Oakland Police Department

Negotiated Settlement Agreement

17th Annual Report

February 1, 2011 – January 31, 2012

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INTRODUCTION

Since January 22, 2003, the City of Oakland and the Oakland Police Department have been implementing the reforms outlined in Negotiated Settlement Agreement[1] ("the Agreement") with the goal of transforming the Department into a model agency with superior police practices. The Department has striven to implement such practices in the areas of supervision, accountability, police intervention programs, use of force, and misconduct investigations.

A two-year Memorandum of Understanding (MOU) has now succeeded the Agreement, requiring continued, but more narrowly focused, oversight. The original Agreement reform provisions were separated into 52 tasks for implementation, delegation, and tracking purposes (only 51 were assessed for actual practice compliance – the fifty-second task dealt with contractual housekeeping provisions). The MOU focuses on the 22 tasks that were not yet in full compliance and/or were considered to be the most critical tasks when the Agreement expired.

The current Monitor, Chief Robert Warshaw, Police Performance Solutions, LLC, assesses compliance with each of the 22 MOU tasks and provides quarterly summaries of his findings. However, to assure that it maintains its hard-won success, the Department continues to review all 51 tasks.

In this seventeenth annual report, the Office of the Inspector General (OIG) summarizes the Department's compliance status and efforts to implement provisions of the MOU for the period from February 1, 2011 through January 31, 2012. During this time period, the Monitor released four reports (the fifth, sixth, seventh, and eighth quarterly status reports) based on site visits made in February, May, August, and November of 2011. Each site visit assessed the Department's progress with the Agreement during the three-month period that ended a month and a half earlier (e.g., the eighth quarterly report, published January 17, 2012, reported on work done by OPD from July 1 to September 20, 2011 that the Monitor reviewed during his visit of November 14 through 18, 2011.)

Over the last nine years, the Department has changed the way it does business, resulting in much improved training, supervision, self-monitoring, and accountability. It has put into practice or revised policies and procedures to reflect current industry standards. There continue to be areas in need of improvement; the Department is working closely with the Monitor to ensure meaningful and lasting change.

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[1] An 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. The mutually agreed-upon court-approved Negotiated Settlement Agreement resulted from a City of Oakland decision to resolve litigation brought by multiple plaintiffs seeking both monetary compensation and reforms within the Department as a result of this case.

COMPLIANCE PROGRESS OVERVIEW

For implementation, delegation, and tracking purposes, Agreement reform provisions were separated into 52 separate tasks. The MOU is now focused on the 22 tasks that were not yet in full compliance and/or were considered to be the most critical tasks at the completion of the Agreement in January 2010.

Only the Monitor can deem the Department in compliance, and only after conducting an audit of each task. In order to achieve full compliance, two phases of compliance must be satisfied: policy and training, and actual practice ("implementation"). Policy and training compliance were achieved for all NSA tasks prior to the implementation of the MOU.

Implementation progress as of January 17, 2012 (date of publication of the *Eighth Quarterly Report of the Independent Monitor for the Oakland Police Department*) is summarized in Table 1 below. Table 2 (following page) lists the 22 tasks by number and title and summarizes their state of compliance as of the same date.

Table 1. Task Compliance Status

Task Status	Tasks as of January 17, 2012
Tasks in Policy Compliance	22 of 22
Tasks in Training Compliance	22 of 22
Tasks in Compliance, Implementation	12 of 22
Tasks in Partial Compliance, Implementation	8 of 22
Tasks Not in Compliance, Implementation	1 of 22
Deferred Tasks*	1 of 22

*Note: The "Deferred" category is used in circumstances where PPS-IMT is unable to fully determine the compliance status of a task due to lack of or incomplete data.

Table 2. State of Compliance (as of January 17, 2012)

Task		Phase 1: Policy and Training	Phase 2: Implementation			
		In Compliance	In Compliance	Partial Compliance	Not in Compliance	Deferred
Task 2:	Timeliness Standards and Compliance with IAD Investigations	■	■			
Task 3:	IAD Integrity Tests	■	■			
Task 4:	Complaint Control System for IAD and Informal Complaint Resolution Process (4.7 and 4.10 only)	■	■			
Task 5:	Complaint Procedures for IAD	■		■		
Task 6:	Refusal to Accept or Refer Citizen Complaints	■	■			
Task 7:	Methods for Receiving Citizen Complaints (7.3 only)	■	■			
Task 16:	Supporting IAD Process – Supervisor/Managerial Accountability	■	■			
Task 18:	Approval of Field – Arrest by Supervisor (18.2.2 only)	■	■			
Task 20:	Span of Control for Supervisors	■		■		
Task 24:	Use of Force Reporting Policy	■		■		
Task 25:	Use of Force Investigations and Report Responsibility	■		■		
Task 26:	Use of Force Review Board (UFRB)	■	■			
Task 30:	Firearms Discharge Board of Review	■		■		
Task 33:	Reporting Misconduct	■	■			
Task 34:	Vehicle Stops, Field Investigation and Detentions	■		■		
Task 35:	Use of Force Reports – Witness Identification	■	■			
Task 37:	Internal Investigations – Retaliation Against Witnesses	■	■			
Task 40:	Personnel Assessment System (PAS) – Purpose	■			■	
Task 41:	Use of Personnel Assessment System (PAS)	■		■		
Task 42:	Field Training Program	■				■
Task 43:	Academy and In-Service Training (43.1.1 only)	■	■			
Task 45:	Consistency of Discipline Policy (45.1 and 45.4 only)	■		■		
Total Tasks		**22**	**12**	**8**	**1**	**1**

OFFICE OF INSPECTOR GENERAL AUDITS AND REVIEWS

During this reporting period, the Office of Inspector General completed seven audits/reviews of NSA tasks. Five audits/reviews were completed by Audit Unit staff and two audits were completed by a law enforcement auditing consultant, Veritas Assurance Group (Veritas), hired by OPD to help build audit capacity. The purpose of the audits/reviews was to identify deficiencies that could impact compliance with the Agreement and Departmental policy, as well as inefficiencies in practice. In addition to the seven NSA related audits/reviews, the Audit Unit completed five audits/reviews of risk areas not related directly to NSA tasks (Canine Program, Confidential Informant Files, Drug Evidence Check Out and Return Procedures, Imprest Accounts, and Pursuits).

NSA-related audits/reviews are listed below and summarized in this section:
1. Mobile Data Terminal Traffic
2. Use of Force-Investigation of Criminal Misconduct and IAD Investigation Priority – Tasks 28 and 29
3. Personnel Assessment System (PAS): Purpose – Task 40 (Veritas)
4. Use of Personnel Assessment System (PAS) – Task 41
5. Performance Appraisal Policy – Task 44
6. Level 4 Use of Force Review

Mobile Data Terminal Traffic

The Department is required to conduct annual audits of Mobile Data Terminal (MDT) traffic by checking the in-car computers used for warrant checks, stolen vehicle inquiries and mobile messaging.

On November 10, 2011, OIG initiated its eighth annual audit of the Department's use of MDTs, examining content of car-to-car message transmissions to ensure that user-generated messages do not violate Department policy, the Agreement, or local and/or federal laws. All car-to-car messages are sent via the MDT system.

The audit team interviewed Information Technology Unit (ITU) staff and reviewed the content of MDT data logs and user-generated messages. Four months (totaling 122 days) were randomly selected for review: April, May, August and October of 2011.

In the 122 days covered by this audit, 33 individual messages were transmitted, with an average of one message every 3.7 days. The number of messages continues to decline on an annual basis. This year there were 0.27 messages per day. Last year there were 0.92 transmissions per day and in 2009 there were 1.21 transmissions per day. It is unknown why this trend is continuing but it is likely officers are using cell phones to communicate rather than MDT messages.

During this audit period, only 14 members/employees transmitted car-to-car messages. None of the messages reviewed were found to contain inappropriate language, wording that constitutes a policy violation, or lengthy conversations unrelated to work.

The Mobile Data Systems Manager (MDSM), with the assistance of the ITU staff, is responsible for monitoring and archiving MDT transmissions. The audit found that the MDSM continued to monitor and archive the MDT transmissions.

Use of Force-Investigation of Criminal Misconduct and IAD Investigation Priority – Tasks 28 and 29

Task 28, Investigation of Criminal Misconduct, requires OPD to report to the Alameda County (ALCO) District Attorney's Office, as soon as possible, all Uses of force, Citizen complaints, and Member/employee-involved actions in which it appears there may be criminal misconduct by a member/employee.

Task 29, IAD Investigation Priority, has two requirements. Task 29.1 requires OPD to coordinate administrative investigation of its members/employees with the ALCO District Attorney's Office if a criminal proceeding is potentially viable. Task 29.2 states that 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 the grounds that the answers to questions posed may be incriminating, such interrogations are preceded by a Lybarger Advisement.[2]

For Task 28, of the 52 cases reviewed, there were 17 where there was possible reasonable suspicion of criminal misconduct. Nine of the cases were investigated by outside agencies and eight were OPD investigations. Of the eight OPD cases, two were applicable to Task 28 and found to show reasonable suspicion of a felony or serious misdemeanor on the part of a member or employee, after a preliminary investigation by CID.

IAD and CID coordinated their investigations to ensure separate investigations were conducted. The investigating officer consulted with the CID Commander before presenting these cases directly to the District Attorney for charging within 24 hours of the determination that there was reasonable suspicion of criminal misconduct.

The review determined that both cases (100%) were in compliance with Task 28.

For Task 29.1, there were two cases where a preliminary investigation found reasonable suspicion of criminal misconduct (of 52 cases reviewed). The two cases were handled properly by CID coordinating with the DA's Office.

There were six cases in which CID conducted a preliminary investigation, but determined there was no reasonable suspicion of criminal misconduct on the part of an OPD member. There were 32 cases investigated by IAD where they determined said cases did not rise to the level of a felony or a serious misdemeanor nor were these cases forwarded to CID.

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[2] A Lybarger Advisement enables governmental employers to obtain compelled statements for administrative purposes by advising the employee that the compelled statement cannot be used in a criminal prosecution.

There were 12 cases investigated by an outside agency. In these 12 cases, IAD coordinated their investigation with the investigating agency. Therefore these cases were handled according to policy.

For Task 29.2, there were nine cases (of 52 investigations reviewed) where a Lybarger Advisement was required. These cases were determined to be applicable since it appeared the subject may be charged with a crime or criminal charges were potentially viable.
In each case, the audit revealed the Lybarger Advisement preceded the interview. The audit determined all nine cases complied with Task 29.2.

It was found that the language for Task 29.2 (Lybarger) is different than in General Order M-4.1. For Task 29.2 compliance, it needs to be apparent the subject may be charged with a crime for Lybarger to be necessary. General Order M-4.1 only requires reasonable suspicion a crime has occurred for Lybarger to be necessary. OPD is in compliance with Task 29.2; however, on two occasions investigators failed to provide a Lybarger Advisement to officers who were arrested off duty. In one of the cases, the District Attorney advised they would not be charging the case. This notification was made prior to the administrative interview. For the other case, the subject was released prior to booking and no charges were to be sought. There were no charges to be filed in these cases; therefore Lybarger was not necessary for 29.2 compliance. Due to reasonable suspicion of criminal conduct, Lybarger was necessary pursuant to General Order M-4.1.

The review found that the Department is complying with both requirements of Task 29.

Personnel Assessment System (PAS) Purpose - Task 40

Task 40 required OPD to implement a computer system that allows Department supervisors and managers to examine performance data for their subordinates. As a result, the Department implemented the Internal Personnel Assessment System (iPAS). Task 40 concerns the iPAS database and its use as a risk-management tool, and governs the data requirements of the system. The data captured includes the following information:

1. All uses of force required to be reported by OPD;
2. OC spray canister check-out log;
3. All police-canine deployments where the canine is deployed to search for or apprehend a suspect. It does not include, deployments for the purpose of locating bombs, narcotics, missing persons, etc., where the canine is not involved in an investigated use of force (i.e., deliberately or inadvertently bites or injures a person) If such force occurs, a Use of Force report is required.
4. All officer-involved shootings and firearms discharges, both on duty and off duty, excluding an intentional discharge while at a range facility; a discharge while engaged in a lawful recreational activity, such as hunting or target practice; a discharge by Criminalistics Division personnel for the purpose of scientific examination; and a discharge at an object (e.g., street light, alarm box, door lock or vehicle tire) to accomplish a tactical police purpose that does not result in injury;
5. All on-duty vehicle pursuits and on-duty vehicle collisions;

6. All complaints, whether made to OPD or CPRB;
7. All civil suits and/or tort claims related to members' and employees' employment at
OPD, or which contain allegations which rise to the level of a Manual of Rules violation;
8. Reports of a financial claim defined as any 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 saving accounts, spousal support, child support and/or foreclosure;
9. All in-custody deaths and injuries;
10. The results of adjudications of all investigations related to items (1) through (9), above,
and a record of investigative findings, including actual discipline imposed or nondisciplinary
action administered;
11. Commendations and awards;
12. All criminal arrests of and charges against OPD members and employees;
13. All charges of resisting or obstructing a police officer (Penal Code §§69 and 148),
assault on a police officer (Penal Code §243(b)(c), or assault-with-a-deadly-weapon on a
police officer [Penal Code §245(c)(d)];
14. Assignment history and rank history for each member/employee;
15. Training history for each member/employee;
16. Line-of-duty injuries;
17. Sick leave usage, particularly one-day sick leaves;
18. Report Review Notices or Case Evaluation Reports for the reporting member/employee
and the issuing investigator;
19. Criminal cases dropped due to concerns with member veracity, improper searches, false
arrests, etc.; and,
20. Other supervisory observations or concerns.

The audit was performed by Veritas Assurance (Veritas), an independent auditing group with experience conducting performance, compliance and consent decree audits for public safety agencies.

Veritas conducted a thorough review of each iPAS data element to determine the timeliness and reliability of the information for each data point. The findings were developed to assist the Department in improving the effectiveness of the iPAS system.

Some of the more significant findings include:

- The Personnel Assessment System Unit needs sufficient staffing and control over changes to the system and the legacy systems feeding iPAS.

- Some data elements should be more clearly defined and standardized so that the correct data is captured consistently.

- More detailed reviews of certain data elements and legacy data systems are necessary, including pursuit data, risk management memoranda, the training management system, and supervisory notes files.

- The Department needs to make sure it captures all the arrests being made by its officers.

Veritas concluded that iPAS is "hardly a state-of-the-art system especially when compared to today's 'data mining' systems," and recommended technical improvements to facilitate data collection and entry. The auditor noted that human elements affect the timeliness and accuracy of reporting and stressed the need for regular audits of the system.

Use of Personnel Assessment System (PAS) – Task 41

In June 2011, the OIG initiated an audit of Task 41, Performance Assessment System (PAS); OIG's first audit of Task 41. Although Task 41 consists of 40 separate task requirements, the audit included an assessment of only 14. The 14 tasks chosen for this review covered the more technical requirements of Task 41, providing the Department with findings of its progress toward adherence to timelines and completion of required documents and reports.

Tasks 41.11, 41.12.1, and 41.12.2 – Intervention Disposition Meetings

The audit indicated the Department is 100% in compliance with individuals in intervention attending a disposition meeting with their respective commanders/managers and supervisors. The audit also showed that a discussion of the member/employee's performance and issues and recommended intervention strategies occurred at the disposition meetings. The audit did indicate however that the Department is short of compliance with the requirement of the members/employees being dismissed from the meeting as required by policy. The compliance requirement for this task is 90% and the audit finding is 83%.

Task 41.14 – Duration of Supervisory Monitoring and Intervention Performance Monitoring

The audit indicated the Department is in compliance with Task 41.14. The audit determined that 94% of those in supervisory monitoring or intervention were observed for the specified period of time (i.e. supervisory monitoring a minimum of three months and intervention a minimum of 12 months, unless released early) following the disposition meeting.

Tasks 41.16 and 41.17 – Supervisory Monitoring and Intervention Required Meetings

The audit determined the Department is not in compliance with Task 41.16. The audit found that 52% of the first follow-up meetings occurred within the required time period and 52% of the second follow-up meetings were held within the requisite time. The audit determined that 92% of individuals were monitored for a minimum of three months.

The audit indicated the Department is not in full compliance with Task 41.17. The audit found 64% of the first follow-up meetings occurred within the required time period, which was short of the compliance requirement. The audit found 100% of the second follow-up meetings were in compliance and occurred within the required period of time. The audit determined 100% individuals in intervention were monitored for a minimum of 12 months.

Task 41.18 – Early Release from PAS Intervention

The audit determined the Department is 100% in compliance with this task. There were three individuals who were released early from intervention during the audit period and all releases were in accordance with policy; supervisor recommendations for early release were approved by the appropriate Deputy Chief.

Tasks 41.19 and 41.19.1 – Extension of PAS Intervention

The audit indicated the Department is 100% in compliance with Tasks 41.19 and 41.19.1. During the audit period, there were three individuals who were extended beyond one year of intervention. The extensions were recommended by their supervisors and approved by their Deputy Chiefs. The follow-up meetings were held according to the required schedule.

Tasks 41.21 and 41.22 – Command Review Meetings

The audit determined the Department is in compliance with Task 41.21 and not in compliance with Task 41.22. The audit found that 94% of the Department's division/watch commanders and managers conducted quarterly meetings with their supervisory staff. The audit however determined that there was not clear documentation supporting that all division/watch commanders and managers met at least annually with his/her designated Deputy Chief/Director and IAD Commander.

Task 41.23 – Command Management and Supervisory Accountability Plans

The audit found the majority of the reports reviewed included some documentation regarding the PAS dispositions of the various units' members/employees (i.e. the status of those individuals who entered intervention or supervisory monitoring during the reporting periods). Reports also included summaries of matters such as patterns of uses of force, sick leave usage, and vehicle collisions occurring among unit personnel.

Although the reviewed reports varied in detail from unit to unit, the reports all illustrated that the commanders/managers made an assessment of potential and/or actual problems related to their units and when problems were identified, a plan of action was provided.

Task 41.25 – Intervention Strategies Documented in a Timely Manner

The audit indicated the Department is not in compliance with Task 41.25. Of the intervention strategies documented during the audit period, only 55% were documented in a timely manner (i.e. seven days).

Task 41.27 – Intervention Disposition Meetings Following Notifications to Deputy Chief

The audit determined the Department is in compliance with Task 41.27. The audit found that 94% of intervention disposition meetings were held no later than 20 days following notification to the Deputy Chief/Director that the individual met a PAS threshold *and* intervention was recommended.

Performance Appraisal Policy – Task 44

In December 2010, the Office of Inspector General (OIG) initiated an audit of Task 44, Personnel Practices. Although Task 44 consists of nine requirements, this audit includes an assessment of only four tasks: 44.3, 44.4, 44.7.1, and 44.7.2. Tasks 44.3 and 44.4 were assessed to determine if the Department has maintained compliance for one year. Tasks 44.7.1 and 44.7.2, both of which the Department had not achieved compliance, were assessed to determine if compliance has been met.

A sample of performance appraisals of members/employees with substantial collateral duties, transferred personnel, and Area Captains were reviewed for this audit. This audit indicated that the Department is in compliance with three tasks and the remaining task was not applicable to the appraisals reviewed.

Task 44.3 - Substantial Collateral Duty

The audit indicated the Department has maintained compliance with Task 44.3. Of the 50 performance appraisals reviewed, 46 (92%) included documentation that a consultation of the employees/members' collateral duty unit coordinator occurred. The compliance requirement for this task is 85%.

Task 44.4 - Transferred Personnel

The audit indicated the Department has maintained compliance with Task 44.4. There were 24 employees/members whose performance appraisals met the audit criteria for review. Of the 24 performance appraisals reviewed, 21 (88%) included documentation that a consultation between the current and previous supervisor(s) occurred. The compliance requirement for this task is 85%.

Tasks 44.7.1 and 44.7.2 - Area Captains

The audit indicated the Department is in compliance with Task 44.7.1. There were four Area Captains' performance appraisals assessed during the audit period, all of which included language that supported the Area Captains' subordinates worked to enhance community policing as required by Task 44.7.1.

Based on an interview with the Bureau of Field Operations Deputy Chief, the audit team determined Task 44.7.2, requiring Area Captains to be held accountable for whether their subordinates are working to enhance the quality of community contacts, was not applicable to the performance appraisals reviewed.

In addition to the NSA related Tasks, the performance appraisals of employees who received an overall rating of exceeds expectations were also reviewed to assess if justifications for the ratings were documented in the appraisals. The audit indicated that while some performance appraisals included clear documented evidence of such ratings, others were less descriptive and unclear as to the appraiser's assessments of the employee's performance.

Internal Investigations Review

In early 2011, the Department hired Veritas Assurance (Veritas) to evaluate the OPD's personnel investigation processes for sound investigative practices, completeness, timeliness, and appropriateness of adjudication. Veritas is an independent auditing group with experience conducting performance, compliance and consent decree audits for public safety agencies.

Veritas reviewed 32 formal cases and 8 informal complaint resolutions. Their significant findings include:

Determine if the Department's field supervisors conducted adequate preliminary personnel complaint investigations of the cases within the audit sample.

In one of five cases in which a supervisor was made aware of the complaint in the field, the supervisor did not interview key witnesses at the scene. They found that there is little written material describing the responsibilities of the preliminary investigation of personnel complaints. The rest of the cases had adequate documentation of witnesses and their statements.

Determine if the initial complaints, of the cases within the audit sample, adequately described the allegations to be investigated.

There were three cases in which the complainant alleged significant misconduct which was not included in the complaint assigned to the investigating officer, and therefore not addressed in the investigation.

Determine if the personnel investigations, within the audit sample, were assigned in a timely manner.

The review found a number of cases in which there was a lengthy delay between when the complaint was received and the time the investigation began.

Evaluate the credibility assessments of the cases within the audit sample.

Overall, the review found supervisor's credibility assessments to be reasonable when considering the totality of the circumstances. There was one case, however; indicating the supervisor's credibility assessment lacked objectivity. The review also found that the investigator's tasked with assessing credibility of complainants are not the ones actually interviewing the complainants, and OPD does not appear to use specific objective criteria to guide supervisors in making credibility assessments.

Provide specific findings of the quality of investigations, within the audit sample.

The reviewers used the following classification system to evaluate investigations.

Classification	Description
⇧ **Distinguished**	The issue under evaluation exceeded standard quality.
⇔ **Satisfactory**	The issue under evaluation met standard quality.
⇩ **Minor Error**	The issue under evaluation contained an error, but the error was unlikely to affect the outcome of the case.
⇩ **Critical Error**	The issue under evaluation contained a significant error that challenged the reliability of the investigation and/or adjudication.

The review included an evaluation of nine cases investigated by the Internal Affairs Division (IAD) and 21 cases investigated by Division Level Investigators (DLI). Of the nine cases investigated by IAD, six of them were given overall ratings of distinguished and three were rated as satisfactory. Of the 21 DLI cases, 2 were given overall ratings of distinguished, 12 were satisfactory, 4 were considered to have minor errors, and 3 were considered to have critical errors. The critical errors included the failure to identify allegations, which were never investigated, and failure to identify and interview a key witness.

In addition to evaluating formal cases, the review included an evaluation of Informal Complaint Resolutions (ICR) and Administratively Closed cases. There were eight ICRs reviewed and two Administrative Closures. The two administrative closures were rated overall as satisfactory. Of the eight ICRs evaluated, two were satisfactory, two were considered to have minor errors, and four were considered to have critical errors. The critical errors included long delays before investigative activity took place; failure to identify a serious allegation; egregiously inadequate disposition relative to the behavior displayed; and inappropriately resolving an allegation via the informal complaint resolution process, given the complaint history of the employee.

Some additional findings included:

- In several cases, additional details would have been helpful in reviewing the case.

- In situations likely to generate a complaint, supervisors should have been summoned to the scene to intervene and personal data recording devices would have been a good way to capture critical evidence.

Level 4 Use of Force Review

In August 2011, OIG initiated a review of Level 4 Use of Force Reports (UOF). This was OIG's first comprehensive review of Level 4 UOF Reports. The purpose of the review was to determine the Department's compliance with its use of force policies, specifically Departmental General Order (DGO) K-4 and Special Order (SO) Number 9057. The UOF Reports were also examined to assess overall quality, and to determine whether the force was objectively reasonable and if the justification was appropriately articulated in the report.

There were 41 Level 4 UOF Reports reviewed. The review found the Oakland Police Department (OPD) is meeting policy requirements in the majority of the reports; however, improvement is needed in how officers articulate their actions and their force used, and the review process. There were six UOF reports in which the force did not appear to be objectively reasonable and/or the justification for the use of force was poorly articulated. In addition, several of the reports utilized vague language to describe the force. For example, instead of stating "I pointed my firearm at the subject," some officers stated "I provided lethal cover." Other vague phrases included statements like "car thieves are usually armed."

The Level 4 UOF Report review resulted in the following recommendations:

1. DGO K-4 should be revised to include language authorizing officers to complete one UOF Report for traffic stops and search warrants, when the only force is pointing the firearm if this practice is to be accepted.

2. The UOF Report should include a box which would require supervisors to document the date they received the report from the author of the UOF report.

3. Reviewers of Level 4 UOF reports should review each UOF packet carefully (the UOF report and all ancillary reports) to ensure accuracy and proper articulation, identify discrepancies, and determine if the force is objectively reasonable.

4. Officers should be reminded to follow the Department's policy, DGO K-4, by always providing a "detailed description of the force used." They should explain specifically what they did and what commands they issued, in addition to or instead of, using words such as "challenge," "provide lethal cover," or "assisted." For example, "I pointed my Dept. issued pistol at the subject."

5. The Department should conduct training to ensure accuracy of Level 4 UOF reports, uniformity of policy application, and that the justification of the force is properly articulated.

CONCLUSION

The Department continues to work towards full compliance with Tasks that are in partial compliance or not in compliance. Improvement is still needed in the areas of internal investigations; supervisory span of control; use of force reporting and investigation; vehicle stops, field investigations and detentions; and the personnel assessment system. The Department has worked closely with the Monitor to identify solutions to issues that have prevented it from achieving full compliance. While progress has been made, the Monitor has concerns about the pace of progress and the ability of supervisors and commanders to make the difficult decisions needed for full compliance. The Department and the City remain committed to achieving full compliance with the NSA and will continue working with all the stakeholders to attain the goal of ensuring meaningful and lasting change.