attempt to resolve inconsistencies in witness statements; employ the “preponderance of evidence” standard; and permanently retain all notes related to the investigation. This provision also defines the five investigative dispositions (unfounded; sustained; exonerated; not sustained; and filed) and requires that each allegation in a complaint be resolved with one of these dispositions.
- “By August 13, 2004, OPD must revise certain policies and procedures related to IAD investigations and create an IAD procedural manual for conducting complaint investigations.” (This requirement applies to Tasks 1–16 and is reiterated in Task 10.)
- “By August 13, 2004, OPD must train all personnel to ensure they have received, understand and comply with new and revised Departmental policies and procedures.” (This requirement applies to Tasks 1–16 and is reiterated in Task 10.)
- “By August 13, 2004, the IAD procedural manual must address: assignment and rotation of officers; training and qualifications of members and other personnel in IAD; appropriate background checks of IAD personnel; and confidentiality of IAD information.”

Status:

Policy Compliance	X
Training Compliance	
Actual Practice Compliance	

Deliverables:

- Jail Division Policies and Procedures 05.01, *Inmate Complaint Reporting, Reporting Incidents*
- Jail Divisions Citizen's Complaint Form
- IAD Manual
- Revised Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*

Implementation Activities⁹**Jail Division Policy**

The Jail Division's Policy and Procedure 5.01 Policy, *Inmate Complaint Reporting, Reporting Incidents* (approved by the IMT) was published May 13, 2004.

Update

As of the publication date of this report, OPD's City Jail has been closed due to budgetary constraints. The language in both the IAD Manual and DGO M-3 has been modified to reflect the exclusion of policy and procedure for the Jail Division.

Please review page 26 for IAD Manual implementation activity, and page 27 for DGO M-3 implementation activity.

⁹ Implementation Activities for Task 5 which are associated to the IAD Manual, and will also be the same for Tasks 1, 3, 5.3 – 5.7, 9, 10, 11, 13, 28, and 29 (also associated to the Manual). The Internal Affairs Division Policy and Procedures Manual have a number of Tasks associated with it. For convenience, and reducing repetitive "Activity" text, an Ibid referral reference will be used to redirect the reader (to associated pages), when referring again to the Manual's associated tasks, which have the same Task Implementation Activity.

Task 06: Refusal to Accept or Refer Citizen Complaint

Settlement Agreement Section III. F.; page 11, lines 8-12 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

Compliance Date: June 1, 2005

Subsequent Extension Granted: April 15, 2004 (Policy compliance date: June 15, 2004)

Settlement Agreement Language:

- “By June 15, 2005, OPD must develop and implement a policy that refusing to accept a citizen complaint; failing to refer a citizen to IAD where appropriate; discouraging a person from filing a complaint; and/or knowingly providing false, inaccurate or incomplete information about IAD shall be grounds for discipline.”
-

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- *Manual of Rules* Section 398.76, *Refusal to Accept or Refer Citizen Complaint* (published as Special Order 8902, *Update of Department Manual of Rules*)
- Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*

Implementation Activities

The new *Manual of Rules* section was drafted, staffed, reviewed by the parties, and determined to meet the provisions of this Agreement Task. Pending the 2004 revision of the *Manual of Rules*, this section was published as part of Special Order 8092, *Update of Department Manual of Rules*, on November 14, 2003.

Update

Manual of Rules Section 398.76 was revised as part of Special Order 8360, *Update of Departmental Manual of Rules*, on January 6, 2006.

Ibid, page 27 to review associated M-3 Implementation Activities for this Task.

Task 07: Methods for Receiving Citizen Complaints

Settlement Agreement Section III. G.; page 11, line 13 – page 12, line 7 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

Compliance Date: July 1, 2004

Revised Compliance Date: June 1, 2004 (Policy compliance date: December 1, 2003)

Subsequent Extension Granted: April 15, 2004 (Policy compliance date: June 15, 2004)

Settlement Agreement Language:

- “By June 15, 2004, OPD must, based on contemporary police standards and best practices, develop a policy strengthening its procedures for receiving citizen complaints. The Settlement Agreement sets forth certain criteria that must be included in this policy, including that OPD: establish a staffed complaint hotline; make complaint forms, brochures and guidelines easily and widely available, including in OPD vehicles; translate those forms; and accept anonymous complaints.”
- “By October 1, 2004, OPD must implement the above referenced policy.”
- “By June 1, 2004, IAD must be located in a dedicated facility removed from the Police Administration Building.”

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- Revised *Manual of Rules* Section 314.49, *Confidential Reporting of Police Misconduct*. Acceptance of anonymous complaints was created and is in effect.
- Relocation of the Internal Affairs Division to City Hall Plaza is complete.
- Revised Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*

Implementation Activities

The IAD reports that anonymous complaints continue to be accepted. The revised IAD complaint forms are currently being used to document and file citizen’s complaints. Revised *Manual of Rules* Section 314.49, *Confidential Reporting of Police Misconduct*; the acceptance of anonymous complaints was created in March of 2004 and is currently in effect.

IAD has installed a complaint hotline. As of the publication of this report, all equipment has been installed in order for the hotline to run properly and at full capacity. When the IAD is closed for business, the hotline is forwarded to the Communications Division where a dispatcher takes the information from the caller and disseminates it to the on-duty supervisor. The complaint hotline requirements are outlined in DGO M-3 and the IAD Manual.

Ibid, page 27 to review associated DGO M-3 Implementation Activities for this Task.

Task 08: Classifications of Citizen Complaints

Settlement Agreement Section III. H.; page 12, line 8 – page 13, line 12 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

Compliance Date: April 15, 2003

Extension Granted: June 1, 2004 (Policy compliance date: December 1, 2003)

Subsequent Extension Granted: April 15, 2004 (Policy compliance date: June 15, 2004)

Settlement Agreement Language:

- “By June 15, 2004, OPD must, based on contemporary police standards and best practices, develop a policy establishing a classification system for citizen complaints. The Settlement Agreement calls for complaints to be divided into two categories (Class I and Class II) according to the severity of the offense.”
 - “By October 1, 2004, OPD must implement this classification system.”
-

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- Revised Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*

Implementation Activities

The revised Department General Order M-3 was published on December 6, 2005 and 97% of all Departmental personnel have been trained on the policy, as of the publication of this report.

Ibid, page 27 to review associated DGO M-3 Implementation Activities for this Task.

Task 09: Contact of Citizen Complainant

Settlement Agreement Section III. I.; page 13, lines 13-16 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

Compliance Date: June 1, 2005

Extension Granted: April 15, 2004 (Policy Compliance Date: August 13, 2004)

Note: This Task is now a part of the IAD Manual, and no longer associated with the M-3 Tasks.
As a result, the compliance dates have changed as noted above.

Settlement Agreement Language:

- “By August 13, 2004, OPD must develop and, by October 1, 2004, implement, a policy requiring that IAD, or the investigator assigned to an investigation, contact citizens who have made complaints as soon as possible, in order to determine the nature, scope and severity of the complaint, as well as to identify potential witnesses and/or evidence as quickly as possible.”
-

Status:

Policy Compliance	X
Training Compliance	
Actual Practice Compliance	

Deliverables:

- Internal Affairs Division Policy and Procedures Manual

Implementation Activities

The IAD Manual was published on December 8, 2005 and most IAD personnel have been trained on the new procedures.

Ibid, page 26 to review associated IAD Manual Implementation Activities for this Task.

Task 10: Procedure Manual for Investigations of Citizen Complaints

Settlement Agreement Section III.; page 6, line 23 – page 7, line 2

Assigned Unit: IAD

Compliance Date: June 1, 2005

Extension Granted: April 15, 2004 (Policy Compliance Date: August 13, 2004)

Settlement Agreement Language:

- “III. INTERNAL AFFAIRS DIVISION (IAD)”
 - “By August 13, 2004, OPD must revise certain policies and procedures related to IAD investigations and create an IAD procedural manual for conducting complaint investigations.” (This requirement applies to Tasks 1–16.)
 - “By August 13, 2004, OPD must train all personnel to ensure that they have received, understand, and comply with new and revised Departmental policies and procedures.” (This requirement applies to Tasks 1–16.)
-

Status:

Policy Compliance	X
Training Compliance	
Actual Practice Compliance	

Deliverables:

- Internal Affairs Division Policy and Procedures Manual

Implementation Activities

The IAD Manual was published on December 8, 2005 and most IAD personnel have been trained on the new procedures.

Ibid, page 26 to review associated IAD Manual implementation activities for this Task.

Task 11: Summary of Citizen Complaints Provided to OPD Personnel

Settlement Agreement Section III. J.; page 13, lines 17-26 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

Compliance Date: June 1, 2005

Extension Granted: April 15, 2005 (Revised policy compliance date: August 13, 2004)

Note: This Task is now a part of the IAD Manual, and no longer associated with the M-3 Tasks. As a result, the compliance dates have changed as noted above.

Settlement Agreement Language:

- “By August 13, 2004, OPD must, based on contemporary police standards and best practices, develop a policy requiring that complaint investigators:”
- “provide the member/employee with a brief synopsis of any complaint alleged against them, but not allow the member/employee to read the complaint itself or to review citizen or other witness statements prior to the member/employee’s interview;”
- “notify the immediate supervisor and commander of the subject of an investigation that a complaint against the subject has been filed; and”
- “upon completion of the investigation and issuance of a final report, provide subject members/employees with access to the underlying data upon which an IAD report is based, including all tape-recorded interviews, transcripts and investigator’s notes.”
- “By October 1, 2004, OPD must implement this policy.”

Status:

Policy Compliance	X
Training Compliance	
Actual Practice Compliance	

Deliverables:

- Internal Affairs Division Policy and Procedures Manual

Implementation Activities

The IAD Manual was published on December 6, 2005 and most IAD personnel have been trained on the new procedures.

Ibid, page 26 to review associated IAD Manual Implementation Activities for this Task.

Task 12: Disclosure of Possible Investigator Bias

Settlement Agreement Section III. K.; page 14, lines 1-11 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

Compliance Date: June 1, 2004

Extension Granted: June 1, 2004 (Policy due December 1, 2003)

Subsequent Extension Granted: April 15, 2004 (Policy due June 15, 2004)

Settlement Agreement Language:

- “By June 15, 2004, OPD must develop and, by October 1, 2004, implement, a policy requiring that investigators (IAD and field) disclose relationships that might lead to a perception of bias regarding the subject(s) of any investigation, including family relationships, outside business relationships, romantic relationships and close work or personal friendships. The Settlement Agreement sets forth certain criteria regarding when and how investigators and their supervisors must act on these disclosures.”
-

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- Revised Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*

Implementation Activities

The revised Department General Order M-3 was published on December 6, 2005 and 97% of all Departmental personnel have been trained on the policy, as of the publication of this report.

Ibid, page 27 to review associated M-3 Implementation Activities for this Task.

Task 13: Documentation of Pitchess Responses

Settlement Agreement Section III. L.; page 14, lines 12-14 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

Compliance Date: June 1, 2005

Extension Granted: April 15, 2005 (Policy compliance date: August 13, 2004)

Settlement Agreement Language:

- “By June 1, 2005, OPD must implement an additional check on Pitchess discovery motion responses.”
 - Documentation of Pitchess Responses
-

Status:

Policy Compliance	X
Training Compliance	
Actual Practice Compliance	

Deliverables:

- Internal Affairs Division Policy and Procedures Manual

Implementation Activities

The IAD Manual was published on December 6, 2005 and most IAD personnel have been trained on the new procedures.

Ibid, page 26 to review associated IAD Manual Implementation Activities for this Task.

Task 14: Investigation of Allegations of Manual of Rules Violations Resulting from Lawsuits and Legal Claims

Settlement Agreement Section III. M.; page 14, lines 15-24 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

Compliance Date: June 1, 2004

Extension Granted: June 1, 2004 (Policy compliance date: December 1, 2003)

Subsequent Extension Granted: April 15, 2004 (Policy compliance date: June 15, 2004)

Settlement Agreement Language:

- “By June 15, 2004, OPD must develop and, by October 1, 2004, implement, a policy requiring that it investigate allegations of Manual of Rules violations resulting from certain lawsuits and legal claims, treating them in the same manner as other citizens’ complaints. The Settlement Agreement sets forth certain criteria that must be included in this policy.”
-

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	X

Deliverables:

- Revised Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*

Implementation Activities

The revised Department General Order M-3 was published on December 6, 2005 and 97% of all Departmental personnel have been trained on the policy, as of the publication of this report.

Ibid, page 27 to review associated M-3 Implementation Activities for this Task.

Task 15: Reviewing Findings and Disciplinary Recommendations

Settlement Agreement Section III. N.; page 15, lines 1-4 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

Compliance Date: June 1, 2004

Extension Granted: June 1, 2004 (Policy compliance date: December 1, 2003)

Subsequent Extension Granted: April 15, 2004 (Policy compliance date: June 15, 2004)

Settlement Agreement Language:

- “By June 15, 2004, OPD must, based on contemporary police standards and best practices, develop a policy requiring that, except upon written authorization from the Chief of Police, the operational chain of command, from lieutenant up, review recommended findings and make disciplinary recommendations in sustained internal investigations.”
 - “By October 1, 2004, OPD must implement this policy.”
-

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- Revised Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*
- The Departmental Discipline Policy Manual (including the Discipline Matrix)

Implementation Activities

The Departmental Discipline Policy Manual was published on December 6, 2005 and 97% of personnel have been trained on the policy.

Ibid, page 27 to review associated M-3 Implementation Activities for this Task.

The Discipline Matrix and Training Bulletin

During this reporting period, significant changes were made to the new Discipline Policy, including the Matrix (Tasks 15 and 45). The changes were primarily a result of input from Chief Tucker and several meetings between OPD and the Unions. Chief Tucker, who was hired in February, increased the penalty ranges for some of the offenses in the Matrix and created the Discipline Officer position.

OPD hosted an informational meeting with all three unions (Local 790, Local 21, and the OPOA) on March 8, 2005 to present the changes in penalty ranges and the Discipline Officer position. Local 21 chose not to meet and confer with the Department after this meeting. The Department conducted one meet and confer session with Local 790 in March, after which the Union Representatives chose not to meet again. OPD conducted seven meet and confer sessions

with the OPOA from March to June, 2005. During these meet and confer sessions, changes to the guidelines on how to use the Matrix were submitted by both the Department and the OPOA and agreement on the changes was reached.

The most significant changes to the penalty ranges were for bias based offenses, alcohol/drug-related offenses, untruthfulness/falsification offenses, excessive force offenses, and solicitation/gratuity offenses. The penalty ranges for these offenses were increased, and in some cases changed to termination for the first offense.

The Discipline Officer position was created in an effort to ensure consistency in discipline. Rather than have commanders and managers in the subject employee's chain of command make recommendations about discipline, only one individual in the Department will be making all discipline recommendations. The creation of the Discipline Officer required a stipulation to the NSA for tasks 15 and 45, which were approved by all parties.

Task 16: Supporting IAD Process – Supervisor/Managerial Accountability

Settlement Agreement Section III. O.; page 15, lines 5-11 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

Compliance Date: June 1, 2004

Extension Granted: June 1, 2004 (Policy compliance date: December 1, 2003)

Subsequent Extension Granted: April 15, 2004 (Policy compliance date: June 15, 2004)

Settlement Agreement Language:

- “By June 15, 2004, OPD must, based on contemporary police standards and best practices, develop a policy that holds supervisors and commanders, as well as other managers in the chain of command, accountable for supporting the IAD process. Where an IAD investigation finds that a supervisor or manager should have reasonably determined that a member/employee committed a Class I offense, that supervisor or manager must be held accountable, through the Department’s administrative discipline process, for failure to supervise, failure to review and/or failure to intervene.”
 - “By October 1, 2004, OPD must implement this policy.”
-

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- Revised Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*

Implementation Activities

Department General Order M-3 was published on December 6, 2005 and 97% of personnel have been trained on the policy.

Ibid, page 27 to review associated M-3 Implementation Activities for this Task.

Task 17: Audit, Review and Evaluation of IAD Functions

Settlement Agreement Section IV.; page 15, lines 15-18

Assigned Unit: N/A

Compliance Date: January 20, 2004

Settlement Agreement Language:

- “• By January 20, 2004, OPD must develop and implement, based on contemporary police standards and best practices, policies to address certain standards and provisions (set forth in section IV, paragraphs A–F) related to Supervisory Span of Control and Unity of Command.”
-

Status: This Task is a summary Task, and covers the overall timelines for Tasks 18, 19, 21, and 23. There are no specific provisions covered by this Task.

Deliverables: Not Applicable

Implementation Activities: Not Applicable

Task 18: Approval of Field-Arrest by Supervisor

Settlement Agreement Section IV. A.; page 15, line 19 – page 16, line 5 (lead-in page 15, lines 16-18)

Assigned Unit: BFO

Compliance Date: January 20, 2004

Settlement Agreement Language:

- “• By January 20, 2004, OPD must develop and implement a policy requiring the approval of field-arrests by a supervisor in most cases. This policy necessitates that OPD develop standards for field supervisors that encourage or mandate close and frequent supervisory contacts with subordinates. The Settlement Agreement sets forth certain criteria regarding supervisor review of field-arrests, including that, under ordinary circumstances, supervisors respond to the scenes of field arrests for felonies; narcotics-related possessory offenses; situations where there is an investigated use of force; and arrests for obstructing, resisting, or assaulting an officer.”
-

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- Revised Departmental General Order M-18, *Arrest Approval and Report Review in the Field*
- SO 8257, *Supervisors Approval of Arrest* (new deliverable)

Implementation Activities

Special Order 8257 is a new deliverable for this Task and was created for the purpose of tracking supervisor's arrest approvals in CAD.

Policy

Departmental General Order M-18, Arrest Approval and Report Review in the Field, was originally published on May 13, 2004. A revised version of M-18 was published on October 1, 2005. The IMT has also determined that this policy is in compliance with the Agreement. Special Order 8257 was created to track supervisor's arrest approval in CAD.

Training Update

As of the publication date of this report, the Department has achieved and exceeded substantial training compliance on DGO M-18, which is reported at 99%. Training has begun on Special Order 8257, and as of December 9, 2005 was reported at 98%.

IMT Audit Summary

During the IMT's reporting quarter of October 16, 2004 to May 15, 2005, they audited OPD's compliance practice of this Task. Most of their findings are listed below, which includes some specifics and other general comments. Complete IMT findings for this Task can be found in

their Sixth Report published on the internet at www.oaklandpolice.com. Based on the documentation OPD provided the IMT, they found the average rate of supervisory response to the scene was 70.7%. As a result, OPD was not yet found in compliance with this Agreement requirement. Supervisory response was lowest for felony arrests, at a rate of 44.2%. Response to the scene for arrests for Penal Code §§ 69, 148, 243 (b) (c) was significantly higher. Supervisors responded to the scene for 68% of these arrests. The IMT found that supervisors responded to the scene 100% of the investigated uses of force that occurred during the review period.

Task 18 also requires supervisors to review the arrest documentation in order to: 1) determine whether probable cause for the arrest/reasonable suspicion for the stop are articulated; 2) ensure available witnesses are identified; and 3) approve or disapprove the arrest in the field. The IMT found the average rate for “probable cause stops” to be adequately documented at 95%. All use of force incidents had sufficient documentation of probable cause/reasonable suspicion. The OPD was not in compliance with respect to documentation regarding the identification of witnesses to an incident. Nor was OPD found in compliance with the responding supervisor to log the time of his or her contact with the arresting officer.

The IMT provided the following recommendations to aid with deficiencies of the practice phase of this Task:

- The Department should ensure that officers use updated consolidated arrest reports (CARS). These forms have a designated box for the approving supervisor to sign, including a place to log time;
- The Department should update the CARS forms that it uses when arresting juveniles to provide for similar approval boxes; and
- Officers and supervisors have been instructed that they should always document the presence or absence of witnesses.

OPD’s response to IMT Recommendations:

In its own assessment, OPD found that Department General Order M-18 did not adequately explain when “witness identification” was needed. OPD also found that by policy witness identification was reviewed during the report review process rather than arrest approval.

The OIG and IMT will have to meet and discuss a possible revision of M-18 to require officers to include “identification of witness” on specific arrests and “interviews of witnesses” on uses of force.

OPD also found that current arrest forms did not have fill-in or check boxes which required supervisors to document arrest approval in accordance with the SA. OPD began revising its Consolidated Arrest Reports (CAR) and Juvenile Records to make arrest documentation and procedures more consistent and easier for supervisors to fulfill the requirements of the Agreement. However it has become more difficult, since the closure of OPD’s jail facility. CAR forms are now provided to OPD by the Alameda County Sheriff Department. Juvenile Records are still produced in-house.

Some OPD members have begun using a supplemental report form that contains fill-in and check boxes for all the Agreement required information. This is an interim solution until the standardized arrest reports can be modified.

Task 19: Unity of Command

Settlement Agreement Section IV. B.; page 16, lines 6-10 (lead-in page 15, lines 16-18)

Assigned Unit: BFO

Compliance Date: January 20, 2004

Settlement Agreement Language:

- “By January 20, 2004, OPD must develop and implement a policy requiring that, with rare exceptions justified on a case-by-case basis, each OPD member or employee have a single, clearly identified supervisor or manager, working the same schedule and having the same days off as the individuals whom they supervise.”
-

Status:

Policy Compliance	X
Training Compliance	
Actual Practice Compliance	

Deliverables:

- New Departmental General Order A-3, *Department Organization*

Implementation Activities

The Department is currently in both policy and training compliance on this Task.

Policy

DGO A-3 was published on April 12, 2004. The IMT has deemed this policy in compliance with the Agreement.

Training Update

As of the publication date of this report, the Department has exceeded substantial compliance on DGO A-3. Training compliance is currently reported at 99%.

Task 20: Span of Control for Supervisors

Settlement Agreement Section IV. C.; page 16, line 11 – page 17, line 1 (lead-in page 15, lines 16-18)

Assigned Unit: BFO

Compliance Date: May 27, 2003

Extension Granted: Revised compliance date: August 14, 2003

Settlement Agreement Language:

- “By August 14, 2003, OPD must, based on contemporary police standards and best practices, develop and implement a policy to ensure appropriate supervision of its Area Command Field Teams. The Settlement Agreement sets forth certain provisions that must be included in the policy. Most notably, the Settlement Agreement requires that, under normal conditions, OPD assign one primary sergeant to each Area Command Field Team. Additionally, a supervisor’s span of control cannot exceed eight members.”
-

Status:

Policy Compliance	X
Training Compliance	
Actual Practice Compliance	

Deliverables:

- Assignment of one primary sergeant to each Area Command Field Team (under normal conditions)
- A supervisory ratio not exceeding eight members to one Area Command Field Team primary sergeant (with certain exceptions)
- Bureau of Field Operations (BFO) Policy and Procedure 03-02, *Supervisory Span of Control*
- Bureau of Investigations (BOI) Policy and Procedures 04-02, *Supervisory Span of Control*

Implementation Activities

The Department has achieved both policy and training compliance on this Task.

Policy

The *Second Semi-Annual Report* stated that BFO Policy and Procedures 03-02, *Supervisory Span of Control*, was completed and published on January 15, 2004. A subsequent revised policy, BFO Policy and Procedures 03-02 was published on April 19, 2004. Further, the Department published BOI Policy and Procedures 04-02 on April 14, 2004 to govern the span of control of the Fugitive Unit.

To ensure consistency, the Department will consolidate these Bureau policies in Department General Order A-19. General Order A-19 has already undergone its first review by the IMTs. The Department has revised the document to address their concerns and sent it back to the IMTs for additional comments.

Training Update

As of the publication of this report, the Department has exceeded and achieved substantial training compliance on: Bureau of Field Operations (BFO) Policy and Procedure 03-02, *Supervisory Span of Control*; and Bureau of Investigations (BOI) Policy and Procedures 04-02, *Supervisory Span of Control*. Training compliance is reported as follows: BFO 03-02 at 99% and BOI 04-02 at 100%. The IMT has also validated training compliance for these policies, which establishes training compliance for this Task. Training on General Order A-19 will commence after publication.

Management Assessment

Recommendations Update

All of the Findings and recommendations from this assessment have been reviewed at the MAP Meetings. Commanders were given both the findings and recommendations and asked to report out on them. They indicated the status of implementing the recommendations or, if alternative solutions were developed, they gave an update of how their plans were progressing.

IMT Audit Summary

The IMT conducted a practice review of Task 20 on September 2004. They found the Department out of compliance from this review, but the IMT was encouraged by the progress we had made. The IMT expressed concern about OPD falling out of compliance in deploying sufficient supervisors in patrol.

Although the Department faces difficulties with severe understaffing Department-wide, we recognize this area as paramount to the Agreement. To ensure continuing compliance in this area, Watch Commanders are responsible for creating daily patrol rosters and checking them for span of control compliance. Additionally, the BFO administrative staff conducts bi-week audits of daily rosters and reports results directly to the Compliance Unit of the OIG.

Department Audit

The Department has begun the process of routine reviews of daily BFO rosters. In a recent review (reported on November 15, 2005) First, Second and Third Watches were 100% in compliance as well as CRT and SOG.

The only deficiency noted in the self assessment was the fact that acting sergeants were not always clearly identified by call sign and were sometimes working as a two person unit with another officer. The Compliance Assessor recognized this problem and drafted a special order to correct this problem.

Task 21: Members', Employees' and Supervisors' Performance Review

Settlement Agreement Section IV. D.; page 17, lines 2-19 (lead-in page 15, lines 16-18)

Assigned Unit: BOS

Compliance Date: January 20, 2004

Policy Compliance Date: May 5, 2004

Note: DGO B-6 is covered by and includes Tasks 21 and 44. Both of these Tasks share the same deliverable.

Settlement Agreement Language:

- “By May 5, 2004, OPD must, based on contemporary police standards and best practices, develop and implement a member, employee and supervisor performance review policy. The Settlement Agreement sets forth certain criteria that must be included in this policy.”
 - “By July 7, 2004, OPD must hold its supervisors and commanders/managers responsible for identifying patterns of improper behavior of their subordinates. Failure to identify patterns and instances of misconduct when the supervisors or commanders/managers knew or reasonably should have known of the misconduct shall constitute grounds for discipline.”
 - “By July 7, 2004, Bureau of Field Operations sergeants and lieutenants must scrutinize arrests and uses of force that have been historically associated with police misconduct.”
-

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- Revised Departmental General Order B-6, *Performance Appraisal*
- Special Order 8329, *Supervisory Semi-Monthly and Management Semi-Annual Meetings* (New Deliverable)

Implementation Activities

The Agreement requires supervisors and commanders who administer personnel evaluations to meet regularly on an individual basis with personnel; maintain documentation of their reviews; and to provide ongoing feedback on their performance. DGO B-6 incorporates these Agreement provisions.

DGO B-6 was published on April 27, 2004, and distributed to all personnel. Supervisors and managers are required to complete performance appraisals for their subordinates.

Training Update

As of the publication date of this report, training on the DGO B-6, *Performance Appraisal*, has exceeded substantial training compliance, which is currently reported at 98%.

IMT Audit Summary

The IMT audited OPD's performance appraisals in October 2004. The IMT indicated in their *Sixth Quarterly Report* (published May 15, 2005) that a more recent analyses shows the number of delinquent ratings has been halved. They further commented that the Department continues to struggle to complete timely performance appraisals for its personnel.

OPD Response to IMT Audit Findings

The OPD now reports on delinquent performance appraisals during MAP meetings. During these meetings, current reports are provided, illustrating by Bureau which reports are delinquent. Bureau commanders provide status and delivery dates for these delinquent reports. Accountability has been increased by this process. According to the Personnel Commander there are fewer instances of delinquent appraisals; however we have not yet demonstrated substantial compliance in this area.

On September 30, 2005, the OIG published its audit of the personnel review and appraisals. This audit highlighted new obstacles the Department must overcome in the area of supervisor/subordinate meeting documentation policy and practices. As a direct response to the audit, the Department immediately developed a new form to accurately document these meetings. The Department also published a special order (Special Order 8329) to mandate use of the form.

Task 22: OPD/DA Liaison Commander

Settlement Agreement Section IV. E.; page 17, line 20 – page 18, line 1 (lead-in page 15, lines 16-18)

Assigned Unit: BOI

Compliance Date: April 15, 2003

Settlement Agreement Language:

- “By April 15, 2003, OPD must, based on contemporary police standards and best practices, develop and implement a Management-Level Liaison (MLL) to the courts, the District Attorney’s Office and the Public Defender’s Office. This unit or person is to ensure that cases that are lost or dropped due to performance problems or misconduct, or indicia thereof, are tracked.”
 - “The MLL is required to meet and cooperate with the Monitor. The District Attorney and Public Defender offices may attend these meetings.”
-

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	X

Deliverables:

Revised Departmental General Order A-18, *Management-Level Liaison*

Implementation Activities

The Department is currently in both policy and training compliance on this Task.

Policy

Departmental General Order A-18, *Management-Level Liaison*, was published December 16, 2003.

Audit Update

In August, 2004, the OIG completed an audit of the Management-Level Liaison (MLL) that covered from April, 2003 through April, 2004. The audit revealed that the Public Defender has referred five cases to the MLL for investigation of performance or misconduct problems. As required by the Agreement, the MLL is tracking these cases and they are under investigation by the IAD. Although the audit established that the MLL is in compliance with the requirements of the Agreement, the OIG recommended a formal process for the IAD to provide monthly reports to the MLL regarding the cases referred. The OIG believes that this change will strengthen communication among stakeholders.

Update on Audit Findings and Recommendations

By policy, the MLL now reviews all cases that are dismissed due to inadmissible search and seizure (per T-3). The MLL contacts the District Attorney’s Office and the Public Defender’s Office to ascertain if there are any referrals from the previous month. The MLL also tracks all

reports and correspondence from the District Attorney's Office, Public Defender's Office, and Criminal Clerk's Office.

Task 23: Command Staff Rotation

Settlement Agreement Section IV. F.; page 18, lines 2-8 (lead-in page 15, lines 16-18)

Assigned Unit: OCOP

Compliance Date: January 20, 2004

Settlement Agreement Language:

- “By January 20, 2004, OPD must, based on contemporary police standards and best practices, develop and implement a regular rotation of Departmental command staff, consistent with the Department’s immediate needs and best interests.”
-

Status:

Policy Compliance	X
Training Compliance	N/A
Actual Practice Compliance	X

Deliverable:

- Chief of Police Memorandum, *Command Officer Assignment and Rotation Policy*

Implementation Activities

Policy

Chief of Police Memorandum, *Command Officer Assignment and Rotation Policy*, was published April 13, 2003, and distributed to all personnel. The Memorandum was evaluated against the Agreement language for Task 23.

The Memorandum reads as follows:

“The purpose of this memorandum is to codify existing policy and practice regarding the assignment and rotation of Department command officers.

I shall continue to be committed to the regular rotation of Department command staff as consistent with best practices in law enforcement agency management, based upon the Department’s immediate needs and best interests. When assigning and/or rotating Department command officers, I will consider, among other factors, the following: Special skills needed for an assignment; Career development; and Increasing Department efficiency and effectiveness.”

The Memorandum was distributed to all staff and this Task is in full compliance. Although the Department did not meet its Target Date, the Memorandum’s publication date was well ahead of the Agreement’s Compliance Date. The Personnel Division now tracks commander rotation in a database and reports the Chief of Police on a quarterly basis. Full compliance of this Task is contingent upon the IMT determining practices/implementation compliance.

Command Staff Rotation

During this reporting period, the following command staff has changed positions:

Name:	Assignment:	Date:
DC J. Israel	BOS	9/16/2005
DC J. Israel	IAD	12/10/2005
DC G. Lowe	BFO	6/4/2005
Capt. E. Breshears	BFO/Patrol	9/16/2005
Capt. P. Dunbar	BFO/Patrol	9/3/2005
Capt. B. Fairrow	BOS	5/7/2005
Capt. P. Figueroa	OCOP/OIG	9/16/2005
Capt. H. Jordan	OCOP/IAD	1/22/2005
Capt. J. Loman	BOI/CID	5/7/2005
Capt. S. Tull	BFO/Admin	9/16/2005
Lt. D. Anderson	BFO/Patrol	7/2/2005
Lt. D. Downing	BOS/Training	9/17/2005
Lt. P. Garrahan	BFO/Patrol	9/16/2005
Lt. M. Grier	BFO/Patrol	5/7/2005
Lt. F. Hamilton	BFO/PSA6	9/16/2005
Lt. R. Hart	BOI/Admin	9/17/2005
Lt. M. Johnson	BOA/Personnel	7/2/2005
Lt. D. Kozicki	SOD/Traffic	9/17/2005
Lt. C. Muffarah	BFO/Patrol	9/16/2005
Lt. R. Orozco	BFO/PSA4	9/17/2005
Lt. E. Poulson	BFO/SOD	5/7/2005
Lt. A. Rachal	BOI/Class	3/19/2005
Lt. P. Sarna	OCOP/TETF	1/8/2005
Lt. A. Toribio	OCOP/IAD	9/16/2005
Lt. E. Tracey	OCOP/IAD	5/7/2005
Lt. K. Whitman	BOI/CID	1/22/2005

Note: Rotations of lieutenants within the patrol division are not counted as rotations.

Task 24: Use of Force Reporting Policy

Settlement Agreement Section V. A.; page 18, line 13 – page 19, line 12 (lead-in page 18, lines 11-12)

Assigned Unit: BFO

Compliance Date: July 20, 2004

Settlement Agreement Language:

- “By July 20, 2004, OPD must develop and implement a policy for reporting use of force that requires:”
 - “all members/employees to notify their supervisor as soon as practicable following any investigated use of force or allegation of excessive use of force;”
 - “all members/employees at the scene to report all investigated uses of force on the appropriate form in every investigated use of force incident, unless otherwise directed by the investigating supervisor;”
 - “OPD personnel to document any use of force and/or the drawing and intentional pointing of a firearm at another person;”
 - “a supervisor to respond to the scene upon notification of an investigated use of force or an allegation of excessive use of force, unless community unrest or other conditions makes this impracticable;”
 - “OPD to notify the Alameda County District Attorney’s Office, the City Attorney’s Office and Departmental investigators in certain use of force incidents; and”
 - “OPD to enter data regarding use of force into OPD’s Personnel Information Management System (PIMS).”
-

Status:

Policy Compliance	X
Training Compliance	
Actual Practice Compliance	

Deliverables:

- Revised Departmental General Order K-3, *The Use of Force*
- Revised Departmental General Order K-4, *Reporting the Use of Force*
- Revised Departmental General Order K-4.1, *Investigating the Use of Force*
- Training Bulletin III-H, *Use of Less-lethal Force*
- Revised Report Writing Manual inserts

Implementation Activities

As of the publication of this report, the use of force policies have been published. The Department must reach training compliance by May 18, 2006.

Audit and Review Summary

During the second semi-annual reporting period, the OIG reviewed the Department’s use of force reporting and investigation systems. The use of force review resulted in several recommendations. Recommendations included conducting performance audits to ensure Boards

of Review files are not misplaced or missing; implementing timeline restrictions in which to convene Boards of Review; and implementing a system to ensure Board recommendations are complied with in a timely manner. It was reported that some of the recommendations had been implemented as noted, or were otherwise under review.

In their *Third Quarterly Report*, the IMT observed and conducted a document review of the Department's Firearms Discharge Board of Review. The IMT reported the Review Board suffered from several deficiencies, including: untimely review; the lack of tracking of shooting reviews; insufficient involvement by relevant Departmental components; and gaps in the shooting investigations. The IMT made a number of recommendations that are currently being implemented and/or are under advisement.

The OIG will continue to conduct audits and reviews on this Agreement provision and provide updates on the implementation of the Agreement requirements and the review recommendations.

Task 25: Use of Force Investigation and Report Responsibilities

Settlement Agreement Section V. B.; page 19, line 13 – page 21, line 16 (lead-in page 18, lines 11-12)

Assigned Unit: BFO

Compliance Date: July 20, 2004

Settlement Agreement Language:

“By July 20, 2004, OPD must develop and implement a policy for conducting use of force investigations.”

Status:

Policy Compliance	X
Training Compliance	
Actual Practice Compliance	

Deliverables:

- Revised Departmental General Order K-3, *The Use of Force*
- Revised Departmental General Order K-4, *Reporting the Use of Force*
- Revised Departmental General Order K-4.1, *Investigating the Use of Force*
- Training Bulletin III-H, *Use of Less-lethal Force*
- New or revised Report Writing Manual insert

Implementation Activities

Ibid, page 59 to review associated Use of Force Implementation Activities.

Task 26: Use of Force Review Board (UFRB)

Settlement Agreement Section V. C.; page 21, line 17 – page 22, line 11 (lead-in page 18, lines 11-12)

Assigned Unit: BFO

Compliance Date: July 20, 2004

Settlement Agreement Language:

- “By July 20, 2004, OPD must develop and implement a policy to enhance the Use of Force Review Board. The Settlement Agreement sets forth certain criteria that must be included in this policy.”
-

Status:

Policy Compliance	X
Training Compliance	
Actual Practice Compliance	

Deliverables:

- Revised Departmental General Order K-4, *Reporting the Use of Force*
- Revised Departmental General Order K-4.1, *Investigating the Use of Force*
- Training Bulletin III-H, *Use of Less Lethal Force*
- New or revised Report Writing Manual insert

Implementation Activities

Ibid, pages 59 to review associated Use of Force Implementation Activities.

Task 27: Oleoresin Capsicum Log and Checkout Procedures

Assigned Unit: BOI

Settlement Agreement Section V. D.; page 22, lines 12-16 (lead-in page 18, lines 11-12)

Compliance Date: July 20, 2004

Settlement Agreement Language:

- “By July 20, 2004, OPD must develop and implement a policy for logging the checking out and use of Oleoresin Capsicum (OC) spray canisters by any member or authorized employee.”
 - “By July 22, 2004, this log must be computerized and electronically accessible and OPD must regularly prepare and distribute reports.”
-

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- Oleoresin Capsicum log
- Oleoresin Capsicum checkout electronic tracking and database
- Special Order 8061, *Oleoresin Capsicum (Pepper Spray) Log and Checkout Procedures*

Note: This Task is linked to Task 40, Personnel Information Management System. The information from the OC database is a requirement per Settlement Agreement Section VII. A. 2., “OC spray canister check-out log.”

Implementation Activities

The Department is currently in both policy and training compliance on this Task.

Policy

This policy is currently in policy compliance as Special Order 8061, which was published on October 1, 2003.

Update

The Deputy Chief of the Bureau of Investigations is rewriting the Special Order.

Training Activities

The Department has exceeded substantial training compliance on Special Order 8061. Training compliance is currently reported at 99%.

IMT Audit

The IMT completed an audit of Task 27 in November 2005. The IMT found the Department in compliance with Task 27 in the areas of policy and training. In actual practice, the IMT determined that the Department was in compliance with maintaining a log of OC checked out by

OPD personnel; but out of compliance for regularly preparing and distributing reports regarding OC control and tracking.

During the audit, the IMT found that the seven replacement codes used by the PEU when reissuing OC canisters were insufficient to accurately assess usage. The IMT did discuss this problem with the Department and credited the Department with taking immediate corrective action before the conclusion of the audit.

Task 28: Use of Force – Investigation of Criminal Misconduct

Settlement Agreement Section V. E.; page 22, lines 17-21 (lead-in page 18, lines 11-12)

Assigned Unit: BOI

Compliance Date: July 20, 2004 (DGO M-4)

Extension Granted: April 15, 2004 (Policy compliance date: August 13, 2004 [IAD Manual])

Settlement Agreement Language:

- “By July 20, 2004, OPD must develop and implement a policy to report, as soon as possible, any use of force situation, citizen complaint, or other member/employee-involved action in which there is apparent evidence of criminal misconduct by a member/employee to the Alameda County District Attorney’s Office.”
 - “By July 20, 2004, when OPD initiates an interview or interrogation of OPD personnel and it appears that the subject may be charged with a crime, or the subject asserts his or her Fifth Amendment rights on grounds that the answers to questions posed may be incriminating, such interrogation must be preceded by a Lybarger warning.”
 - “By August 13, 2004, OPD must revise certain policies and procedures related to IAD investigations and create an IAD procedural manual for conducting complaint investigations.” (This requirement applies to Tasks 1–16 and is reiterated in Task 10.)
 - “By August 13, 2004, OPD must train all personnel to ensure they have received, understand and comply with new and revised Departmental policies and procedures.” (This requirement applies to Tasks 1–16 and is reiterated in Task 10.)
 - “By August 13, 2004, the IAD procedural manual must address: assignment and rotation of officers; training and qualifications of members and other personnel in IAD; appropriate background checks of IAD personnel; and confidentiality of IAD information.”
-

Status: Not in Compliance

Deliverables:

- Revised Departmental General Order M-4, *Coordination of Criminal Investigations*
- Internal Affairs Division Policy and Procedures Manual

Implementation Activities

DGO M-4

Departmental General Order M-4, *Coordination of Criminal Investigations*, had been revised to clarify procedures. The policy was revised and renamed M-4.1. As of December 31, 2005, the Department is awaiting the most recent round of comments from the IMTs.

IAD Manual

Ibid, pages 26 for additional implementation activities regarding the IAD Manual.

Task 29: IAD Investigation Priority

Settlement Agreement Section V. F.; page 22, line 22 – page 23, line 2 (lead-in page 18, lines 11-12)

Assigned Unit: BOI

Compliance Date: (DGO M-4) July 20, 2004

Extension Granted: (IAD Manual) April 15, 2004: Policy compliance date: August 13, 2004

Compliance Training Date: (IAD Manual) June 1, 2005

Settlement Agreement Language:

- “By July 20, 2004, OPD must develop and implement a policy to coordinate its administrative investigation of a member/employee with the Alameda County District Attorney’s Office if a criminal proceeding is potentially viable.”
- “By July 20, 2004, when OPD initiates an interview or interrogation of OPD personnel and it appears that the subject may be charged with a crime or the subject asserts his or her Fifth Amendment rights on grounds that the answers to questions posed may be incriminating, such interrogation must be preceded by a Lybarger warning.”
- “By August 13, 2004, OPD must revise certain policies and procedures related to IAD investigations and create an IAD procedural manual for conducting complaint investigations.” (This requirement applies to Tasks 1–16 and is reiterated in Task 10.)
- “By August 13, 2004, OPD must train all personnel to ensure they have received, understand and comply with new and revised Departmental policies and procedures.” (This requirement applies to Tasks 1–16 and is reiterated in Task 10.)
- “By August 13, 2004, the IAD procedural manual must address: assignment and rotation of officers; training and qualifications of members and other personnel in IAD; appropriate background checks of IAD personnel; and confidentiality of IAD information.”

Status:

Policy Compliance	X
Training Compliance	
Actual Practice Compliance	

Deliverables:

- Departmental General Order M-4, *Coordination of Criminal Investigations*
- Internal Affairs Division Policy and Procedures Manual

Implementation Activities

DGO M-4

Departmental General Order M-4, *Coordination of Criminal Investigations*, had been revised to clarify procedures. The policy was revised and renamed M-4.1. As of December 31, 2005, the Department is awaiting the most recent round of comments from the IMTs.

IAD Manual

Ibid, page 26 for additional implementation activities regarding the IAD Manual.

Task 30: Firearms-Discharge Board of Review

Settlement Agreement Section V. G.; page 23, lines 3-9 (lead-in page 18, lines 11-12)

Assigned Unit: BFO

Compliance Date: July 20, 2004

Settlement Agreement Language:

- “By July 20, 2004, OPD must develop and implement a policy requiring that it convene a Firearms Discharge Board of Review for every officer-involved firearms discharge. The Settlement Agreement sets forth criteria that must be included in this policy.”
-

Status:

Policy Compliance	X
Training Compliance	
Actual Practice Compliance	

Deliverables:

- Revised Departmental General Order K-4, *Reporting the Use of Force*
- Revised Departmental General Order K-4.1, *Investigating the Use of Force*

Implementation Activities

Ibid, pages 59 to review associated Use of Force Implementation Activities.

Task 31: Officer-Involved Shooting Investigation

Settlement Agreement Section V. H.; page 23, lines 10-19 (lead-in page 18, lines 11-12)

Assigned Unit: BOI

Compliance Date: July 20, 2004

Settlement Agreement Language:

- “OPD shall develop a policy to ensure that, in every officer-involved shooting in which a person is struck, Homicide and Internal Affairs investigators respond to the scene. The shooting investigation shall be conducted in partnership with, and when deemed appropriate by, the Alameda County District Attorney’s Office. Interviews of the subject officer(s) shall be conducted jointly with the appropriate staff from Homicide and the Office of the District Attorney. The District Attorney and City Attorney shall be notified in accordance with the provisions of Section V, paragraph A (5), of this Agreement. All evidentiary material shall be duplicated and provided to the Alameda County District Attorney’s Office, the Internal Affairs Division, and the City Attorney’s Office.”
-

Status:

Policy Compliance	X
Training Compliance	
Actual Practice Compliance	

Deliverables:

- Training Bulletin V-O, *Officer Involved Shooting*

Implementation Activities

Policy

Training Bulletin V-O, Officer Involved Shooting, was published on August 21, 2003, and the Task Manager reports that the members have been trained on the directive. However, the IMT indicated that we published the training bulletin(s) associated with this Task prior to them beginning their engagement with the Department. The monitors viewed Training Bulletin V-O, *Officer Involved Shooting* and advised the Department that it did not adequately incorporate the requirements of the Agreement.

Although the above-listed Training Bulletin addresses the provisions of this Task, portions of this Task will also be reflected in the following Department publications:

- Revised Departmental General Order K-3, *The Use of Force*;
- Revised Departmental General Order K-4, *Reporting the Use of Force*; and
- Revised Departmental General Order K-4.1, *Investigating the Use of Force*.

In the Department’s *Second Semi-Annual Report*, it was reported that recommendations from the OIG review of this Task have been implemented as noted or are otherwise under advisement. As reported in the IMT’s *Third Quarterly Report*, the IMT conducted a document review of firearms discharge investigations. They identified deficiencies in the shooting investigations. Most

notably were the lack of forensic and criminalistics information. The IMT made a number of recommendations that are under advisement and/or in the process of being implemented.

The OIG will continue to conduct audits and reviews on this provision and provide updates on the implementation of the Agreement requirements and the review recommendations.

The biggest challenge facing both the Homicide Section and the Internal Affairs Division was how to best coordinate the criminal investigation with the parallel, but separate administrative investigation. Initially there were problems knowing exactly what the responsibilities were for each investigative unit and how they overlapped. To address this issue, the Homicide Section Commander set up a meeting with the Homicide Section and the Internal Affairs Division to lay out the foundation and protocol for all Officer Involved Shootings and In Custody Death investigations. They identified the roles and responsibilities of each investigative unit and how to best ensure that they were accomplished. Today, the Department's joint OIS investigative process is exceedingly thorough, competent and professional. Furthermore, the Department has received positive comments from the IMT on the quality of our current investigative process. There is no doubt that we will learn from each investigation and make the appropriate adjustments as necessary.

One of the more pressing challenges the Department still faces is educating field officers as to what to expect if he or she is involved in a shooting. Therefore, the Homicide Section and the Internal Affairs Division made a training video to explain what takes place during an Officer Involved Shooting investigation. The video was made in June 2005; however it has not been presented to the officers in the field. In December 2005, the video was approved by the City Attorney's Office and is now ready to be shown in Line-up Trainings.

Task 32: Use of Camcorders

Settlement Agreement Section V. I.; page 23, lines 20-21 (lead-in page 18, lines 11-12)

Assigned Unit: BFO

Compliance Date: July 20, 2004

Settlement Agreement Language:

- “Within 390 days from the effective date of this Agreement, OPD shall develop and implement a revised policy, and appropriate forms, regarding use of force reporting and review.
 - H. Use of Camcorders
 - OPD shall explore the use and cost-effectiveness of camcorders in Patrol vehicles.”
-

Status:

Policy Compliance	X
Training Compliance	N/A
Actual Practice Compliance	X

Deliverables:

- Research report

Implementation Activities

Their research and recommendations were presented to the Chief of Police in a report dated September 8, 2003.

On June 6, 2003, the Chief of Police requested that a report of a funding source study be completed. This request was assigned to the Bureau of Field Operations with a due date of July 7, 2003, and the report was provided to the Chief. As of the publication of this report, the Department has been awarded \$100,000 on a COPS Federal Technology Grant and the City has earmarked approximately \$700,000 for the purchase of In Car Videos.

Task 33: Misconduct

Settlement Agreement Section VI. A.; page 23, line 25 – page 24, line 16 (lead-in page 23, lines 23-24)

Assigned Unit: BOS

Compliance Date: August 25, 2003

Settlement Agreement Language:

“Within 154 days from the effective date of this Agreement, OPD shall establish policy and procedures for the following:

Misconduct

- OPD personnel shall report misconduct by any other member or employee of the Department to their supervisor and/or IAD. The policy shall state that corrective action and or discipline shall be assessed for failure to report misconduct. OPD shall require every member and employee encountering a use of force that appears inappropriate, or an arrest that appears improper, to report the incident to his/her supervisor and/or IAD. OPD shall establish and maintain a procedure for a member/employee to report police misconduct on a confidential basis.
 - Any member/employee of OPD may report a suspected case of police misconduct confidentially to the commander of IAD.
 - The member/employee reporting this conduct shall indicate clearly to the commander of IAD that the report is being made under these confidential provisions.
 - The report may be made in person, by telephone, or in writing. The IAD Commander shall document the report in a confidential file that shall remain accessible only to the IAD Commander.
 - The case shall be investigated without disclosure of the complainant's name, unless and until such disclosure is required by law.
 - This confidential reporting procedure shall be made known to every member/employee of OPD and to all new members/employees of OPD within two (2) weeks of hiring.”

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- Departmental General Order D-16, *Check-In and Orientation*
September 1, 2002 *Manual of Rules* revisions:
- Manual of Rules Section 314.48, *Reporting Violations of Laws, Ordinances, Rules or Orders*
- Manual of Rules Section 314.49, *Confidential Reporting of Police Misconduct*
- Manual of Rules Section 370.18, *Arrests*
- Manual of Rules Section 370.27, *Use of Physical Force*

Implementation Activities

Policy

On March 9, 2004, the Department met with the IMT and agreed to revise the *Manual of Rules* sections to require a 24-hour reporting period. The revised sections were published on April 13, 2004, as Special Order 8136. DGO D-16, *Manual of Rules*, Sections 314.48 and 314.49, were published during the last semi-annual reporting period. These policies have been deemed compliant by the IMT.

Training Activities Update

As of the publication of this report, the Department has exceeded substantial training compliance. Training compliance is currently reported at 99%.

Task 34: Vehicle Stops, Field Investigation and Detentions

Settlement Agreement Section VI. B.; page 24, line 17 – page 25, line 6 (lead-in page 23, lines 23-24)

Assigned Unit: BFO

Compliance Date: August 25, 2003

Settlement Agreement Language:

- “Within 154 days from the effective date of this Agreement, OPD shall establish policy and procedures for the following:
- A. Vehicle Stops, Field Investigation and Detentions
 1. OPD shall require members to complete a basic report on every vehicle stop, field investigation and every detention. This report shall include, at a minimum:
 - a. Time, date and location;
 - b. Identification of the initiating member or employee commencing after the first year of data collection;
 - c. Reason for stop;
 - d. Apparent race or ethnicity, and gender of individual(s) stopped;
 - e. Outcome of stop (arrest, no arrest);
 - f. Whether a search was conducted, and outcome of search;
 - g. Offense categories (felony, misdemeanor or infraction).
 2. This data shall be entered into a database that can be summarized, searched, queried and reported by personnel authorized by OPD.
 3. The development of this policy shall not pre-empt any other pending or future policies and or policy development, including but not limited to ‘Promoting Cooperative Strategies to Prevent Racial Profiling.’”

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- Special Order 8012, *Racial Profiling Stop-Data Collection Form*

Implementation Activities

Special Order 8012, *Racial Profiling Stop-Data Collection Form*, was published April 1, 2003. Special Order 8012 outlines the procedure for completing and processing the “Stop-Data Collection Form.” This Special Order was evaluated against the Agreement, and determined to adequately address all the points outlined in Agreement Task 34. This policy was determined to be in compliance, but training reported as completed has not yet been verified through an audit of training rosters; thus, this policy is not in full compliance based on a preliminary review of implementation. An OIG audit revealed that the initial data collection took this Task out of compliance.

A preliminary review by the OIG on the implementation of this Task revealed that overall, 26 % of forms were being turned in. Interviews with officers in the field indicated that several individuals did not have access to the form and some did not receive the training. A number of officers also expressed concern that although they did not believe they were practicing biased policing, the data collected might be used to make it seem as though they were.

The Chief advised commanders of the results of the review, and the need to address compliance. Accessibility of forms was monitored, and corrected as necessary. Processing of forms and input of data was examined, and modified as necessary.

In September 2004, the Department's Audit and Inspection's Unit reported in an audit they conducted that officers were failing to complete the required paperwork for nearly 75% of the applicable stops. The IMT reported in their Combined Report (nearly one year later) that the Department's officers completed stop data forms for only approximately 37% of the citations that were issued.

With the implementation of daily supervisory review of stop-data forms and weekly managerial audits, the number of completed forms has increased dramatically from the previous months.

Task 35: Use of Force Reports – Witness Identification

Settlement Agreement Section VI. C.; page 25, lines 7-16 (lead-in page 23, lines 23-24)

Assigned Unit: BOS

Compliance Date: August 25, 2003

Settlement Agreement Language:

- “Within 154 days from the effective date of this Agreement, OPD shall establish policy and procedures for the following:

A. Use of Force Reports – Witness Identification

1. OPD shall require, by policy, that every Use of Force Report, whether felonies were involved or not, include the names, telephone numbers, and addresses of witnesses to the incident, when such information is reasonably available to the members/employees on the scene.
 2. In situations in which there are no known witnesses, the report shall specifically state this fact. Policy shall further require that in situations in which witnesses were present but circumstances prevented the author of the report from determining the identification or phone number or address of those witnesses, the report shall state the reasons why the member/employee was unable to obtain that information. Reports shall also include the names of all other members/employees of OPD witnessing the incident.”
-

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- Revised Departmental General Order K-4, *Reporting the Use of Force*
- Revised Departmental General Order K-4.1, *Investigating the Use of Force*
- Special Order 8066, *Use of Force – Witness Identification*

Implementation Activities

Policy

Special Order 8066, *Use of Force – Witness Identification*, was published on December 23, 2003. However in February, 2004, the IMT determined that the term “when applicable” as referenced in two sections of the Order did not provide specific guidelines of when officers must take statements from witnesses. The Department agreed and revised the Order to remove the ambiguity and published a revised Special Order on April 1, 2004. The provisions of Special Order 8066 were folded into the published versions of DGO’s K-4 and K-4.1.

Ibid, pages 59 to review associated Use of Force Implementation Activities.

Task 36: Procedures for Transporting Detainees and Citizens

Settlement Agreement Section VI. D.; page 25, lines 17-24 (lead-in page 23, lines 23-24)

Assigned Unit: BOS

Compliance Date: August 25, 2003

Settlement Agreement Language:

- “Within 154 days from the effective date of this Agreement, OPD shall establish policy and procedures for the following:

B. Procedures for Transporting Detainees and Citizens

1. OPD shall continue to require every member and employee to log in and log out on the radio when transporting a detainee or any other civilian. The radio report shall include time, mileage, location, purpose of transport, gender of individual being transported, and identification of the member or employee involved in the transport.
2. This requirement does not apply to ‘wagons’ engaged exclusively in the transport of prisoners. These ‘wagons’ shall continue to comply with the provisions of Departmental General Order (DGO) O-2, ‘Transportation of Prisoners and Persons in Custody.’”

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- Special Order 8262, *Transportation of Persons in Police Vehicles*

Implementation Activities

The Department is in both policy and training compliance on this Task.

Policy

Special Order 8262, *Transportation of Persons in Police Vehicles*, was published September 15, 2005

Training Activity Update

As of the publication of this report, the Department has exceeded substantial training compliance, attaining an overall training percentage of 96%.

IMT Audit Summary

During their sixth reporting period, the IMT audited OPD’s compliance in actual practice with this Task. Based on the information/documentation the IMT was provided, members and employees logged both in and out as required, but at a rate of 63%. The logging rate varied

somewhat by type of arrest. As a result, OPD is not yet in compliance with the requirement that officers log in and out on the radio when transporting citizens.

The IMT's recommendations included that OPD explore whether a communications protocol should be established prompting dispatchers to elicit the information required for this Task. The IMT also recommended that the OPD provide officers with refresher training regarding what information they are required to provide when performing transports, and hold officers accountable where they do not comply with this OPD policy.

Department's Response to IMT Audit

In response to the IMT's audit, the OPD has published Special Order 8262, Transportation of Persons in Police Vehicles, which amended General Order O-2, Transportation of Prisoners and Persons in Custody (23 Mar 00) and cancelled Special Orders 8055 and 6071. This special order established a number of new procedures to assist the Department in its efforts to be in full compliance with Task 36 and to be able to withstand a compliance audit to verify full compliance.

The most recent random audit of ten incidents involving the transport of persons revealed that the OPD is not yet fully compliant with the provisions Special Order 8262. However, there have been significant strides taken towards achieving full compliance for Task 36. This audit included a review of the radio archives to determine if units were providing the required information. This audit also revealed other challenges that are currently being reviewed for potential solutions.

Task 37: Internal Investigations – Retaliation Against Witnesses

Settlement Agreement Section VI. E.; page 25, line 25 – page 26, line 9 (lead-in page 23, lines 23-24)

Assigned Unit: BOS

Compliance Date: August 25, 2003

Settlement Agreement Language:

- “Within 154 days from the effective date of this Agreement, OPD shall establish policy and procedures for the following:

E. Internal Investigations – Retaliation Against Witnesses

“OPD shall prohibit retaliation against any member or employee of the Department who: reports misconduct by any other member or employee, or serves as a witness in any proceeding against a member or employee. The policy prohibiting retaliation shall acknowledge that retaliation may be informal and subtle, as well as blatant, and shall define retaliation as a violation for which dismissal is the presumptive disciplinary penalty. Supervisors, commanders and managers shall be held accountable for the conduct of their subordinates in this regard. If supervisors, commanders or managers of persons engaging in retaliation knew or reasonably should have known that the behavior was occurring, they shall be subject to the investigative, and if appropriate, the disciplinary process.”

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

September 1, 2002, *Manual of Rules* revisions:

- Manual of Rules Section 398.73, *Retaliation Against Witnesses*
- Manual of Rules Section 398.74, *Retaliation Against Witnesses, Accountability*

Implementation Activities

The Department is in both policy and training compliance on this Task.

Policy

These policies were published November 14, 2003, and were deemed to be in compliance by the IMT. The policies were published under Special Order 8092.

Training Update

As of the publication of this report, the Department has exceeded substantial training compliance on this Task. Training compliance is currently reported at 99%. The IMT has validated training compliance for this Task.

IMT Audit Summary

During the reporting period of May 16, 2005 to December 1, 2005, the IMT conducted an audit of this task. The IMT's audit of Task 37 (Internal Investigations of Retaliation Against Witnesses) indicated that while officers appear to understand what constitutes retaliation, many officers were unaware that the presumptive penalty for engaging in retaliation is termination. The audit also indicated that when officers do report misconduct, and allege they suffer retaliation as a result, OPD does not investigate these claims sufficiently, failing to hold officers accountable for their actions. The IMT determined that OPD is not in compliance with Task 37 and the Department must do a better job ensuring that officers report misconduct and are fully protected from retaliation when they do so.

We have implemented new policies for these types' f investigations; regular reviews and notification to the Chief of Police and the OCA; regular reports to the Federal Court; and a renewed Departmental effort.

Task 38: Citizens Signing Police Forms

Settlement Agreement Section VI. F.; page 26, lines 10-14 (lead-in page 23, lines 23-24)

Assigned Unit: BOS

Compliance Date: August 25, 2003

Settlement Agreement Language:

- “Within 154 days from the effective date of this Agreement, OPD shall establish policy and procedures for the following:

F. Citizens Signing Police Forms

OPD personnel shall be required to ensure that citizens who sign written statements on a Statement form draw a diagonal stripe from the end of the written narrative to the bottom of the page, and sign along that stripe. Statements taken on offense reports shall be signed by the citizen immediately following the statement.”

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- Revised Report Writing Manual Insert S-1, Statement
- Information Bulletin, *Citizens Signing Police Forms*

Implementation Activities

Policy

The Department published an Information Bulletin on Citizens Signing Police Forms on October 22, 2003.

Training Compliance

All watch commanders, Police Service Area commanders, and a majority of Department members and employees have been trained. The Department has obtained substantial compliance with this Task, training compliance is currently at 99%.

IMT Audit Summary

An audit conducted during the second quarter reporting period, the IMT determined that OPD’s practices were not in compliance with the Agreement. The IMT made several recommendations to help OPD achieve compliance. They recommended providing refresher training; explaining to officers the intent and importance of this Agreement provision; exploring the use of single, uniform method for obtaining citizen statements; and improving supervisory review of citizen statements.

OPD Response to IMT Audit

The Department has followed the recommendations of the IMT and changed to a uniform method of statement taking. A new policy requires that all statements be taken on a statement form and signed along a diagonal line drawn from the end of the statement to the bottom of the page.

Citizens signing police forms are currently being reviewed on a regular basis at MAP Meetings. The Department also self-identified various deficiencies with the signing of these forms.

The OIG reviewed a sample of statements during the Arrest, Offense and Follow-up Investigations Audit in September 2005. The review showed that compliance on this Task has increased to 93%.

Task 39: Personnel Arrested, Sued and/or Served with Civil or Administrative Process

Settlement Agreement Section VI. G.; page 26, line 15 – page 27, line 11 (lead-in page 23, lines 23-24)

Assigned Unit: BOS

Compliance Date: August 25, 2003

Settlement Agreement Language:

- “Within 154 days from the effective date of this Agreement, OPD shall establish policy and procedures for the following:

G. Personnel Arrested, Sued and/or Served with Civil or Administrative Process

1. OPD shall continue its policy requiring OPD personnel to report, to IAD directly and through his/her chain of command, within 72 hours, any occurrence in which that member or employee has been:
 - a. Arrested; or
 - b. Sued and/or served with civil or administrative process related to his/her employment or containing allegations which rise to the level of a Manual of Rules violation.
2. OPD shall develop a policy requiring OPD personnel to report to the Chief of Police, through his/her chain of command, within 72 hours, that they have been served with civil or administrative process, including tort claims, financial claims, whenever applying for a transfer to or serving in:
 - a. The Gang Unit, Vice/Narcotics Section, Intelligence Division or Internal Affairs Division;
 - b. An assignment that may tend to indicate a conflict of interest with respect to the performance of his/her official duties; or
 - c. A specialized unit in which there is a strong possibility that bribes or other improper inducements may be offered.
3. For the purposes of this Agreement, allegations involving “financial claims” mean civil or administrative process claims relating to judgments for collection related to property seizures, taxes, judgments for money owed, debt as a debtor or creditor, filing bankruptcy, garnishments, liens, attachments on bank or savings accounts, spousal support, child support and/or foreclosure.”

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- September 1, 2002, *Manual of Rules* revision; *Manual of Rules* Section 314.28, *Notification*
- Special Order 8064, *Reporting Civil Actions Served*

Implementation Activities

Policy

On April 13, 2004, the Special Order was revised and published to closely track the Agreement language and to provide examples of financial claims that trigger the reporting requirements set forth in the policy.

Training Update

As of the publication of this report, the Department has exceeded substantial compliance on this policy, with training compliance currently reported at 99%.

IMT Review Summary

Their review assessed OPD's 2004 completed notification-related investigations. They identified seven notification-related cases that involved personnel who were arrested or served with civil process. In five of these seven cases (71%), personnel reported as required by the Settlement agreement. This falls short of the required 95% compliance rate set by the IMT.

The IMT also indicated the OPD appears to be doing a good job holding its members/employees accountable for not reporting being arrested, sued, or served when IAD learns of non-reporting. Although their review revealed that few in the Department knew what the Department currently does to enforce its notification requirements. Members/employees were unable to say (with certainty) what the Department is authorized to do to enforce its notification requirements. OPD has been found out of compliance on this task.

OPD Response to IMT Review

Since the IMT's review, OPD has been conducting quarterly audits of IAD and SOG with questionnaires asking for specific information relating to this Task. The Communications Division Commander conducts monthly DMV records checks of OPD personnel to determine driver's license status' and ensure that no driving related crimes have gone unreported. The OPD has also established a practice with the City Attorney's office to receive weekly reports on lawsuits made against OPD personnel.

OPD is working within its legal limitations to proactively determine violations of reporting requirements; however, OPD is not legally able, per state law, to indiscriminately make criminal history inquiries for random audits.

Task 40: Personnel Information Management System (PIMS)

Settlement Agreement Section VII. A.; page 27, line 13 – page 28, line 22

Assigned Unit: BOS

Compliance Date: June 28, 2005

Settlement Agreement Language:

- “By June 28, 2005, OPD must develop and implement a Personnel Information Management System (PIMS). This computerized relational database must maintain, integrate and retrieve data necessary for supervision and management of OPD and its personnel. Specifically, this data must be used by OPD to promote professional police practices; manage the risk of police misconduct; and evaluate and audit the performance of OPD members of all ranks, employees and OPD units, subunits and shifts. The Settlement Agreement sets forth particular information that must be captured by PIMS.”
-

Status: Not in Compliance

Deliverables:

- Subcommittee on the Personnel Information Management System (PIMS)
- New Departmental General Order
- Relational database and associated computer hardware and software

Implementation Activities

While still not in full compliance at this time, the Department has made significant progress towards compliance during the later half of 2005 and into early 2006. The Department acknowledges that an effective early identification and intervention program will considerably reduce the risk of members and employees inappropriate or unlawful conduct, strengthen public trust in the Oakland Police Department, and intervene to save the careers of otherwise effective personnel who engage in at-risk behaviors. Lieutenant Kenneth Parris, a 20-year veteran of the Department and experienced command officer, has been recently assigned as the Personnel Division commander whose primary duties will be the development and implementation of the Department’s PIMS early identification and intervention program. In cooperation with the Department and to address technology issues, the City’s Information Technology Department has assigned Mr. Ahsan Baig as the PIMS project manager. Mr. Baig’s experience includes successful project management in both public and private sectors.

On November 16, 2005, the Department issued its first PIMS Threshold Report. This report identified 261 individuals who exceeded the PIMS thresholds established in both the Negotiated Settlement Agreement (NSA) and BFO Policy & Procedure 02-04 (September 12, 2002). PIMS Threshold Report Letters (TRL) were sent out to commanders, managers or first line supervisors for each member and employee who exceeded the existing thresholds. Each affected first line supervisor was required to conduct a detailed supervisory analysis and subsequently completed a Management Assessment Memorandum (MAM). Each MAM provided specific information in the categories where the member or employee exceeded the currently established thresholds, determined if the member or employee was exhibiting an “at-risk” pattern of behavior and

recommended intervention strategies to be employed. The completed MAMs were returned to the PIMS Administrative Review Panel (ARP), consisting of the Personnel Division commander and the Department's contracted advisory mental health professional, for evaluation. As of the date of this report, only three of the 261 PIMS TRLs sent out for comment indicated a need for active intervention beyond closer supervision. These recommendations have been reviewed and affirmed by the PIMS ARP. Some MAMs are currently overdue. A list of all late MAMs is being compiled and forwarded to the bureau commanders or director for follow-up action.

There was a significant delay in the return of the required MAMs by the supervisors, managers and commanders required to complete them. This was primarily due to the cumbersome data maintenance and retrieval systems employed by the Department. All of the data required for analysis is not contained in one source and not all of this data is automated. Producing the original PIMS Threshold Report was a labor intensive and time consuming task. While the Department plans to continue to develop PIMS Threshold Reports on a quarterly basis based upon the current process and thresholds, it is the intent of the Department to develop new procedures and thresholds that fully utilize the capacity of the new relational database system recently acquired by the Department.

In Dec 2006, the contract for Michael Palmertree, Marriage Family Therapist as the Department's PIMS contracted advisory mental health professional was approved. Mr. Palmertree is a licensed counselor and therapist with considerable experience in employee risk assessment, prevention and intervention programs. He has reviewed every MAM completed for members and employees who were identified as exceeding the thresholds in the PIMS Threshold Report and made recommendations for interventions as needed. Mr. Palmertree has also been tasked with developing training for supervisors, managers and commanders in identifying potential at-risk behaviors and the intervention methodologies available to address them. He has also reviewed the thresholds established for intervention. While it is still too early to provide a clear analysis, his initial impression of the thresholds is that they are set too low to be an effective risk assessment tool. More research in this area will be conducted as we move the PIMS early identification and intervention program forward.

PIMS policy development made some progress during this time period. A draft PIMS policy, (known as Departmental General Order D-17) was completed in December 2005. The draft was forwarded to the IMT for review and they responded with extensive comments in January 2006. It was apparent from the IMT's comments and subsequent meetings with IMT member Chief Rachel Burgess that the draft policy was in need of serious review and rework. The draft policy was "systems" centered and failed to address the necessary policy issues to the depth and breadth necessary to provide the Department with a comprehensive program to meet its aforementioned goals. Future policy development will focus on the need for the Department to clearly define the purpose and scope of PIMS and how the information it generates will be used to identify at-risk behaviors. Once the Department's computerized relational database system has been installed, a Training Bulletin will be published by the Department to cover the "systems" issues the draft of DGO D-17 attempted to address.

To improve PIMS policy development, the Department has sent staff members to Phoenix (AZ) and Cincinnati (OH) police departments to review the implementation of their early identification and intervention programs. Phoenix provided staff with a clear understanding of

the importance and usefulness of an early identification and intervention program. Phoenix PD personnel shared the highlights and pitfalls they encountered in the development of their model program. Cincinnati PD is utilizing the Motorola EVALIS® Personnel Information Management System, the same as that purchased by the Department, to manage their early identification and intervention program. The on-site visit with Cincinnati PD provided staff with a clear view of the challenges the Department will face as it implements our complete system. For further policy development, staff will be attending the 2006 Early Identification and Intervention Best Practices Training Conference in Phoenix, Arizona on March 27 through 30, 2006

The most significant advancement in this project has been the acquisition of the Motorola EVALIS® Personnel Information Management System. This system, both hardware and software, will provide the Department with a computerized relational database as required by the Agreement. This system is currently used by the Cincinnati Police Department for their early identification and intervention program. Motorola is already working with the Department and the City to begin system installation and testing. The Department anticipates that the first ten data modules will be in place by September 18, 2006 with full system delivery by December 25, 2006.

Pursuant to the IMT's recommendations, the PIMS Core Committee (which meets weekly) was established and the PIMS Steering Committee (which meets monthly) was reestablished. Both committees were created to provide guidance and direction to the Department and staff in the development of the PIMS early identification and intervention program. This guidance was determined to be especially critical during the technology development and implementation phase. These committees will be tasked with ensuring the Department's policies and intent are clearly defined and remain the focal point of any technological acquisition and improvement.

While late in the process, the Personnel Division Commander is looking into the feasibility of developing focus groups of members and employees to provide input into the further development and implementation of the PIMS early identification and intervention program. Often peers are the first to recognize problem behaviors and the system needs to include a process for peers to bring this information to the attention of their supervisor. Confidential peer referrals is also an issue which shall be addressed by these focus groups.

The Department is presently conducting interviews for the PIMS administrative position (Civil Service job classification "Police Personnel Operations Specialist"). There are eight candidates who successfully completed the testing process and advanced to the oral interview. The Department anticipates a job offer for this position will be tendered on or about March 10, 2006 with the person in place in approximately one month.

Task 41: Use of Personnel Information Management System (PIMS)

Settlement Agreement Section VII. B.; page 28, line 23 – page 33, line 24

Assigned Unit: BOS

Compliance Date: June 28, 2005

Settlement Agreement Language:

- “By June 28, 2005, OPD must develop a policy for the use of PIMS, including supervising and auditing the performance of specific members, employees, supervisors, managers and OPD units, as well as OPD as a whole. The Settlement Agreement sets forth extensive requirements regarding how PIMS must be used.”
-

Status: Not in Compliance

Deliverables:

- Subcommittee on the Personnel Information Management System
- Chief of Police Memorandum, *Personnel Information Management System* (May 15, 2003)
- Revised Departmental General Order M-5, *Case Evaluation and Report Review Notice*
- Report Writing Manual Insert E-3
- Case Evaluation and Report Review Notice form

Implementation Activities

Ibid, pages 87 to review associated PIMS Implementation Activities.

Task 42: Field Training Program

Settlement Agreement Section VIII.; page 33, line 25 – page 37, line 4

Assigned Unit: BOS

Compliance Date: April 16, 2004

Settlement Agreement Language:

- “By April 16, 2004, OPD must develop and implement a plan to enhance its Field Training Program. This plan must address: the criteria and method for selecting Field Training Officers (“FTOs”); the training provided to FTOs to perform their duty; the supervision and evaluation of FTOs; the length of time that trainee officers spend in the program; and the methods by which FTOs assess and evaluate trainee officers in field training. The Settlement Agreement sets forth extensive requirements that must be part of this new Field Training Program.”

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- Revised Departmental General Order B-8, *Field Training Program*
- Revised FTO Program procedures and evaluation forms

Implementation Activities

Policy

Departmental General Order B-8, Field Training Program, was revised and published on May 27, 2005. The revised version of B-8 incorporates all Agreement requirements and the new FTO program certification requirements set by the California Commission on Peace officer Standards and Training (POST).

The FTPC position has been moved from the Training Division to the Bureau of Field Operations (BFO).

Training

Training on this policy has exceeded substantial compliance and is reported at a rate of 99%.

IMT and OIG Audit Summary

During this reporting period, both the IMT and the OIG conducted audits of Task 42. The audit results showed that the Department was in compliance with many requirements of the Agreement as it relates to the Field Training Program. The Department fell short of compliance in a few areas including: providing documentation for Field Training Officer (FTO) selection criteria, maintaining anonymity of FTO evaluations, and providing documentation of commander/supervisor reviews of FTO evaluations.

OPD Response to IMT Audit

The Field Training Program Coordinator (FTPC) made adjustments to the program as he became aware of deficiencies. In future FTO selection processes, nominating sergeants will be required to provide more detailed information about the FTO they are nominating. Also, some of the interview questions have been altered to more closely reflect Agreement requirements. The FTPC has also made some changes to the evaluation process and the focus groups as a result of the audit findings.

Task 43: Academy Training Plan

Settlement Agreement Section IX.; page 37, line 5 – page 38, line 19

Assigned Unit: BOS

Compliance Date: February 15, 2005

Settlement Agreement Language:

- “By February 15, 2005, OPD must develop and implement a plan to enhance its Academy and in-service training to ensure that OPD personnel at all levels are adequately trained for their positions, and are aware of and able to implement the most contemporary developments in police training. The Settlement Agreement sets forth criteria that must be contained in this enhanced Academy and in-service training plan and parameters for the frequency and documentation of in-service training. In addition, this provision sets new training criteria for sergeants and command staff.”
-

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- Revised Departmental General Order B-20, *Departmental Training Procedures*

Implementation Activities

Policy

This policy was deemed compliant by the IMTs during the first quarter of 2005.

Training

The Department has exceeded substantial compliance on this Task; compliance is currently reported at a rate of 98%.

Practice

Compliance with actual practice will be determined by the next audit.

Task 44: Performance Appraisal Policy

Settlement Agreement Section X. A.; page 38, line 23 – page 40, line 7 (lead-in page 38, lines 21-22)

Assigned Unit: BOS

Compliance Date: July 7, 2003

Note: DGO B-6 is covered by and includes Tasks 21 and 44. Both of these Tasks share the same deliverable.

Settlement Agreement Language:

- “By July 7, 2004, OPD must write performance appraisals individually for each member/employee being evaluated. These performance appraisals must accurately reflect the quality of the member/employee’s performance. The Settlement Agreement sets forth criteria for these performance appraisals, including documentation of complaints and patterns of conduct and accountability of PSA lieutenants for the quality of community contacts by their beat officers. The Settlement Agreement further designates the supervisor responsible for completing the performance appraisal and requires OPD to conduct regular audits of the performance appraisal system to ensure compliance with the Settlement Agreement.”
-

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- Revised Departmental General Order B-6, *Performance Appraisal*

Implementation Activities

Policy and Training

The Department has achieved both policy and training compliance on this Task. Substantial training compliance was achieved this reporting period and is currently reported at 96.69%.

IMT Audit Summary

The IMT audited OPD’s performance appraisals in October 2004. They indicated in their *Sixth Quarterly Report* (published May 15, 2005), according to more recent analyses, within the past year, OPD appears to have in half the number of delinquent performance appraisals. The IMT further commented that the Department continues to struggle to complete timely performance appraisals for its personnel.

OPD Response to IMT Audit Findings

OPD responded to the IMT’s findings by making personnel appraisals tracking a topic of discussion at MAP meetings. The Personnel Commander reports directly to the Chief the Department’s status of compliance and number of appraisals outstanding. Performance appraisals

are tracked and current reports are provided at each MAP meeting illustrating by Bureau which reports are delinquent. Bureau commanders provide delivery dates for these delinquent reports. This addresses accountability at the highest levels of command. The Personnel Division Commander is currently revising Department General Order B-6, *Performance Appraisal*, to incorporate recent changes.

Task 45: Consistency-of-Discipline Policy

Settlement Agreement Section X. B.; page 40, line 8 – page 41, line 3 (lead-in page 38, lines 21-22)

Assigned Unit: IAD

Compliance Date: June 15, 2004 (Policy) / July 1, 2004 (Training)

Discipline Matrix and Training Bulletin Due Date: June 15, 2004

Settlement Agreement Language:

- “By June 15, 2004, OPD must revise and update its disciplinary policy to ensure that discipline is imposed in a fair and consistent manner. The updated disciplinary policy must describe the circumstances in which disciplinary action is appropriate and those in which Division-level corrective action is appropriate, and establish a centralized system for documenting and tracking all forms of discipline and corrective action. The Settlement Agreement also sets forth general criteria for OPD’s response to sustained findings in Class I and Class II investigations.”

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- Departmental Discipline Policy Manual (including the Discipline Matrix)
- Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*

Implementation Activities

Policy

Ibid, page 93 to review associated Departmental Discipline Policy Implementation Activities for this Task.

Task 46: Promotional Consideration

Settlement Agreement Section X. C.; page 41, lines 4-16 (lead-in page 38, lines 21-22)

Assigned Unit: BOS

Compliance Date: July 8, 2003

Extended Compliance Date: December 1, 2003

Settlement Agreement Language:

- “By July 8, 2003, OPD’s promotion policy must be modified so that sustained misconduct cases against a member/employee are an important factor in determining promotability, including presumptive ineligibility for promotion for twelve months following the sustained finding of a Class I violation.
 - The Settlement Agreement further requires the Chief of Police to consider the following criteria, in addition to other factors, in making promotional determinations:
 - (a) Commitment to community policing;
 - (b) Quality of citizen contacts;
 - (c) Number of citizen complaints;
 - (d) Instances of unnecessary use of force; and
 - (e) Support for Departmental integrity measures.”
-

Status: Not In Compliance

Deliverables:

- Memorandum from the Office of Chief of Police on Promotional Consideration

Implementation Activities

The Memorandum on Promotional Consideration issued by the Office of the Chief of Police was drafted, reviewed, and is ready for publication. Because this memorandum refers to Class I and Class II offenses, it is currently on hold (by mutual agreements of the stakeholders to the Agreement) until the Departmental publication defining these terms is issued. The publication which defines these terms is DGO M-3, and has been drafted.

IMT Audit Summary

During their sixth reporting period, the IMT conducted a review of this Task. They reviewed all promotions made during January 1, 2004 – January 15, 2005. For all 18 individuals promoted, the IMT reviewed available performance appraisals, disciplinary histories, and any available promotional documents, including matrices used by the Chief and or City Administrator.

During this period, the City Administrator was acting Chief of Police. The IMT met with her to determine whether each promotional decision included consideration of the required elements. Based on their interview with the City Administrator and review of available promotional matrices used by the Chief of Police and City Administrator; the IMT determined that most of the required factors were considered when making the promotions. However, OPD was found not in compliance with this Task because none of the promotions included consideration of this Task’s first element – commitment to community policing.

In July 2005, the Chief of Police began interviewing each promotional candidate as part of the promotional process. Each candidate is interviewed by a panel of Department executives. The purpose of the meeting is to determine each candidate's commitment to community policing, quality of citizen contacts and support for Departmental integrity measures.

Task 47: Community Policing Plan

Settlement Agreement Section XI.; page 41, line 17 – page 42, line 9

Assigned Unit: BFO

Compliance Date: August 1, 2003

Settlement Agreement Language:

- “By August 1, 2003, OPD must develop and implement a plan to strengthen its commitment to local communities. The Settlement Agreement sets forth particular requirements the plan must include: OPD must host at least one community meeting per quarter in each Patrol Service Area; each patrol supervisor and officer assigned to a regular beat or geographic area of the City must attend a minimum of one community meeting per quarter in the Area to which he/she is regularly assigned; OPD must develop mechanisms to measure its community policing and problem solving activities; OPD must incorporate positive statistics on community policing and problem solving activities in “Crime-Stop” meetings, along with information on citizen complaints and use of force incidents; and OPD must arrange a meeting within sixty days unless not feasible with representatives of an organization active within Oakland, if the organization communicates a concern regarding specific police personnel or practices.”

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- Departmental General Order B-7, *Requests for Meetings and Public Appearances*
- Bureau of Field Operations Policy and Procedure 03-03, *Community Meetings*
- Training Bulletin III-A.5, *Problem-Oriented Policing and the 2003 Reorganization of the Patrol Division*

Implementation Activities

Policy

In April, 2004, the IMT confirmed that the following three policies were compliant with the Agreement: Training Bulletin (TB) III A-5, *Community-Oriented Policing and the 2003 Reorganization of the Bureau of Field Operations*; Departmental General Order (DGO) B-7, *Requests for Meetings and Public Appearances*; and Bureau of Field Operations (BFO) Policy & Procedures 03-03, *Community Meetings*.

All three policies were revised and published in December 2005.

Training Activity

The Department achieved training compliance on all of the policies prior to the revisions. The Department is currently training staff on the revised policies.

Task 48: Departmental Management and Annual Management Report

Settlement Agreement Section XII.; page 42, lines 10-17

Assigned Unit: BOS

Compliance Date: July 2, 2003 213 675 7333

Settlement Agreement Language:

- “By September 5, 2003, OPD must develop and implement a policy requiring each functional unit of OPD to prepare a management report every twelve months. The report must include relevant operating data and highlight ongoing or extraordinary problems and noteworthy accomplishments. The Settlement Agreement further requires that Division commanders meet individually with the Chief of Police and their respective Deputy Chiefs to thoroughly review the management reports of that Division.”

Status:

Policy Compliance	X
Training Compliance	X
Actual Practice Compliance	

Deliverables:

- New Departmental General Order A-7, *Annual Management and Departmental Report*
- Annual Management Reports

Implementation Activities

Policy

A new Departmental General Order was drafted, staffed, and reviewed by all parties. The policy was published on November 24, 2003.

Training

DGO A-7 has exceeded substantial compliance, which is currently reported at 98%.

IMT Audit Summary

During this reporting period, the IMT reviewed this Task for compliance practice. The IMT found that OPD is in compliance with Task 48's requirements that each functional unit submit an annual management report. The IMT found that OPD is not in compliance with Task 48's requirement that each annual management report include relevant operating data and highlight ongoing or extraordinary problems and noteworthy accomplishments. The IMT also found OPD not in compliance with this Task's requirement that each Division Commander meet with the Chief of Police to discuss the annual management report. Their review found that only six out of the 27 annual reports (22%) adequately addressed relevant operating data, ongoing or extraordinary problems, and noteworthy accomplishments.

Task 49: Monitor Selection and Compensation

Settlement Agreement Section XIII. A.; page 42, line 18 – page 53, line 19

Assigned Unit: OCOP

Compliance Date: April 15, 2003

Settlement Agreement Language:

- “By April 15, 2003, the parties must select a Monitor, subject to the approval of the Court, who shall review and report on OPD’s implementation of, and assist with, OPD’s compliance with the Settlement Agreement. The Settlement Agreement sets forth extensive provisions related to the Monitor’s duties.”

Status:

Policy Compliance	X
Training Compliance	N/A
Actual Practice Compliance	X

Deliverables:

- Professional Services Agreement and Scope of Services for the Independent Monitor
- Departmental General Order N-13, *Exchange of Document Protocols*

Implementation Activities

Following negotiations with Relman & Associates, a Professional Services Agreement and Scope of Work for Independent Monitor services went before City Council on July 15, 2003.

The Independent Monitoring Team (IMT) made their first visit to the Department on July 14, 2003 – July 17, 2003, with meetings scheduled for July 16, 2003 and July 17, 2003, after Council met. Since that time, the IMT has been on-site August 19-21, 2003, September 3-5 and 22-26, 2003, October 27-31, 2003, November 18-20, 2003, and December 17-19, 2003.

The IMT continued to be on site during this reporting period. The visits were conducted monthly with a typical duration of 3 to 4 days. Their visits routinely occur during the week of the Monthly Meeting, which is regularly scheduled for the third Thursday of each month.

Update

Two members of the IMT have relocated to a new law firm. The two members previously at Relman and Associates are now with Center for Dispute Resolution. This change became effective in November 2004. Relocation information has been provided to Agreement stakeholders and information on all relevant websites and related documentation has been updated accordingly.

Task 50: Compliance Unit Liaison Policy

Settlement Agreement Section XIV. A.; page 53, line 21 – page 54, line 5

Assigned Unit: OIG

Compliance Date: March 4, 2003

Settlement Agreement Language:

- “ By March 4, 2003, OPD must create a Compliance Unit to serve for the duration of the Settlement Agreement. The Compliance Unit will serve as the liaison between OPD, the Monitor and Plaintiffs’ counsel, and will assist with OPD’s compliance with the Agreement. Among the Compliance Unit’s many duties is the preparation of a semi-annual report describing the steps taken, during that reporting period, to comply with the provisions of the Settlement Agreement?”

Status:

Policy Compliance	X
Training Compliance	N/A
Actual Practice Compliance	X

Deliverables:

- Training Bulletin V-S, *Publication Development* (April 30, 2003)
- Special Order 8009, *Settlement Agreement 6-Week Progress Reports* (May 7, 2003)
- Special Order 8010, *Comments and/or Recommendation by Departmental Personnel Regarding Departmental Publications* (May 8, 2003)
- Special Order 8011, *Compliance Unit Liaison Policy* (May 9, 2003)

Implementation Activities

This Task is in full compliance, and there is no new implementation activity to report for this period.

Task 51: Compliance Audits and Integrity Tests

Settlement Agreement Section XIV. B.; page 54, lines 6-22

Assigned Unit: OIG

Compliance Date: September 1, 2005

Settlement Agreement Language:

- “By September 1, 2005, following the implementation of policies and procedures required by the Settlement Agreement, OPD must conduct annual audits of: arrest and offense reports (including follow-up investigation reports); use of force incident reports and use of force investigations; complaint processing and investigation; Mobile Data Terminal traffic; personnel evaluations; and citizen accessibility to the complaint process and the availability of complaint forms.
- The Settlement Agreement further sets minimum requirements for these audits and requires that their results be reported in OPD’s semi-annual compliance reports.”

Status:

Policy Compliance	X
Training Compliance	N/A
Actual Practice Compliance	X

Deliverables:

- Special Order 8011, *Compliance Unit Liaison Policy*, (May 9, 2003)
- Training Bulletin V-P, *Guidelines for Audits and Inspections*

Implementation Activities

The Audit and Inspection’s Unit is currently on schedule for conducting Agreement mandated audits. In September 2005, the Unit published two required audits: the Arrest, Offense and Follow-up Investigations Audit and the Personnel Review and Appraisal Audit. These were the first annual audits. The Unit published the second annual Mobile Data Terminals Audit in December 2005. The remaining Agreement required audits are not yet due, as of the publication of this report.

In addition the Unit conducted an audit of the Field Training Program (Task 42) in November 2005. This was not an Agreement required audit. The Audit and Inspection Unit was also involved in conducting informal reviews of various Agreement tasks. These reviews were conducted in order to reveal any deficiencies in the Department’s current practices and enable the Chief and Command Staff to take immediate corrective action. The following reviews were conducted during the current calendar year: Stop Data Collection Forms; Vice Narcotics Arrest Approval; Citizens Signing Police Forms; and Community Meetings. More specific information about these reviews is included in the Audits and Reviews Section of this report.

Task 52: Housekeeping Provisions

Settlement Agreement Section XV.; page 54, line 23 – page 60, line 3

Assigned Unit: N/A

Status: Not Applicable

Deliverables: None

Implementation Activities: None

This Task describes the contractual housekeeping provisions of the Agreement. It explains in detail the reports and records to be maintained by the Department, the implementation and jurisdiction of the Agreement, and the meet and confer process.

There are no policies or practices required under this Task and it is not included in tracking.

**APPENDIX A: *VISION AND PLAN OF ACTION TO REDUCE
CRIME AND IMPROVE ACCOUNTABILITY* (MARCH 2006)**