

Oakland Police Department



Negotiated Settlement Agreement

Seventh Semi-Annual Report



This Report was prepared by:

Oakland Police Department
Office of Inspector General

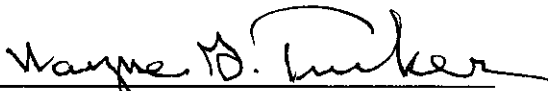
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FOREWORD

A MESSAGE FROM THE CHIEF OF POLICE

As Chief of Police I remain dedicated to enhancing the status of the Oakland Police Department as a premier law enforcement agency and committed to accomplishing the reforms laid out in the Negotiated Settlement Agreement (NSA). Since first being appointed Chief of Police last February, I have made reaching full compliance with the NSA one of the Department's top priorities and consider these reforms necessary steps towards good policing. Engaging and challenging command officials and insisting that they ask the same of their subordinates is vital to making these practices a success. However, there is still a lot of work to be done and accepting the fact there will be set backs and frustrations along the way is crucial.

During these past 6 months, the Department has achieved many of the goals it had set forth to carry out. Our ability to self-identify and take a more proactive role towards issues facing the Department has increased substantially. The most notable achievements this reporting period are the completion of training on the M-Series, *Complaints Against Departmental Personnel or Procedures* (10 tasks) and policy publication and training of the revised *Use of Force Policies* (5 tasks). I am particularly proud of those individuals who worked relentless hours to get both policies completed and trained before the Court mandated deadline. I would also like to applaud all OPD members/employees for their perseverance during training and providing good feedback and challenging the requirements of each policy. The implementation of the Management Assessment Program (MAP) in 2005 has proven to be beneficial towards reaching compliance. The MAP meetings have allowed the Department to focus on its primary goals, including the NSA, crime reduction, and budget management.

The goals of the Department for the next reporting period include implementing the Personnel Assessment System (formerly Personnel Information Management System), completing the training for all NSA related policies, increasing the quality and timeliness of all Internal Affairs investigations, and continuing to focus on achieving and maintaining actual practice compliance with all NSA related tasks.

Re-establishing comprehensive community policing, making officers accessible to the citizens, and holding all members and employees accountable for their actions are vital to the success of this police department. Serving a community that has confidence in its police force will create a more effective and efficient law enforcement agency. As a Department we have faced numerous challenges, each of which has served as a valuable learning experience. We will continue to provide competent, professional, and quality police services to the citizen's of Oakland in the years ahead. I am proud of the men and women that make up the Oakland Police Department.



Wayne G. Tucker
Chief of Police

A MESSAGE FROM THE INSPECTOR GENERAL

It has almost been one year since I was appointed the Inspector General and 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, the Department has been affected on every level but has clearly risen to many of the challenges outlined by 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. In addition, we look forward to achieving actual practice compliance with all 51 tasks required by the NSA.

In April 2006, at a Joint Status Conference hearing, Judge Thelton Henderson continued to express his confidence in Chief Wayne Tucker's ability to fully implement the NSA. Although he understands the challenging dynamics of the NSA, he knows its tenets are obtainable by the Police Department. He understands that our compliance will promote a better and more effective agency. The Judge commended the Department's officers for "stepping up" and accepting accountability. He was pleased with the progress Internal Affairs has made in the last couple of months, but concerned over the investigative deadlines and believes that it must be the continued focus of the Division. He also emphasized that the NSA should not be neglected even with the increasing pressure to reduce crime and that shortcuts will not be allowed. In addition, the plaintiff attorney's noted a positive change at the OPD; although, expressing caution in some specific areas.

During 2005, the OIG developed plans to help the Department move towards full compliance and those plans have continued into the first half of 2006. The plans incorporated a more comprehensive and collaborative effort on the part of all commanders and managers. As a result, these individuals, as well as OIG staff, have conducted probing audits to ensure compliance with the NSA. The audits have identified our shortcomings, and as a result we have made many of the necessary corrections. The audits show that the Department continues to aggressively conduct an introspective analysis of our own practices in an effort to identify and correct deficiencies. As I stated in the last report, 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.

As a department we need to remember, just because we achieve actual practice compliance with certain policies doesn't mean we can not fall out of compliance, which was the case in the IMT's most recent quarterly report. OPD was taken out of compliance with Task 22, *Management Level Liaison*, one of the first tasks the Department was in compliance with. We must always remain vigilant and conduct quality reviews of all tasks, whether in practice compliance or not.

The OIG is confident that the content of this report will shed light on many of the previous misinterpretations and show that we can fully implement the NSA. It is with some satisfaction, and a few concerns, that the misgivings of the previous combined 5th and 6th Semi-Annual Report and the latest Eighth Quarterly Report of the Independent Monitor Team have been aggressively pursued.

The report will identify our efforts and explain our status for all matters associated to the NSA. 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 continue to set the pace and spirit for something greater than mere compliance.

A handwritten signature in black ink, appearing to read 'Paul J. Figueroa', with a stylized flourish at the end.

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 the first half of 2006, the Department significantly increased momentum in implementing both the letter and spirit of the Agreement. This is the Department's Seventh 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 period from January 1, 2006, through June 30, 2006.

During this reporting period, training was completed on Department General Order (DGO) M-3, *Complaints Against Departmental Personnel or Procedures*, which was published in December, 2005, and covers ten tasks. In addition, policies were developed and training was completed for use of force, covering an additional five tasks. The policies include DGO K-3, *Use of Force*; DGO K-4, *Reporting and Investigating the Use of Force*; and DGO K-4.1, *Force Review Boards*. The new policies regarding how the Department receives and investigates citizen complaints, and reports and investigates uses of force, are 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. While continued efforts by personnel at all levels are moving the Department towards actual practice compliance, 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 strategies to achieve compliance.

Since the publication of the last report, the Department has maintained an intense pace in its efforts to comply with the Agreement. Commanders and managers throughout the Department continue to be directly involved in compliance efforts, resulting in better engagement and accountability. Department personnel have worked quickly to ensure that outstanding policies were completed and implemented. These efforts have paid off, as the Department has completed policies for all but two Agreement tasks.

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 Assessment System (PAS)¹; Field Supervision; Training; Management Oversight; and Auditing and Review Systems. The stakeholders include the citizens of Oakland, the City of Oakland, the Plaintiffs

¹ Formerly known as the Personnel Information Management System (PIMS).

and the Oakland Police Officers' 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 increased its efforts to fully implement the Agreement. The OIG continues to push forward with its comprehensive Compliance Plan that requires 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. The Compliance Plan requires managers to report on the status and progress of assigned tasks outlined in the Agreement. The progress reports have been changed from bi-weekly to monthly, giving Compliance Assessors more time to recognize and correct deficiencies found during their assessment of their assigned tasks.

The Department recognizes the bulk of its shortcomings are due to the lack of document control and limited use of technology. Better use of technology would greatly enhance the management and storage of NSA related and police documents. The Compliance Unit of the OIG is researching technological solutions to assist managers in effectively tracking documents that are required for compliance, for example bi-weekly evaluations, community meetings, and performance appraisals. To achieve this, the Compliance Unit is in the process of purchasing equipment and developing a system to manage relevant documents. Although the plan's goal of achieving compliance with all of 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 where the Stakeholders and the IMT report on compliance efforts.

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 comprehensive Management Assessment Program (MAP). Weekly MAP meetings address challenges, successes and accountability with regards to task implementation. Commanders have been tasked with conducting reviews of selected tasks to monitor compliance and results are shared at the MAP meetings.

The Internal Affairs Division (IAD) continues to make vast improvements in the way the division is structured and organized. IAD staff has received significant training during this reporting period that will help improve the quality of their investigations and administrative functions. A sworn position has been established and staffed to ensure IAD compliance with the Agreement. The assigned officer has developed new policies, procedures and documents to

ensure IAD complies with the Agreement and other related policies. All bureau commanders continue to receive weekly reports regarding the status of IAD cases assigned to them. A centralized system has been developed to process all document requests received by IAD and is managed by one person. This streamlined process ensures requests are handled in a timely manner. Intake Officers now complete a thorough preliminary investigation and, in some cases, complete the entire investigation. This is a substantial change from past practices in the Internal Affairs intake process and significantly improves the quality of the investigation because witnesses are identified quicker and statements are taken much sooner.

In addition to the launch of the use of force policies, the Oakland Police Department (OPD) has taken on the comprehensive project to bring uniformity to all of its use of force related policies. A critical review of the Department's related policies consisted of Department General Orders (DGO), Special Orders (SO), Training Bulletins (TB) and memoranda. Included in this review are thirty-two policies previously identified by the IMT in March 2005, one policy identified by the IMT in April 2006, and eighteen policies identified by OPD. Two new policies are currently being developed to address inadequacies discovered by OPD during its internal review. The Department anticipates that these use of force policies will be published by August 2006, and training for all appropriate personnel will begin after that.

As a result of the increased planning efforts and staff engagement, the Department completed and trained personnel on the Internal Affairs Manual, discipline policy, and use of force policies. Substantial training compliance has been achieved on thirty-eight 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 are a large number 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. Despite the challenges, the IAD continues to increase the quality of investigations and aggressively monitor all investigative deadlines. During the next period, the IMT and OIG will begin auditing the many tasks related to IAD, and it is likely their efforts will result in substantial compliance with most of the tasks. 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 95% of the required personnel and can provide supporting documentation. Actual practice compliance is achieved when the IMT conducts an audit and deems the Department in

compliance with a task. The table below depicts the current status and progress summary of task compliance:

Table 1

Task Status	Tasks In Compliance 2005	Tasks in Compliance 2006 (as of 6/30)
Tasks Due as of June 30, 2006	51 of 51	51 of 51
Tasks in Policy Compliance	43 of 51	48 of 51
Tasks in Training Compliance	17 of 36	38 of 41

The IMT has found 8 out of 50 tasks to be in actual practice compliance, and the Department eagerly awaits more compliance audits by them. Recently, several important policies have been adopted and personnel trained that include a higher number of associated NSA tasks, such as those related to IAD and use of force. As a result, audits to determine actual practice compliance have not been conducted on those tasks. Additionally, the policies most recently adopted represent major policy and procedural changes which require a formal initial implementation and evaluation phase. After the implementation and evaluation phase occurs, the Department will work with the IMT to conduct the appropriate audits and determine actual practice compliance. It is anticipated that these audits will show significant compliance.

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 June 30, 2006. The Department has achieved policy compliance for forty-eight of fifty-one tasks. The Personnel Assessment Management System (formally Personnel Information Management System; Tasks 40 and 41) has no published policy, but as of June 13, 2006, a draft of the policy was submitted to the IMT for review.

To date, there are thirty-eight tasks in training compliance, including DGO K-3, *Use of Force*; K-4, *Reporting and Investigating the Use of Force*; and K-4.1, *Force Review Boards*, which covers five tasks.

Table 1 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.

AUDITS AND REVIEWS

During this reporting period, the Audit and Inspections Unit (Audit Unit) conducted several reviews, including: OC Log and Checkout Procedures; Personnel Arrested, Served or Sued; Promotional Consideration; and Transporting Detainees and Citizens. The Audit Unit is currently in the process of completing an audit on Community Policing and reviewing a portion of Task 43, Academy Training Plan. 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 will continue as necessary. 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 continued 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 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 OPD 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 Officers' 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, correct deficiencies, and increase accountability. The OIG assesses the effectiveness and success of Departmental operations within the parameters of the Agreement and continually strive to improve the Departments programs and Department accountability. 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:

- Holding monthly meetings with stakeholders;
- Reviewing monthly reports 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.

ACCOMPLISHMENTS

Accomplished Training on the Internal Affairs Procedures Manual

The IAD manual was published December 6, 2005, and disseminated along with Department General Order M-3: *Complaints Against Departmental Personnel*. Training on this policy for all police personnel began December 19, 2005, and was completed February 10, 2006, with a 98.68% compliance rate. 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.

Accomplished Policy and Training on the Use of Force Reporting and Investigation (K-Series)

The final version of the K-Series was published on February 17, 2006. Training began on February 25, 2006, and to date over 97% of relevant personnel have been trained on these policies. The use of force policies were launched on May 13, 2006. To date, the commander in charge of the publication and training of the policies continues to meet with the patrol division watches, watch commanders, and Special Operations Group to address any questions or concerns they may have. The IMT has complimented the Department on getting the K-Series out in a timely manner and doing more than is required by the Agreement.

In addition to the launch of the use of force policies, OPD has taken on the comprehensive project to bring uniformity to all of its use of force related policies. A critical review of the Department's related policies consisted of Department General Orders (DGO), Special Orders (SO), Training Bulletins (TB) and memoranda. Included in this review are thirty-two policies previously identified by the IMT in March 2005, one policy identified by the IMT in April 2006, and eighteen policies identified by OPD and two new policies currently being developed to address inadequacies discovered by OPD during its internal review. The Department anticipates that the use of force policies will be published by August 2006, and training for all appropriate personnel will begin after that.

Accomplished Successful Management Assessment Program (MAP) and Crime Stop

By order of the Chief of Police, Special Order (SO) 8222, the *Weekly Management Assessment Program* went into effect February 24, 2005. The order mandates that weekly Unit Commander and Crime Stop meetings be combined with a compliance review of the Agreement to form the weekly MAP meeting. Additionally, SO 8222 reinforces the mandate that Agreement compliance shall be given the highest priority, and associated requests from the OIG shall be considered direct requests from the Chief of Police.

During this reporting period, MAP was conducted every other week; the first two hours dedicated to the reform efforts and the last hour dedicated to Crime Stop. In June 2006, the Chief of Police mandated that MAP be conducted every week in order to re-focus the Department's efforts in reaching full compliance with the Agreement.

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 include: 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 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 Crime Reduction Team's, 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.

Accomplished Actual Practice Compliance

In March 2006, the IMT deemed the Department in actual practice compliance with Task 38, *Citizens Signing Statements*. The IMT reviewed a total of 313 citizen statements and found 303 (97%) were in compliance with the requirements of the Agreement. In April 2006, the IMT conducted an actual practice audit on Task 13, *Documentation of Pitchess Responses* and found OPD in actual practice compliance with this task. The Department has implemented additional checks to facilitate complete and accurate responses to Pitchess discovery motions. The IMT is currently auditing Tasks 34 (Vehicle Stops, Field Investigation and Detentions) and 44 (Personnel Practices). Results of these audits are expected in the next reporting period.

Accomplished and Exceeded Substantial Training Compliance

As of June 2006, substantial training compliance had been achieved on thirty-eight tasks and their related policies. As part of the thirty-eight tasks, five significant tasks have reached substantial training compliance, resulting from the intensive training efforts on DGO K-3, *Use of Force*; K-4, *Reporting and Investigating the Use of Force*; and K-4.1, *Force Review Boards*.

Accomplished Restructuring of the Internal Affairs Division (IAD)

Led by a diligent command staff, IAD continues to make vast improvements in the way it is structured and organized. IAD staff has received significant training during this reporting period that will help improve the quality of their investigations and administrative functions. The Division has established and staffed a sworn position to work and ensure compliance with the Agreement requirements for the Internal Affairs Division. The assigned officer has developed new policies, procedures and documents to ensure IAD complies with the Agreement and other related policies. All bureau commanders continue to receive weekly reports regarding the status of IAD cases assigned to them.

A centralized system has been developed to process all incoming document requests and is managed by one person to facilitate a more streamlined process of receiving and processing the requests in a timely manner.

Intake Officers now complete a thorough preliminary investigation and in some cases complete the entire investigation. This is a substantial change from past practices in the Internal Affairs

Intake process and significantly improves the quality of the investigation because witnesses are identified quicker and statements are taken much sooner.

Task 13, *Documentation of Pitchess Responses* was audited by the IMT and found to be in compliance.

Accomplished Training Efforts for Personnel throughout the Department

Personnel, including many commanders, throughout the Department attended training and conferences all over the country during this reporting period. Over the past several months the Department has taken advantage of professional resources, networking, and training opportunities available to law enforcement officials. During this period, the OIG staff received training on *Lethal and Less Lethal Use of Force* and *Non-Disciplinary Employment Law*, which was conducted by the Americans for Effective Law Enforcement (AELE). In February 2006, the members of the Internal Affairs Division attended a three-day seminar on *Officer Involved Shootings*, and received eight hours of training on *Administrative Investigations*, which was conducted by an outside consultant. Additionally, IAD investigators attended a three-day seminar on *Conducting Proper Internal Affairs Investigations*. In March 2006, Homicide and Internal Affairs investigators attended a three-day training seminar on *Officer Involved Shootings* from the Police Training Services Company (PTSC), and ten sergeants attended a Peace Officer Standards and Training (POST) certification class on management.

In April 2006, the OIG coordinated training on supervisory liability for retaliation, harassment, and a hostile work environment. The training was presented by Judge Emery Plitt of Maryland. In addition, OPD Departmental Counsel presented training on supervisory liability under Section 1983 for the acts of subordinates.

Weekly Command Reviews Conducted

Select commanders conduct weekly command reviews to audit their units for compliance with Agreement requirements. Some of the areas they are required to audit include arrest approvals, stop data collection, and bi-weekly performance review meetings.

Accomplishments Recognized at the Joint Status Hearing

On April 20, 2006, the Department, IMT, and Plaintiffs' Attorneys (P.A.s) appeared before Judge Thelton Henderson and provided an update of the progress made over the past five months. Judge Henderson was delighted to see the progress the Department has made and believes it has turned an important corner; "I hope that these positive changes facilitate full compliance." While he recognized Oakland's increased pressure to reduce crime and make the streets safer, he made it clear the Agreement shouldn't be neglected in the meantime. The Judge was especially pleased with the progress Internal Affairs has made and that officers are stepping up and accepting accountability. He thanked Chief Wayne Tucker and City Administrator Deborah Edgerly for their ever present leadership and renewed effort brought forth to the Department. However, Judge Henderson wanted to reiterate that the NSA is a collection of good practices and is obtainable.

The Plaintiffs' Attorneys have also seen the change in the Department's position towards the Agreement and efforts to reach full compliance. They are particularly impressed by the commitment and dedication of the new command staff, because there had been too much

uncertainty in the past. During the hearing, one of the P.A.s acknowledged seeing a noticeable change in the culture at the Oakland Police Department and "feels this is the beginning of the end." The next six to eight months will be the most critical in changing the culture of OPD and maintaining that change.

Chief Tucker addressed the court and noted that progress is being made on a daily basis. Most importantly, he remains optimistic. He thanked the IMT for their steadfast turn around of audits, policy review and recommendations for improvement. Chief Tucker also thanked the Plaintiffs' Attorneys for their help and patience.

City Administrator Deborah Edgerly noted OPD is making good strides and remains fully engaged and dedicated to the Agreement. She stated the Department is not only self-policing now, but making the necessary changes in areas where they were lacking.

Accomplishments Noted in the Eighth Status Report of the Independent Monitor

The IMT released their eighth status report to the court on May 30, 2006, which covered the reporting period from December 2, 2005, to May 12, 2006. They continue to be encouraged by the positive shift in the Department's approach to reaching compliance with the Agreement and the momentum that has been made since their last report. The IMT complimented the Department on providing a number of valuable training sessions in areas that, while not required by the Agreement, are still of value and will prove to be beneficial in a broader spectrum. Such training included recognizing retaliation; supervisors' responsibility to ensure that officers under their command act lawfully; and most recently training was provided to investigators and commanders regarding officer involved shootings and conducting internal affairs investigations. The Department's ability to self-identify problems and immediately move to correct them has also become quite evident during the reported period. Many of OPD's recent internal audit recommendations have been implemented, which puts the Department in a much better position to be audited by the IMT.

The IMT commended the Department on not only publishing the use of force policies during this period, but meeting the deadline for training required by the Court. The IMT indicated the new use of force policies mark significant progress in how OPD directs its personnel to use, report, and review force. The IMT was impressed by the commanders' willingness to challenge IMT suggestions they disagreed with and their readiness to back their positions with reasoned arguments based upon experience and research (Eighth Status Report of the Independent Monitor, p. 4). The commanders have demonstrated a deep commitment to creating a system that will not only protect OPD officers from unnecessary injury or accusations, but also restore the confidence of Oakland residents in their police department.

The IMT was equally impressed by the commanders' dedication to deliver lengthy and thorough training to OPD personnel on the new use of force policies. Although the IMT observed a fairly high level of apprehension during these training sessions, they recognized that this type of reaction is common to such significant change. Both the IMT and the Department understand that continuous reinforcement is necessary in order for the policies to be successful.

"OPD's recognition that the Settlement Agreement can be used as an opportunity rather than viewed simply as a burden is an encouraging sign that OPD will be able to achieve Settlement

Agreement Compliance and, more importantly, sustain many positive changes long after compliance is attained” (Eighth Status Report of the Independent Monitor, p. 3).

CHALLENGES

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 has put an extra load on IAD personnel. The significant increase in cases, coupled with the multiple demands from multiple sources has challenged IAD to use time and resources more efficiently. In addition, with the publication of the use of force policies in May 2006, the requirements outlined for IAD when reviewing the reports and collecting data will be more time consuming for the investigators. 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

Now that the Department has fully implemented DGO M-3 and the Internal Affairs Manual, IAD personnel are faced with the challenge of creating new systems and repairing their database while managing an increasing caseload. The new timeline requirements outlined in DGO M-3 continue to present a challenge to staff. 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

The Department continues to face challenges in maintaining and locating documentation to prove compliance. Although the Department may be in compliance with some tasks, inconsistent or non-existent documentation makes it impossible to verify compliance. As each task is audited, deficiencies in tracking and documentation arise that must be corrected before actual practice compliance can be achieved. As of the end of May, the OIG has purchased a software system that will help with the tracking of all NSA related documents and serve as the central storage unit for such documents.

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 Assessment System (formerly PIMS). While more comprehensive technology is currently being upgraded and implemented, temporary, and often less efficient, means are being used to document compliance.

Implementing an Effective Review and Intervention Process for the Personnel Assessment System

The Department is creating a policy to clearly state the expectations for the behavior of members and employees, the goal of which is to ensure productive and honorable careers. The policy will also lay out the process by which members’ and employees’ 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 is one of only a few law enforcement agencies implementing such an elaborate system. To date, there are no proven policies or thresholds that guarantee successful performance. The Department is also experiencing problems with Motorola, the contracted supplier of the technology for this system.

Prior to the publication of this report, it became evident that Motorola will not be able to deliver a basic relational database system (either the Cincinnati or Washington, DC, EVALIS (software used to develop the PAS) system with required Oakland modifications) by the September 18, 2006, date as specified in the court order. Motorola repeatedly stated the September 18, 2006, delivery date of NSA mandated components of the system was not a contractual obligation on their part, despite the fact that five project plans submitted by Motorola specified this date.

Motorola's failure to deliver an EVALIS system with Oakland required modifications as promised will seriously jeopardize timelines for other actions specified in the court order. These other actions are dependent upon the Department's ability to record and manipulate data; generate statistical and threshold reports; provide audit trails; and maintain supervisory and managerial accountability. Specifically, the PAS policy (early identification and intervention) cannot be implemented without the ability to perform these functions.

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 fifty-two separate Tasks. In order to achieve full compliance, three stages of compliance must be satisfied: policy, training, and actual practice (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 3.

Table 3

Task Status	Tasks In Compliance 2005	Tasks in Compliance 2006 (6/30)
Tasks Due as of June 30, 2006	51 of 51	51 of 51
Tasks in Policy Compliance	43 of 51	48 of 51
Tasks in Training Compliance	17 of 36	38 of 41

There are a total of fifty-two tasks outlined in the Agreement; however the Department is only required to track fifty-one. 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 fifty tasks that are tracked for actual compliance.

Based on the numbers reported as of June 30, 2006, the Department has achieved policy compliance with forty-nine tasks. The two remaining tasks are associated with the Personnel Assessment System (PAS). On June 13, 2006, a draft of the policy was sent to the IMT for review. The Department is making significant progress towards policy completion for the outstanding policies.

As of June 30, 2006, the Department had achieved training compliance on thirty-eight tasks. During this reporting period the Department achieved policy and training compliance on two key policies. Training compliance has been achieved on an additional ten tasks due to the training efforts related to DGO M-3, *Complaints Against Departmental Personnel or Procedures*, and an additional five tasks achieved policy and training compliance with DGO K-3, *Use of Force*; K-4, *Reporting and Investigating the Use of Force*; and K-4.1, *Force Review Boards*. The IMT has deemed OPD in actual practice with eight of fifty 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 June 30, 2006. A number of tasks are still not in compliance. A total of fifty-one Agreement tasks have become due this period, and are listed in Table 4.

Table 2

STATUS OF TASKS CURRENTLY DUE (AS OF JUNE 30, 2006)			
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	February 17, 2006
Use of Force Reporting & Report Responsibilities	Task 25	July 20, 2004	February 17, 2006
Use of Force Review Board	Task 26	July 20, 2004	February 17, 2006
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	April 21, 2006
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	February 17, 2006
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 Assessment System (PAS)	Task 40	June 28, 2005	Not Published
Use of Personnel Assessment System (PAS)	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
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 4

STATUS OF TASKS CURRENTLY DUE (AS OF JUNE 30, 2006)			
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
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Officer-Involved Shooting	Task 31	July 20, 2004	Not Published
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Departmental Management & Annual Management Report	Task 48	July 2, 2003	November 14, 2003
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 5 -

* 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.

Monthly updates are maintained by the Compliance Unit. The Unit monitors progress toward compliance based on information received from the compliance assessor for each task. The information provided by compliance assessors is used to identify deficiencies, 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 identifies members and employees who have not been trained and follow up regularly to ensure that supervisors provide training to those individuals. The Training Division continues to provide accurate, real-time reports, with supporting rosters, to show training compliance. Training is on-going as policies are published and lesson plans are developed.

Table 5 depicts the Department's overall training status.

TABLE 5: STATUS OF TRAINING COMPLIANCE (AS OF JUNE 30, 2006)

Publication Type/ Number	Task	Publication Title	# Not Trained	# Requiring Training	% Trained
BFO 03-02	20	19APR04-Supervisory Span of Control	1	711	99.86%
BFO 03-03*	47	30DEC05-Community Meetings	61	728	91.62%
DGO A-18	22	16DEC03-Management Level Liaison	4	713	99.44%
DGO A-3	19	12APR04-Department Organization	10	1071	99.07%
DGO A-7	48	14NOV03-Annual Report	2	45	95.56%
DGO B-6	21/44	27APR04-Perform Reviews and Appraisals	382	1071	64.33%
DGO B-7*	47	30DEC05-Public Appearance	51	1071	95.24%
DGO B-8	42	27MAY05-Field Training Program	4	711	99.44%
DGO B-20	43	06APR05-Department Training Program	14	1071	98.69%
DGO D-16	33	Check-In and Orientation Procedures	2	45	95.56%
DGO K-3/4/4.1	24, 25,	17FEB06- Use of Force	18	781	97.70%
DGO M-3	2, 4, 5, 6, 7, 8, 12, 14, 15, 16, 45	08DEC05-Complaint Manual	15	1071	98.60%
DGO M-4.1	28, 29	Criminal Investigations as Member of Dept	196	1071	81.70%
DGO M-18	18	13MAY04-Arrest Approval	5	711	99.30%
DGO M-19	34	15NOV04-Racial Profiling	5	711	99.30%
IB	38	Citizens Signing Police Report	7	785	99.11%
NSA	18, 33, 34, 37	NSA Compliance Training #1	46	1071	95.70%
RWM A-4		16SEP05-Common to Most Report	10	783	98.72%
SO8061	27	01OCT03-Control O.C. Spray	4	785	99.49%
SO8064	39	13APR04-Civil Action Procedures	3	762	99.61%
SO8092	37	23NOV03-Retaliation Against Witnesses	9	1071	99.16%
SO8136	33	13APR04-MOR370.18	9	1071	99.16%
SO8257	18	20MAY05-Supervisor Approval of Arrest	8	783	99.98%
SO8262	36	12SEP05-Transport of Person	8	783	99.98%
SO8287	18	12AUG05-Disposition Code SDA	45	783	94.25%
TB III-A.5*	47	TB III-A.5-30DEC05-COMMUNITY ORIENTED POLICING	27	783	96.55%
TB III-G		28OCT05-Crowd Control	4	711	99.44%
			874	19476	95.51%

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

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 this reporting period, the Audit and Inspections Unit (Audit Unit) completed four audits, none of which were Agreement mandated audits. The four audits were Oleoresin Capsicum Log and Checkout Procedures (Task 27); Transporting Detainees and Citizens (Task 36); Personnel Arrested, Sued or Served (Task 39); and Promotional Consideration (Task 46). The purpose of conducting these audits was to identify deficiencies that could impact compliance with the Agreement and Departmental policy, as well as inefficiencies in practice.

Oleoresin Capsicum (OC) Log and Checkout Procedures

The Oakland Police Department (OPD) has made significant improvements in tracking and accurately assessing the use of Oleoresin Capsicum (OC) spray since the IMT audit in November 2005. During this audit period, October 1, 2005, to January 31, 2006, the Department maintained compliance in the areas of policy and training, and made significant improvements in its practices.

The IMT's primary issue of concern, accurately assessing OC use, has been addressed through the development of new replacement codes for the OC log. The improved accuracy with which OC use is assessed will enable the Department to create and distribute *accurate* reports, which will bring the Department into compliance with this area of the Agreement.

The Property and Evidence Unit (PEU) currently prepares and distributes a monthly *Non-Compliance Report* to commanders. The report lists the names of individuals who did not submit a letter from their supervisor when being issued a new OC canister without returning an old one. The report also indicates which letters are received each month. The OC log is distributed along with the *Non-Compliance Report*. While the report does not provide an assessment of OC use, the OC log does identify OC canisters that were returned and for what

reason. However, the log is detailed and burdensome to review and should be redesigned to meet compliance criteria.

Other issues were identified during this audit that does not directly impact compliance with the Agreement. Some of the issues that should be addressed to increase efficiency include:

- Assigning the responsibilities of purchasing, distributing and tracking OC spray to the same unit and ensure that the unit has authority over the budget for OC spray;
- Simplifying the reporting process and ensuring that commanders review and follow-up on *Non-Compliance Reports* to lighten the burden placed on the PEU; and
- Refining current OPD policy to streamline the procedures for tracking OC and eliminate potential problems.

With their efforts in tracking and reporting OC use, the PEU staff and management has demonstrated a willingness to accept responsibility for assisting the Department in reaching full compliance with the Agreement. The Department would benefit greatly by providing the PEU staff with additional guidance and technical assistance to ensure that the process for tracking and reporting OC use is simplified and any potential for error is greatly reduced.

Transporting Detainees and Citizens

The Department has achieved a vast improvement in overall compliance with Task 36, since the IMT's audit in April 2005. Task 36 requires that members and employees log in and out of the radio (also referred to as "Dispatch") during transports, and report six required elements (time, mileage, location, purpose, gender, and member identification). The Audit Unit reviewed 159 transports during the period of January 1, 2006 through January 7, 2006 and found that the Department is 91.19% in compliance with personnel logging in and out of the radio and 89.94% with reporting the required elements.

The Computer Aided Dispatch (CAD) system employed by the Department maintains a time stamp recording of all communications and incidents, which has substantially increased compliance with the reporting of time. There is also an increase in the reporting of gender. Gender reporting during the IMT audit was 31.2% as compared to the 93.71% reporting during this audit period.

The IMT reported in its audit that compliance was not met in the areas of logging in and out and reporting of key elements during transports. While there have been improvements and some non-compliance matters have been addressed, there are still areas that must be improved upon in order to bring the Department into full compliance with this Task. In particular, the purpose for transports, at a reporting rate of 67.92%, is well below the 95% mandated compliance. Specific locations are often provided by transporting officers, but the actual purpose of the transport is missing (ex: courtesy ride, interview, etc.).

There is still room for improvement, but the Department has shown significant strides towards full compliance with this Task. Implementation of recommendations to improve communications protocol and increase supervisor monitoring of transports and reporting will make full compliance attainable.

Personnel Arrested, Sued or Served

The Department is not in compliance with Task 39, Personnel Arrested, Sued or Served. There were only five notification-related cases identified during 2005. In four cases (80%), notification was made within the required 72-hour timeframe. In the one case where notification was not made within the proper timeframe, the employee was held accountable through the formal discipline process.

The Department has made some progress in developing systems to proactively identify non-reporting personnel. However, at the time of this audit, research on the legality and feasibility of collecting criminal and credit data on Department personnel was incomplete.

The Department does conduct a driver's license and warrant check on each member/employee once a year. The report identifies members/employees with suspended or expired licenses and the associated reason, as well as warrants that were entered into the Department of Motor Vehicles (DMV) database. In addition, members/employees in specialized units, specified by the NSA, are required to complete a Statement of Compliance Form regarding financial claims. These are helpful steps towards identifying non-reporting personnel. However, during 2005, the results of driver's license and warrant checks were not handled consistently and the Statement of Compliance Forms was not always completed in a timely manner.

While conducting this audit, the Deputy Chief of the Internal Affairs Division (IAD) stated that he would be developing an Integrity Unit and a policy incorporating Task 39 requirements and more aggressively identify non-reporting personnel.

Promotional Consideration

This audit included a review of all promotions occurring between February 1, 2005 and January 30, 2006. There were three promotional processes that took place during the audit period, involving two deputy chiefs, six captains, eight lieutenants and 19 sergeants. The Audit Unit reviewed each promoted candidate's complaint history and all other promotional documentation to assess compliance with the NSA requirements for Task 46, Promotional Consideration.

The Department is in compliance with the requirements of Task 46. However, the Department has not yet completed a policy on the promotional process, which was a task deliverable upon completion of M-3, *Complaints Against Departmental Personnel or Procedures*. M-3 defines Class I offenses, which are referred to in Task 46.

None of the promoted candidates had a sustained finding of a Class I offense during the three years prior to promotion. There were four promoted candidates that had sustained findings for Class II offenses in the three years prior to promotion. In addition, only three promoted candidates had a sustained finding for unnecessary use of force, the most recent of which was in 1998.

The Department has implemented new procedures in an effort to gain more insight into each promotional candidate's commitment to community policing, quality of citizen contacts and support for Departmental integrity measures. The Chief and/or designated commanders now interview each candidate, focusing on community policing and interactions with the community. Also, historical summary matrices are now being used to summarize important career data for each candidate, including sick leave usage, letters of appreciation and performance appraisals.

While significant improvements have been made to the promotional consideration process, the Department continues to be challenged by tracking and retrieving data, and maintaining documentation in an efficient manner. These weaknesses increase the risk of error in promotional documentation and make it difficult for the Department to conduct audits efficiently.

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	X
Actual Practice Compliance	

Deliverables:

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

Implementation Activities²

The Manual was published on December 6, 2005. As of the publication date of this report, all IAD personnel have been trained on the Manual. The Manual is also being evaluated against current practices and IAD commanders expect some modifications once the review is complete. An additional two hour training has been conducted for all IAD personnel on the IAD P&P 05-01, 05-02, and 05-03.

² 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 Activities³

The Department published Departmental General Order M-3, *Complaints Against Department Personnel or Procedures* on December 6, 2005. Rigorous training on the Manual began on December 10, 2005, when the Department held a training session for all supervisory and management personnel. To ensure quality of instruction, this training session was conducted by commanders of the IAD and members from the City Attorney’s Office. In addition, a series of two-hour sessions for non-supervisory staff began on December 12, 2005 and was completed February 9, 2006, with a 97.98% compliance rate.

³Implementation 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.

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	X
Actual Practice Compliance	

Deliverables:

- Internal Affairs Division Policy and Procedures Manual

Implementation Activities⁴

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. The Department has trained 95% of personnel on this task and is currently considering adding an Integrity Testing Unit.

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

⁴ 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 Activities⁵

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.

⁵ 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	X
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 Activities⁶

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.

⁶ 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 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 97.98% 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	X
Actual Practice Compliance	

Deliverables:

- Internal Affairs Division Policy and Procedures Manual

Implementation Activities

The IAD Manual was published on December 8, 2005 and all 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	X
Actual Practice Compliance	

Deliverables:

- Internal Affairs Division Policy and Procedures Manual

Implementation Activities

The IAD Manual was published on December 8, 2005 and all 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	X
Actual Practice Compliance	

Deliverables:

- Internal Affairs Division Policy and Procedures Manual

Implementation Activities

The IAD Manual was published on December 6, 2005 and all 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 97.98% 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	X
Actual Practice Compliance	X

Deliverables:

- Internal Affairs Division Policy and Procedures Manual

Implementation Activities

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

Actual Practice Compliance

During this reporting period the IMT deemed the Department in Actual Practice Compliance with this task. The IMT found that the Department has implemented additional checks to facilitate complete and accurate responses to Pitchess discovery motions.

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.

Actual Practice Compliance

The IMT found the Department in compliance with actual practice in November 2005.

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.

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 97.98% 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 for Special Order 8257, has a compliance rate of 98%.

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 has 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%. The Department has not yet attained training compliance with BOI Policy 04-02.

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 policy 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.

Area of Concern

In the IMT’s most recent quarterly report (8th *Status Report of the Independent Monitor*) they expressed great concern over the close supervision of officers by well-trained and active sergeants and the Department’s definition of a “primary sergeant.” After being found out of compliance the Department stated that its definition of “primary sergeant” was an error and that it should not be held to that definition for compliance purposes. The IMT invited the Department to offer proposed modifications on the previously approved policy and to its

definition of "primary sergeant", as well as detailed guidance related to the proper supervision and the assignment of acting sergeants. Their goal was for the Department to produce a policy that represents not only a professional police practice but one that is highly effective for the agency.

OPD's Response

The Department is in the final stages of completing two new policies regarding span of control. Department General Order A-19 consolidates the previous Bureau policies on span of control (Bureau of Field Operations 03-02 and Bureau of Investigations 04-02) and defines more clearly the role of a primary sergeant. Special Order 8435 outlines specific criteria for acting sergeants (officers acting in the capacity of a sergeant). These new policies offer more flexibility for the Department without sacrificing the quality of supervision. The Department has met with the OPOA and the IMT regarding the new span of control policies and is in the process of making more revisions before resubmitting the policy for a second review by both parties.

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 subordinates; maintain documentation of their reviews; and 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. On May 26, 2006 the Department published a revised version of DGO B-6, which provides additional guidance to supervisors and managers.

Training Update

As of the publication date of this report, training on the DGO B-6, *Performance Appraisal*, dated May 26, 2006, has exceeded substantial training compliance, which is currently reported at 98%.

IMT Audit Summary

During this reporting period, the IMT audited OPD's actual practice compliance with this task. The IMT selected a random sample of 128 members/employees (70 civilian and 81 sworn members) to determine whether the Department is complying with duties outlined in this task. They requested documentation from a three month period following the implementation of the new reporting forms. Based on the information produced, the Department was only able to document that 58% to 65% of the meetings occurred. However, the OIG continued to receive bi-weekly reports from a number a supervisors and managers after the IMT had started their review of the task, indicating that the meetings are occurring but the lack of a central storage unit is making it very difficult to properly track the documents.

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	Taken out of compliance (05/06)

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.

IMT Audit Summary

During this reporting period, the IMT conducted an audit of the Department’s actual practice compliance with this task. The IMT found the Department has not adequately tracked all of its MLL cases and was taken out of actual practice compliance. During the period reviewed (March 2004 through December 2005), the Department was not separately tracking all MLL cases and was unable to accurately report on the status of many of the referred cases. Also a number of cases were completed after the one-year deadline established by the Government Code 3304. Of the seventeen investigated cases reviewed, five (29%) of them were completed after the one-year deadline. Three of the five cases exceeding the statutory deadline included sustained findings of misconduct.

During the course of the IMT’s audit, they discussed with the MLL the necessity of tracking MLL cases. As a result of these discussions the MLL recently began including summary

information regarding the status of MLL cases, including the case number, subject officers, and any disposition. The IMT noted the tracking information contained in the MLL's most recent monthly reports has improved significantly and if this continues the Department will be able to re-establish actual practice compliance with this task.

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

The Department is in policy compliance with Task 23. No training was required for this task.

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.

Actual Practice Compliance

The IMT found the Department in compliance with actual practice in November 2005. During this reporting period the following commanders have been rotated to new positions:

Name:	Assignment:	Date:
DC H. Jordan	BOI	1/28/2006
Capt. B. Fairow	BFO	3/18/2006
Capt. D. Kozicki	BFO/Admin	1/28/2006
Capt. D. Kozicki	OCOP/SAC/Admin	3/11/2006
Capt. A. Rachel	BFO/Patrol/3rd	5/27/2006
Capt. R. Yee	BOS/Admin/Acting DC	1/7/2006
Lt. D. Allison	OCOP/OIG	5/27/2006
Lt. A. Banks	SAC/Traffic	5/27/2006
Lt. P. Berlin	OCOP/SAC/PSA1	3/11/2006

Name:	Assignment:	Date:
Lt. R. Golphin	BOS/Communications	2/4/2006
Lt. F. Hamilton	OCOP/SAC/PSA6	3/11/2006
Lt. H. Hu	BFO/Patrol/3rd	1/28/2006
Lt. M. Johnson	BOI/Robbery & Assault	2/4/2206
Lt. E. Joyner III	BOI/Homicide	5/27/2006
Lt. J. Meeks	BFO/NSD/PSA2	1/14/2006
Lt. J. Meeks	OCOP/SAC/PSA2	3/11/2206
Lt. C. Muffarah	OCOP/IAD	1/14/2006
Lt. R. Orozco	OCOP/SAC/PSA4	3/11/2006
Lt. K. Parris	BOA/Personnel	2/4/2006
Lt. E. Tracey	BFO/NSD/PSA3	1/14/2006
Lt. E. Tracy	OCOP/SAC/PSA3	3/11/2006
Lt. C. Vierra	BFO/Admin	3/18/2006
Lt. K. Whitman	BFO/Patrol/3rd	2/4/2006
Lt. S. Williams	BFO/NSD/PSA5	1/28/2006
Lt. S. Williams	OCOP/SAC/PSA5	3/11/2006

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	X
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

The Use of Force policies were published on February 18, 2006 and as of the publication of this report, training of all relevant personnel has exceeded 97%. The Use of Force policies were launched on May 13, 2006 and the Department will continue to evaluate them in order to provide the most effective and efficient policies possible.

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	X
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

The Use of Force policies were published on February 18, 2006 and as of the publication of this report, training of all relevant personnel has exceeded 97%.

Ibid, page 55 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	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*
- Training Bulletin III-H, *Use of Less Lethal Force*
- New or revised Report Writing Manual insert

Implementation Activities

The Use of Force policies were published on February 18, 2006 and as of the publication of this report, training of all relevant personnel has exceeded 97%.

Ibid, pages 55 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%.

OIG Audit Summary

The Oakland Police Department (OPD) has made significant improvements in tracking and accurately assessing the use of Oleoresin Capsicum (OC) spray since the IMT audit in November 2005. During this audit period, October 1, 2005 to January 31, 2006, the Department maintained

compliance in the areas of policy and training, and made significant improvements in its practices.

The IMT's primary issue of concern, accurately assessing OC use, has been addressed through the development of new replacement codes for the OC log. The improved accuracy with which OC use is assessed will enable the Department to create and distribute *accurate* reports, which will bring the Department into compliance with this area of the Agreement.

The Property and Evidence Unit (PEU) currently prepares and distributes a monthly *Non-Compliance Report* to commanders. The report lists the names of individuals who did not submit a letter from their supervisor when being issued a new OC canister without returning an old one. The report also indicates which letters are received each month. The OC log is distributed along with the *Non-Compliance Report*. While the report does not provide an assessment of OC use, the OC log does identify OC canisters that were returned and for what reason. However, the log is detailed and burdensome to review and should be redesigned to meet compliance criteria.

With their efforts in tracking and reporting OC use, the PEU staff and management has demonstrated a willingness to accept responsibility for assisting the Department in reaching full compliance with the Agreement. The Department would benefit greatly by providing the PEU staff with additional guidance and technical assistance to ensure that the process for tracking and reporting OC use is simplified and any potential for error is greatly reduced.

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, which was published on April 21, 2006. Training has not yet been completed.

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	X
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, which was published on April, 21, 2006. Training has not yet been completed.

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	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*

Implementation Activities

Ibid, pages 55 to review associated Use of Force Implementation Activities.

Policy

The Department recently completed the revision of the remaining provisions in Internal Affairs Policy & Procedure 05-04, *Procedures for Force and Death Investigations*; Homicide Policy and Procedure 01, *Lethal Force/In-Custody Death Investigations*; and Training Bulletin V-O, *Officer Involved Shootings*; and *Lethal Force Investigations* training bulletin

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	
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*.

Implementation Activities

The Use of Force policies were published on February 18, 2006, and the Internal Affairs Policy & Procedure 05-04 was published on June 16, 2006. The Department is working on additional policies to bring us in compliance with this task.

The Department is also in the process of updating its policy for responding to calls involving individuals with mental illnesses. This policy is expected to be completed by the end of September.

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 \$521,000 on a COPS Federal Technology Grant and the City has earmarked approximately \$1,438,000 for the purchase of In Car Videos.

A Request for Proposals process concluded in February 2006 and the Department identified a vendor (Digital Patroller) to install approximately 80 cameras in police vehicles, including constructing a video network and install security equipment to support secure video transmissions for an amount exceeding \$1, 900,000. The Department is set to present a report to the Public Safety Committee seeking authorization to enter into contract negotiations and has completed an extensive RFP process. It is expected the In Car Video (ICV) will be installed in the Departments police vehicles early to mid 2007.

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.

IMT AUDIT SUMMARY

During this reporting period, the IMT audited the Department for actual practice compliance with this task. The IMT found the Department was not in actual practice compliance with the requirement that officers complete a stop data form for at least 95% of field stops, field investigations, and detentions. However, the IMT found that the Department has made tremendous progress in this area, especially with the completion of Stop Data Forms (SDF). For the month of November 2005, the IMT reviewed 1091 Field Contact Cards and 2253 citations, for a combined total of 3344, while there were 4134 stop data forms, a sharp contrast from their last audit on this task. During the IMT's last review, they found the Department wrote 3497 citations, but completed stop data forms for only approximately 1305 of these citations.

Again, the IMT noted the Department's lack technology may have held the Department out of actual compliance with this task. The Office of Inspector (OIG) discovered during the IMT's review, not all stop data forms completed during the November 2005 review period had been scanned into the database. Although the database contained approximately 3200 SDFs from November, OIG found 4134 hard copies of SDFs from the same time period. For every three Stop Data Forms entered into the database, approximately one was not. Aware of the problems with its SDF data entry and analysis, the Department, recently contracted with a third-party vendor to input the information into an appropriate database.

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 55 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%.

OIG Audit Summary

The Department has achieved a vast improvement in overall compliance with Task 36, since the IMT's audit in April 2005. Task 36 requires that members and employees log in and out of the radio (also referred to as "Dispatch") during transports, and report six required elements (time, mileage, location, purpose, gender, and member identification). The Audit Unit reviewed 159 transports during the period of January 1, 2006 through January 7, 2006 and found that the

Department is 91.19% in compliance with personnel logging in and out of the radio and 89.94% with reporting the required elements.

The Computer Aided Dispatch (CAD) system employed by the Department maintains a time stamp recording of all communications and incidents, which has substantially increased compliance with the reporting of time. There is also an increase in the reporting of gender. Gender reporting during the IMT audit was 31.2% as compared to the 93.71% reporting during this audit period.

The IMT reported in its audit that compliance was not met in the areas of logging in and out and reporting of key elements during transports. While there have been improvements and some non-compliance matters have been addressed, there are still areas that must be improved upon in order to bring the Department into full compliance with this Task. In particular, the purpose for transports, at a reporting rate of 67.92%, is well below the 95% mandated compliance. Specific locations are often provided by transporting officers, but the actual purpose of the transport is missing (ex: courtesy ride, interview, etc.).

There is still room for improvement, and the Department has shown significant strides towards full compliance with this Task.

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.

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	X

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

In March 2006, the IMT deemed the Department in Actual Practice Compliance with Task 38, Citizens Signing Statements. The IMT reviewed a total of 313 citizen statements and found 303 (97%) were in compliance with the requirements of the Agreement.

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%.

OIG Audit Summary

The Department is not in compliance with Task 39, Personnel Arrested, Sued or Served. There were only five notification-related cases identified during 2005. In four cases (80%), notification was made within the required 72-hour timeframe. In the one case where notification was not made within the proper timeframe, the employee was held accountable through the formal discipline process.

The Department has made some progress in developing systems to proactively identify non-reporting personnel. However, at the time of this audit, research on the legality and feasibility of collecting criminal and credit data on Department personnel was incomplete.

The Department does conduct a driver's license and warrant check on each member/employee once a year. The report identifies members/employees with suspended or expired licenses and the associated reason, as well as warrants that were entered into the Department of Motor Vehicles (DMV) database. In addition, members/employees in specialized units, specified by the NSA, are required to complete a Statement of Compliance Form regarding financial claims. These are helpful steps towards identifying non-reporting personnel. However, during 2005, the results of driver's license and warrant checks were not handled consistently and the Statement of Compliance Forms was not always completed in a timely manner.

While conducting this audit, the Deputy Chief of the Internal Affairs Division (IAD) stated that he would be developing an Integrity Unit and a policy incorporating Task 39 requirements and more aggressively identify non-reporting personnel.

Task 40: Personnel Assessment System (formally 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 Assessment System (PAS)
- New Departmental General Order
- Relational database and associated computer hardware and software

Implementation Activities

The momentum made during the later half of 2005 has definitely carried over into early 2006 and will continue to do so in the up-coming months. Although PAS (formerly PIMS) is not in full compliance, a draft policy was submitted to the IMT for review in January and most recently a revised version was sent to them in June for review.

To improve the PAS policy development, the Department sent staff members to Phoenix (AZ) and Cincinnati (OH) police departments earlier this year to review the implementation of their early identification and intervention programs. The Phoenix Police Department provided a clear understanding of the importance and usefulness of an early identification and intervention program. Cincinnati Police use the Motorola EVALIS® Personnel Information Management System (same system purchased by the Oakland Police Department) to manage its early identification and intervention program. For further policy development, staff attended the 2006 *Early Identification and Intervention Best Practices* Training Conference in Phoenix, March 27-30, 2006.

The most significant advancement in this project has been the acquisition of Motorola EVALIS® Personnel Information Management System. The hardware and software components of this system will provide the Department with a computerized relational database required by the NSA. It is anticipated that the first ten modules will be in place by September 18, 2006, with a full system delivery by December 25, 2006.

To assist in the administrative of the PAS process, the City hired a PAS Administrator (Civil Service job classification “Police Personnel Operations Specialist”) with 20 years experience at

the Los Angeles Police Department in personnel management and statistical analysis, who began working with the Department in April 2006.

During this reporting period and pursuant to the recommendations made by the IMT, two committees were formed to assist the Department in its development of PAS programs; the PAS Core Committee (which meets weekly) was created and the PAS Steering Committee (which meets monthly) was re-established. The committees are designed to provide guidance and direction to the Department and staff in the development of the PAS early identification and prevention programs.

Prior to the publication of this report it became evident Motorola will not be able to deliver a basic relational database system (either the Cincinnati or Washington, DC EVALIS system with required Oakland modifications) by the 18 Sep 06 date as specified in the court order.

Since the last court status hearing, the City has been working with, Motorola, to provide a relational data management system enabling the Department to implement an early identification and intervention. Originally, Motorola proposed the use of the Cincinnati EVALIS version, with some modifications, to meet Oakland's needs.

While working on the modifications required by Oakland, Motorola determined the Cincinnati version did not have the functionality required. Reviewing its other EVALIS systems currently fielded, Motorola recommended Oakland acquire the Washington, DC version with Oakland specific modifications. At an on-site meeting on May 25, 2006, between Motorola and the City, Motorola formally proposed the use of the Washington, DC EVALIS system in lieu of the Cincinnati system as a means to meet one of the project milestones, NSA Go-Live, of September 18, 2006. This would also provide an enhancement to the system's core functionality, bringing it more in line with what will meet Oakland's requirements. The City's Steering Committee met and approved the change in EVALIS versions specifically so the City would be able to meet the aforementioned milestone.

On June 26, 2006 Motorola's written proposal for change from the Cincinnati version to the Washington, DC version was provided to the City. This document outlined proposed change for deliverables but recognized the need for a system. Oakland was informed by Motorola the utilization of the Washington, DC version was necessary to enable the City and Motorola to meet the NSA Go-Live milestone of September 18, 2006.

During a regular weekly project progress conference call on July 5, 2006, Motorola informed the Oakland EVALIS Core Team that it would only be able to provide 70% requirements specified by Oakland by September 18, 2006. A more detailed analysis document of what Motorola proposed to provide on that date is still pending. No substantive system changes required by Oakland for implementation would be made to the system Motorola proposed to deliver.

Based upon this information, the PAS/EVALIS Core Team recommended returning to the PAS/EVALIS Steering Committee for guidance on how to proceed. Without the required system as promised by Motorola, or an appropriate substitute, the City will not be able to meet the NSA Go-Live milestone of September 18, 2006 or fulfill all its obligations as outlined in the NSA for Tasks 40 and 41.

Task 41: Use of Personnel Assessment System (formally 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 79 to review associated PAS 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). The IMT is currently conducting an audit on this task.

Training

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

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

The OIG will conduct asses actual practice compliance during the next reporting period.

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%. During this reporting period OPD re-drafted B-6, and after the IMT reviewed the draft and determined that it complies with the Settlement Agreement, the General Order was published on May 26, 2006. As of the publication of this report 51% of personnel staff has been trained on the revised policy.

IMT AUDIT SUMMARY

During this reporting period, the IMT conducted a second audit of the Department’s actual practice compliance with this task. They found, while the Department is not yet in actual practice compliance with this task, progress with the timeliness of appraisals has been made. In the last audit the IMT conducted, they found that 64% of the files reviewed contained current performance appraisals and during this audit the number rose to 73%. The IMT also found that

96% of the appraisals reviewed included required signatures from supervisors, managers, and commanders; signatures that were legible and/or simply absent from the previous appraisals.

They noted much of the Department's progress may be attributed to its attention to performance appraisals at MAP meetings and to its advisement to personnel that they will be held accountable for not completing the appraisals as required.

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

As of the publication of this report 97.01% of Department personnel have been trained on this task.

Ibid, page 84 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.

OIG Audit Summary

During this reporting period, OIG conducted a follow-up audit of this task. This audit included a review of all promotions occurring between February 1, 2005 and January 30, 2006. There were three promotional processes that took place during the audit period, involving two deputy chiefs, six captains, eight lieutenants and 19 sergeants. The Audit Unit reviewed each promoted candidate’s complaint history and all other promotional documentation to assess compliance with the NSA requirements for Task 46, Promotional Consideration.

The Department is in compliance with the requirements of Task 46. However, the Department has not yet completed a policy on the promotional process, which was a task deliverable upon completion of M-3, *Complaints Against Departmental Personnel or Procedures*. M-3 defines Class I offenses, which are referred to in Task 46.

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 has currently trained 93% of 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%.

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.

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

During this reporting period, the Audit and Inspections Unit (Audit Unit) completed four audits, none of which were Agreement mandated audits. The four audits included Oleoresin Capsicum Log and Checkout Procedures (Task 27); Transporting Detainees and Citizens (Task 36); Personnel Arrested, Sued or Served (Task 39); and Promotional Consideration (Task 46). The purpose of conducting these audits was to identify deficiencies that could impact compliance with the NSA and Departmental policy, as well as inefficiencies in practice.

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.