
Oakland Police Department



Negotiated Settlement Agreement

Combined Eighth & Ninth Semi-Annual Annual Report

July 2006 – July 2007



This Report was prepared by:

Oakland Police Department
Office of Inspector General

Principal Authors:

Captain Paul Figueroa
Ms. Andrea Van Peteghem

Contributors:

Ms. Kristin Burgess
Sergeant Paul Hara

Approved for Distribution:

Chief of Police

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Foreword

A MESSAGE FROM THE CHIEF OF POLICE

The Negotiated Settlement Agreement (Agreement) requires the Oakland Police Department to conduct an in-depth review of its entire operations with the aim of becoming a stronger and better Department grounded on service and respect for its community. Since I became the Chief of Police of the Department, improving the Department consistent with the provisions of the Agreement has remained one of my top priorities, along with reorganizing the Department to make its operations more efficient and responsive, protecting the safety of our members, and finding ways to alleviate the crime in the City. I believe that my goals are in part with those of our City leaders and with the expectations of the community in Oakland. We have and continue to encounter challenges along our way of becoming compliant with the Agreement, including the need for more officers and resources to respond to the many demands placed on us by our city leaders and the Oakland community. But we have faced these challenges with hard work and determination and, as a result, during this reporting period we have reached several reform milestones.

Notwithstanding the difficult challenges facing the Department, we experienced a number of successes in this reporting period. We continue to reach practice compliance with more and more provisions of the Agreement. Additionally, I am proud to report policy compliance has been achieved on 51 of the 51 Agreement tasks and training compliance has been achieved on 43 of the 44 tasks that require training. Some of the most notable achievements was the completion of the *Personnel Assessment System* (PAS) policy, the development of the *Internal Personnel Assessment System* (i-PAS) and the completion of the i-PAS Operations Manual and Users' Guide. The goal of i-PAS is to establish a program that not only meets the requirements of the Agreement, but also recognizes exceptional performance; monitors substandard performance; and identifies personnel engaged in at-risk behavior. With assistance from Oakland's Information Technology Department, we now have an i-PAS program that has received national recognition by the Public Technology Institute. We will continue working to meet all the requirements of the Agreement, as we work towards recognition as one of the premiere law enforcement agencies in the nation.

In conclusion, the Oakland Police Department remains focused on achieving the goals of the Agreement and becoming a more professional organization. I encourage community leaders and those who care about our members and the quality of our work to continue to give us feedback and to partner with us as we continue our efforts. In the next reporting period we intend to continue our improvements in the operations and investigations of the Internal Affairs Division, use of force investigations and i-PAS. We will also begin the process of becoming certified by the Commission for the Accreditation of Law Enforcement Agencies (CALEA), a long and arduous process which I believe will make us a better organization.

Wayne G. Tucker
Chief of Police

A MESSAGE FROM THE INSPECTOR GENERAL

Over the last two years, I have seen great positive change take place at the Oakland Police Department. We have attained compliance with many of the Agreement tasks and are working tirelessly to achieve compliance with the remaining items. The Agreement represents a series of changes needed to create and maintain an agency that champions the rights of the community we serve. When we conscientiously guard the constitutional rights of our customers, we build a trust with the community that will bear fruit in our efforts to fight crime

During this last reporting period, the IMT and the OIG have conducted audits that have shown significant progress. Areas where the Department has received failing grades in the past are now in compliance or on the cusp of compliance. Such compliance came as a direct result of the hard and tireless work of the staff at OPD and other stakeholders to the Agreement. Since the beginning of the Agreement, there has been criticism regarding the perceived rigidity of the document. During this reporting period and with the assistance of the court, the Agreement and compliance standards were re-worked by the stakeholders. The result has been standards that were adjusted based on our experience with the Agreement polices over the last few years. With this experience, we had a clear frame of reference as a backdrop for our discussions.

The Agreement has been extended for an additional two years. By most accounts, this is more likely a result of the lack of sustained compliance in the first two years of the Agreement. Those years are well behind us now, and there is an executive team of managers in place that remains committed to the full implementation of the NSA. In fact, the Honorable Judge Thelton Henderson, the Plaintiff's Attorneys, and the IMT have all made positive comments about this current team.

In order to ensure a thoughtful review of tasks on a regular basis, we continue to use Compliance Assessors throughout the Department, to conduct regular reviews and analysis of each of the NSA tasks. We have also begun the initial steps to seek accreditation with the Commission on the Accreditation for Law Enforcement Agencies (CALEA). This international accreditation will validate our policies and cause us to create new ones that reflect the best standards in our profession. At the end of the certification process will have implemented a proven management model.

The report will identify our efforts and explain our status with the Agreement. In addition, the extent of our accomplishments should indicate to all concerned that Chief Wayne Tucker continues to hold compliance with the Agreement as one of his highest goals. I look forward to the next reporting period, where I am confident that we will be able to report even greater compliance.

Paul Figueroa
Captain of Police
Office of Inspector General

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.

The work involved with meeting the expectations of the Agreement has required both the continual dedication and countless hours of hard work by the men and women of the Oakland Police Department. However, we remain committed to see the provisions of the Agreement through in a timely manner, allowing us to re-establish ourselves as a premier law enforcement agency while continuing to preserve the rights of the citizens of Oakland. It will require patience, perseverance, and optimism on the part of Departmental personnel, all of which are obtainable.

In accordance with the provisions of the Agreement, the Oakland Police Department’s OIG has prepared this Combined Eighth and Ninth Semi-Annual Report. This public report will be filed with the Court and will document compliance implementation activities undertaken by the Department during the eighth reporting period of the Agreement, July 2006 through June 2007.

EXECUTIVE SUMMARY

INTRODUCTION

This is the Department's Eighth Annual Report. 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 July 1, 2006, through June 30, 2007.

During this reporting period, Department General Order A-19, *Span of Control* was written to broaden the definition of a primary sergeant. Special Order 8435, *Acting Sergeant Selection Process*, was written detailing the requirements of an Acting Sergeant. Training on Span of Control was completed and exceeded training compliance. Additionally, DGO K-4, *Reporting and Investigating the Use of Force*, DGO M-3, *Complaints Against Departmental Personnel and Procedures*, and DGO M-18, *Arrest Approval and Report Review* was revised and the Department has achieved training compliance on these policies. Furthermore, the Department's *Disciplinary Policy* was revised to ensure fairness to complainants and all members/employees of the Department.

Since the last reporting period, seven additional tasks have exceeded training compliance on policy revisions made to: Arrest Approval (Task 18); Span of Control (Task 20); Criminal Investigations of Departmental Members (Tasks 28 & 29); Vehicle Stops, Field Investigations, and Detentions (Task 34); Procedures for Transporting Detainees and Citizens (Task 36); Performance Review Meetings and Performance Appraisals (Tasks 21 & 44); and Community Policing (Task 47).

The OIG is pleased with the tremendous progress the Department has made in policy development and training during this reporting period. While continued efforts by personnel at all levels are moving the Department towards actual practice compliance, a few remaining challenges remain with regard to full implementation of the Agreement. With regular feedback to the stakeholders and the Court, the Department will continue to identify areas where improvement is needed and develop strategies to achieve those improvements.

Under the direction of the Chief, the OIG created and finalized the Department's three year strategic plan. The strategic plan was created to focus our efforts in becoming a high-achieving organization. To achieve this goal, the Chief has ordered commanders and managers to meet in focus groups, conduct interviews, and work with staff to identify our common purpose. In this regard, the strategic plan amplifies the Department's mission and represents the Department's guiding document for achieving this work during the period of August 2007 through July 2010. Specifically, all personnel are required to refer to the Strategic Plan as appropriate when making decisions regarding staffing allocation, and resources. The plan focuses on four strategic directions that will serve as the pillars of the plan: (1) Reduce Crime and the Fear of Crime, (2) Improve Accountability and Achieve Organizational Excellence, (3) Develop and Implement a Master Plan for Technology, and (4) Achieve Fiscal Responsibility. We believe that, with the support of City leaders and the Oakland community, these strategic directions, and associated strategies are *achievable* and *sustainable*.

Since the publication of the last report, the Department has maintained an intense pace in its efforts to comply with the Agreement. Through the program of Compliance Assessors, commanders and managers throughout the Department continue to be directly involved in compliance efforts, resulting in more engagement and accountability from each individual employee.

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 Attorneys 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. Come July, the OIG will release a revised Compliance Plan and conduct a four hour training session on the new expectations of the Compliance Assessors, and an introduction to auditing. Through more strenuous reviews, the OIG will ensure that each compliance assessor conducts probative reviews to show compliance is being achieved and maintained.

The Department recognizes the bulk of its shortcomings are due to document control, and the Department continues to aggressively look for solutions. Increased use of new technologies would greatly enhance the management and storage of NSA related and police documents. The OIG has researched technological solutions to assist managers in effectively tracking documents that are required for compliance, for example twice monthly evaluations, community meetings, and performance appraisals. To achieve this, the Department continues to research on-line/computer based learning systems, that will allow members and employees of the Department to complete NSA and/or other related training independently, in a timely manner, without removing officers from the street to do so. This will also eliminate overtime expenditures.

Additionally, Personnel throughout the Department continue to support the Agreement by engaging in policy development, review and implementation, and conducting reviews of actual practice compliance. Also, the OIG facilitates monthly meetings where the Stakeholders and the IMT report on compliance efforts.

The Department and the City Attorney will partner to seek accreditation from the Commission on Accreditation of Law Enforcement Agencies (CALEA). CALEA is an organization that was created in a joint effort by the International Association of Chiefs of Police, the National Organization of Black Law Enforcement Executives, the National Sheriffs' Association, and the Police Executive Research Forum to advance the best practices in the law enforcement profession, and to develop and administer a process for recognizing such excellence. Accreditation is earned only after an independent, on-site assessment of an agency's compliance with the standards established by CALEA and subsequent appraisal by the Commission's Agency Review Committee. CALEA standards are consistent with those of the California Peace Officer Standards and Training. The benefits of becoming an accredited agency include: offering greater accountability within the agency; liability reduction and a stronger defense against civil lawsuits; support from government officials; and increased community advocacy. CALEA provides a proven and effective total management model for professional police agencies.

ACCOMPLISHMENTS AND CHALLENGES

The Department has achieved 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. Such efforts have included the continued success in the Internal Affairs Division; improvements in the Use of Force investigations; recognition of the Department's Field Training Program; creation and completion of the Internal Personnel Assessment System (iPAS); achievement of actual practice compliance with *Task 1* (Internal Affairs Staffing and Resources), *Task 15* (Reviewing Findings and Disciplinary Recommendations), and *Task 22* (Management Level Liaison) and conditional compliance with *Task 18* (Arrest Approval and Report Review). The Department also continues to increase staff engagement through the comprehensive bi-weekly Management Assessment Program (MAP).

Per a court order, the stakeholders spent many hours meeting to discuss compliance standards. The court offered the services of Judge Larsen to work out any standards for which the stakeholders were unable to reach mutual agreement. We are pleased to report that we were able to reach agreement on the standards and compliance percentages used to audit the majority of tasks. The remaining tasks are being discussed as the IMT releases the revised protocols for each task.

While the Department is making significant progress, challenges still remain. A personnel shortage, not only in patrol, but also with professional staff makes it difficult to prioritize and assign staff to the appropriate administrative positions. Despite the staffing challenges, the Department remains committed to meeting the personnel needs of the IAD. The Department will continue to move forward and work with the resources at hand.

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 2006	Tasks in Compliance 2007 (as of 06/30)
Tasks in Policy Compliance	50 of 51	51 of 51
Tasks in Training Compliance	17 of 36	43 of 44

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, 2007. The Department has achieved policy compliance for 51 of 51 tasks.

The IMT has found the Department in full actual practice compliance with 14 tasks and in partial actual practice compliance with 17 tasks. Additionally, the Department rewrote a number of policies associated with NSA tasks, which were approved by the IMT during this reporting period. The policies most recently adopted represent major policy and procedural changes which require a formal initial implementation and evaluation phase; Personnel Assessment System (PAS) and Use of Force. 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 full compliance or significant progress towards full compliance.

AUDITS AND REVIEWS

During this reporting period, the Audit and Inspections Unit (Audit Unit) completed three audits and two reviews: Management Level Liaison Audit; Mobile Data Terminal Traffic Audit; Community Policing Audit; Academy and In-Service Training Review; and Use of Force Review. The Audit Unit is currently in the process of auditing Performance Appraisals, Performance Reviews, Investigation of Allegations of Manual of Rules Violations Resulting from Lawsuits and Legal Claims, Internal Affairs Investigations, and Informal Complaint Resolutions. The details of the completed reviews and audit are summarized in the Audit and Reviews Section of this report.

CONCLUSION

The Department intends to continue the tremendous effort to fully comply with all aspects of the Agreement this coming year. The momentum gained by the Department with the arrival of Chief Tucker two and a half years ago to achieve compliance with the Agreement has been significant.

The Office of Inspector General, along with commanders and managers throughout the Department, will continue to monitor compliance through internal audits and reviews, and by working closely with the independent monitoring team. The City and Department remain committed to providing the citizens of Oakland our best services and we recognize that achieving compliance with the Agreement will bring us closer to this ultimate goal.

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.

Office of Inspector General

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. In July, the OIG released a revised Compliance Plan and conducted a four hour training session on the new expectations of the Compliance Assessors, and an introduction to auditing. Through more strenuous reviews, the OIG will ensure that each Compliance Assessor conducts probative reviews to show compliance is being achieved and maintained.

The OIG continues to facilitate the bi-monthly MAP meetings where the Department's compliance efforts are reported. This venue provides an opportunity to inform management on progress as well as issues that are identified by the Compliance Assessors. The second stage of achieving compliance is with training; 44 Tasks are required by the Agreement to be trained on. To spotlight this pivotal piece of the Department's compliance efforts, the Training Division reports on training required by the Agreement as well as state and federally mandated training. Managers are also advised of changes to the Agreement after stipulations are signed by parties and approved by the Court. Both by frequency and content, these meetings continue to reinforce the commitment of the Department to the Agreement.

Per a court order, the stakeholders spent many hours meeting to discuss compliance standards. The court offered the services of Judge Larsen to work out any standards that the stakeholders were unable to reach mutual agreement. We are pleased to report that we were able to reach agreement on the standards and compliance percentages used to audit the majority of tasks. The remaining tasks are being discussed as the IMT releases the revised protocols for each task.

Under the direction of the Chief, the OIG worked to create and finalize the Department's three year strategic plan. The strategic plan was created to focus our efforts in order to become a high performing organization. The Chief has ordered commanders and managers to meet in focus groups, conducted interviews, and work with staff to identify our common purpose. The strategic plan further amplifies the Department's mission and represents the department's guiding document for August 2007 through July 2010. It represents our collective goals and shall be referenced by all personnel when making decisions regarding staffing, allocation, and resources. The plan focuses on four strategic directions that will serve as the pillars of the plan: Reduce Crime and the Fear of Crime, Improve Accountability and Achieve Organizational Excellence, Develop and Implement a Master Plan for Technology, and Achieve Fiscal Responsibility. The strategic directions, and associated strategies to achieve them, are *achievable* and *sustainable*.

Internal Affairs Division

The Internal Affairs Division (IAD) has continued to make substantial improvements in the manner in which complaints are received, processed, and investigated. In addition, IAD has made significant progress in ensuring compliance with the NSA. These improvements include the development of an evolving IAD database; an increase in the standards of investigating complaints of misconduct and use of force; and a more timely and consistent discipline process. A significant accomplishment this reporting period was the completion and approval of the IAD Intake Manual (IAD P&P 07-03). The manual will provide an increased level of consistency and accountability to the intake process. On a larger scale, IAD has worked in collaboration with the OIG and IMT to review, revise, and develop numerous informational bulletins, special orders, and general orders to comply with the NSA.

Departmental General Order M-3 (Complaints against Departmental Personnel or Procedures), M-3.1 (Informal Compliant Resolution Process), and Training Bulletins, V-T (Discipline Policy) and V-T.1 (Internal Investigation Procedures) were also revised and several stipulations were written to reflect the actual practice of these policies. These revisions and stipulations are currently under review by the IMT. A new IAD Daily Incident Log was also developed to ensure compliance with Task 5, *Complaint Procedures for IAD*, including those requirements of this task that were not previously being tracked. The IAD compliant line was also redesigned to help ensure no calls go unanswered.

IAD investigators received valuable training this reporting period in the areas of Internal Affairs investigations, interview techniques, sexual harassment/discrimination investigations, and officer involved shootings. IAD was also deemed in conditional actual practice compliance for Task 1, *IAD Staffing and Resources*, and Task 15, *Reviewing Findings and Disciplinary Processes*.

Use of Force Policies

The new Use of Force policies were released in May 2006 and to date the Department has achieved over 99% training compliance for all these policies. Over seven hundred members have been trained and additional training is offered when deemed necessary. The Use of Force investigative packets contain detailed information that previously was not consistently available. This has resulted in better, more complete investigations, which provides reviewers with the necessary information to determine the appropriateness of uses of force.

The Department has had approximately one year to evaluate these new policies, specifically the decisions of when and how to use and report force and the investigation and review process. A joint OPD and IMT review in August 2007 showed a vast improvement in the reporting and investigation process with uses of force. The reports reviewed highlighted practices that will be continued as well as some areas of improvement needed, most notably the need for additional training for supervisors and line staff. Captain Breshears has already begun the process of providing such training. Additionally, strides are being made in the identification of, and training for, tactical considerations that are associated with uses of force.

Field Training Program (FTO)

The NSA has specific requirements regarding the Field Training Program, including the assignment of a Field Training Program Coordinator (FTPC). The FTPC is responsible for

developing policy and procedures, ensuring their implementation, and is the Compliance Assessor for Task 42. The purpose of the FTPC is to prepare new officers for their careers and to help them develop the essential skills for the job. Equally important is the work of the program to instill in these new officers a high level of professionalism and ethics, which will allow them to diffuse high-risk situations, avoid misunderstandings, and help them serve the public better. The assigned FTPC has contributed significantly to its success and is responsible for the meaningful results that achieve the intended goals of the NSA.

The FTPC is a well-respected officer, who is conscientious, organized, very approachable, and exhibits an open-door policy. Such a demeanor has helped foster an environment in which trainees and Field Training Officers (FTO) routinely provide the FTPC information, ask questions, and seek his advice and input. The following are examples of the accomplishments achieved by the Department in the Field Training Program and requirements of the task that have been found in actual practice compliance by the IMT; Trainee Rotation, Participation Incentives, Decertification, FTO Assignment and Evaluation, Consistency of Training, Focus Groups, and Compliance Reviews/Internal Controls.

The Department will continue to review and assess the Field Training Program to ensure the high standards are maintained or exceeded.

Internal Personnel Assessment System (iPAS)

Despite the initial challenges, the Department has been able to develop, test, and implement an early identification system and intervention policy that complies with the provisions of NSA Tasks 40 and 41. The Department is one of only a few law enforcement agencies that have implemented such an elaborate system, that will track and monitor the behavior and actions of its members and employees. To date, there are no proven policies or thresholds that guarantee successful performance.

Due to Motorola's failure to deliver an electronic tracking system (EVALIS) in a timely manner, the Department has taken the initiative to develop its' own system, known as *iPAS* (Internal Personnel Assessment System). The Department would not have been able to implement the PAS policy without the ability to access and organize data, which is the primary function of *iPAS*. Additionally, *iPAS* has brought the Department into compliance with Tasks 40 and 41 as required by the December 31, 2006 deadline. However, the Department will continue to keep its contract with Motorola because many of its features will serve as enhancements.

As of the release of this report, *iPAS* has been completed and is starting to capture information. Two quarterly threshold reports have already been conducted, in April and July 2007. Persons identified by the PAS Activity Review Panel as meeting a threshold required a comprehensive PAS Activity Review and Report conducted by their immediate supervisor and reviewed via the chain-of-command. From this review, supervisors may recommend one of four options: Intervention, Supervisory Monitoring, No Action or Recognition. The supervisors' recommendations must be reviewed and accepted via the chain-of-command and the PAS Activity Review Panel. Once accepted, recommended actions must be taken and follow-up must be provided for intervention and supervisory monitoring.

Conditional and Actual Practice Compliance

In November 2006, the IMT deemed the Department in actual practice compliance with Task 1, *IAD Staffing and Resources*. The IMT found that the training and qualifications of IAD staff is provided in accordance with the IAD Manual, as well as the maintaining of confidential information. The IMT also deemed the Department in actual practice compliance with Task 15, *Review Findings and Disciplinary Recommendations*. The review process by the chain of command and disciplinary recommendations made by the Disciplinary Officer, all required for this task was consistent with General Order M-3 and stipulated language approved this reporting period. The IMT also re-audited Task 51, *Compliance Audits and Integrity Tests*, which remained in actual practice compliance.

In June 2007, the IMT deemed the Department in conditional practice compliance with Task 18, *Arrest Approval and Report Review* (one requirement is yet to be assessed), and actual practice compliance with Task 22, *Management Level Liaison*.

To-date, the IMT has found the Department in partial compliance with the following tasks: Task 2, *Timeliness Standards and Compliance with IAD Investigations*; Task 3, *IAD Integrity Test*; Task 4, *Complaint Control System for IAD and Informal Complaint Resolution Process*; Task 7, *Methods for Receiving Complaints*; Task 8, *Classifications of Citizen Complaints*; Task 11, *Summary of Citizen Complaints Provided to OPD Personnel*; Task 21, *Members', Employees' and Supervisors' Performance Reviews*; Task 27, *Oleoresin Capsicum Log and Checkout Procedures*; Task 33, *Reporting Misconduct*; Task 34, *Vehicle Stops, Field Investigation and Detentions*; Task 36, *Transporting Detainees and Citizens*; Task 42, *Field Training Program*; Task 44, *Performance Appraisal Policy*; Task 45, *Consistency of Discipline*; Task 46, *Promotional Consideration*; Task 47, *Community Policing Plan* and; Task 48, *Departmental Management and Annual Management Report*.

It should be noted that ten of these tasks were found in partial compliance this reporting period alone; clearly showing the Department is not only making significant progress with fulfilling the requirements of the Agreement but focused on doing so.

The IMT is currently auditing Tasks 7.5, 16 (*Supporting IAD Process – Supervisor/Managerial Accountability*), 19 (*Unity of Command*), 28 and 29 36 (*Procedures for Transporting Detainees and Citizens*), and 43 (*Academy and In-Service Training*). Results of these audits are expected in the next reporting period.

Accomplished and Exceeded Substantial Training Compliance

As of June 30 2007, substantial training compliance had been achieved on 40 tasks and their related policies. Of the 40 tasks, seven have achieved a compliance rate of 100%.

Continuation of Management Assessment Program (MAP) and Crime Stop

By order of the Chief of Police, Special Order (SO) 8222, the *Weekly Management Assessment Program* has been in effect for almost two years now, mandating that bi-monthly Unit Commander and Crime Stop meetings be combined with a compliance review of the Agreement to form the bi-weekly MAP meetings. During this reporting period, MAP was conducted every other week and alternate weeks were dedicated to Crime Stop.

MAP continues to reinforce the importance of the Agreement to the organization and efforts to reach full compliance with the required reforms. In addition, the meeting is an opportunity to define and stress the goals of the Chief of Police. Crime Stop focuses on crime patterns and trends, violence reduction plans, targeted enforcement, and other managerial accountability information.

Shift in Culture at the Department

During the past year, the Department has made many positive changes, which have been noted by Judge Henderson, the Plaintiff's Attorneys and the IMT. The Plaintiff's Attorneys have acknowledged seeing a noticeable change in the culture at the Oakland Police Department. A higher level of accountability and renewed commitment on the part of the command staff and City Administrator has been noted by the Judge and Plaintiff's Attorneys.

CHALLENGES

Quantity of Use of Force Investigations

Since the launch of the new Use of Force policies, there has been a significant increase in the number of Use of Force reports completed by staff. In an average month, one watch will report close to one hundred Level Four (lowest level) uses of force. There has also been some uncertainty and hesitation among officers about the force options that can be used and how to report each level of force. The reporting, investigating, and review process has also proven to be very time consuming. Currently, officers are required to fill out both an offense report and a brief report for Level Four and some Level 3 uses of force investigations. For higher levels of investigation, the supervisor must conduct the investigation often with the assistance of uninvolved officers. Additionally, the new Use of Force report is more comprehensive than the reports of the past. For many use of force incidents, supervisors have spent multiple hours over several days completing the required work, which has affected the amount of time the supervisors can spend in the field providing front line supervision.

Recommended adjustments to the Use of Force policies and NSA language have been identified and discussed with both the IMT and the Plaintiff's Attorneys in an effort to find the most effective and reasonable way to use, report, and review uses of force. Changes to the NSA language have been agreed upon and revised policies have been written that incorporate the identified issues and represent a more reasonable standard by which compliance can be achieved. Additionally, the revised policies will give supervisory staff more discretion in the level of investigation to conduct; clarify responsibilities for both supervisory and line staff; and streamline the review process to reduce redundancies.

IAD Workload

With the implementation of new policies, the Internal Affairs Division has taken on new responsibilities, including conducting integrity tests and tracking use of force reports. In addition, IAD has experienced an increase in the number of complaints as a result of the expansion in requirements for receiving citizen complaints outlined in DGO M-3, *Complaints Against Departmental Personnel and Procedures*. This increased workload, coupled with a need for additional resources and staffing, continues to challenge IAD.

Additional Staff Needed

Staffing shortages continue to be problematic for the Department. The shortage in staff and significant increase in workload, along with the multiple demands from multiple sources has challenged the members and employees of the Department. They have to use their time and resources more efficiently and are often required to work overtime.

COMPLIANCE UNIT OVERVIEW

The Compliance Unit continues to provide compliance oversight and review policies related to the Agreement. The Compliance Unit is responsible for overseeing the Department's internal Compliance Assessors and providing direction to the assigned personnel to further the Department's efforts toward compliance with the Agreement. In the revised compliance assessment plan, the Department will conduct monthly assessments for 45 of the 51 Tasks required by the Agreement. The assessments are an ongoing process to refine the report criteria and ensure follow-up when necessary. 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.

In conjunction with serving as the liaison between the OPD, the IMT, and Plaintiffs' Attorneys, the Compliance Unit continues to conduct Monthly Meetings, on behalf of the "Monitor," which focus on everything from policy, training, and implementation progress to agreement language changes and clarifications. In the first part of 2007, OPD and the IMT engaged in a series of meetings to revise the compliance standards for the tasks outlined in the Agreement. Due to the number of meetings and lengthy discussions, the Compliance Unit began a process of memorializing discussions in confirming letters. The Compliance Unit is now the custodian of the confirming letters created by the Department. The Compliance Unit also puts together 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.

COMPLIANCE PROGRESS SUMMARY

For implementation, delegation and tracking purposes, Agreement reform provisions were separated into 52 separate Tasks. In order to achieve full compliance, three stages of compliance must be satisfied: policy, training, and 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 1.

Table 1

Task Status	Tasks In Compliance 2005	Tasks in Compliance 2007 (06/30)
Tasks in Policy Compliance	43 of 51	51 of 51
Tasks in Training Compliance	17 of 36	43 of 44

There are a total of 52 tasks outlined in the Agreement. Based on the numbers reported as of June 28, 2007, the Department has achieved policy compliance with 51 tasks. The remaining task is for Promotional Consideration Review. The Department has also achieved training

compliance on forty-three tasks. During this reporting period the Department achieved policy and training compliance on; Task 20, *Span of Control*, Task 40 & 41, *PAS Purpose and Use of PAS*. Training compliance was achieved for Tasks 28 and 29, *Criminal Investigations of Departmental Members*, Task 21 & 44 *Performance Review Meetings and Performance Appraisals*, and Task 47 *Community Policing*. 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 28, 2007. A number of tasks are still not in compliance. Table 2 lists the 51 tasks with their due dates and summarizes the current state of compliance:

Table 2

<u>Task</u>	<u>Task Name</u>	<u>Due Date</u>	<u>Policy Compliance</u>	<u>Training Compliance</u>	<u>Actual Practice Compliance**</u>
1	IAD Staffing and Resources	8/13/2004	√	√	√((11/06) *
2	Timeliness Standards and Compliance with IAD Investigations	6/15/2004	√	√	
3	IAD Integrity Tests	6/1/2005	√	√	
4	Complaint Control System for IAD and Informal Complaint Resolution Process	6/15/2004	√	√	
5	Complaint Procedures for IAD	6/15/2004	√	√	
6	Refusal to Accept or Refer Citizen Complaints	6/1/2005	√	√	
7	Methods for Receiving Citizen Complaints	6/15/2004	√	√	
8	Classifications of Citizen Complaints	6/15/2004	√	√	
9	Contact of Citizen Complainants	8/13/2004	√	√	
10	Procedure Manual for Investigations of Citizen Complaints	8/13/2004	√	√	N/A
11	Summary of Citizen Complaints Provided to OPD Personnel	8/13/2004	√	√	
12	Disclosure of Possible Investigator Bias	6/15/2004	√	√	
13	Documentation of Pitchess Responses	7/1/2005	√	√	√ (04/06)

14	Investigation of Allegations of MOR Violations Resulting from Lawsuits and Legal Claims	6/15/2004	√	√	√(11/05)
15	Reviewing Findings and Disciplinary Recommendations	6/15/2004	√	√	√(11/06) *
16	Supporting IAD Process-Supervisor/Managerial Accountability	6/15/2004	√	√	
17	Supervisory Span of Control and Unity of Command	1/20/2004	√	N/A	N/A
18	Approval of Field-Arrest by Supervisor	1/20/2004	√	√	√(c) (06/07)
19	Unity of Command	1/20/2004	√	√(c)	
20	Span of Control	8/14/2003	√	√(c)	
21	Members', Employees' and Supervisors' Performance Reviews	5/5/2004	√	√(c)	
22	OPD/DA Liaison Commander	4/15/2003	√	√(c)	√ (06/07)
23	Command Staff Rotation	1/20/2004	√	N/A	√ (11/05)
24	Use of Force Reporting Policy	7/20/2004	√	√(c)	
25	Use of Force Investigations and Report Responsibility	7/20/2004	√	√(c)	
26	Use of Force Review Board (UFRB)	7/20/2004	√	√	
27	Oleoresin Capsicum Log and Checkout Procedures	7/20/2004	√		
28	Use of Force-Investigation of Criminal Misconduct	7/20/2004	√	√*(c)	
29	IAD Investigation Priority	7/20/2004	√	√	
30	Firearms Discharge Board of Review	7/20/2004	√	√(c)	
31	Officer-Involved Shooting Investigation	7/20/2004	√	√	
32	Use of Camcorders	7/20/2004	√	N/A	√ (10/03)
33	Reporting Misconduct	8/25/2003	√	√	
34	Vehicle Stops, Field Investigation and Detentions	8/25/2003	√	√	

35	Use of Force Reports- Witness Identification	8/25/2003	√	√	
36	Procedures for Transporting Detainees and Citizens	8/25/2003	√	√	
37	Internal Investigations- Retaliation Against Witnesses	8/25/2003	√	√	
38	Citizens Signing Police Forms	8/25/2003	√	√	√ (04/06)
39	Personnel Arrested, Sued and/or Served with Civil or Administrative Process	8/25/2003	√	√	
40	Personnel Assessment System (PAS) – Purpose	6/28/2005	√	√	
41	Use of Personnel Assessment System (PAS)	6/28/2005	√	√	
42	Field Training Program	4/16/2004	√	√(c)	
43	Academy & In-Service Training	2/15/2005	√	√(c)	
44	Performance Appraisal Policy	7/7/2004	√	√(c)	
45	Consistency of Discipline Policy	6/15/2004	√	√	
46	Promotional Consideration	7/8/2003	√	N/A	
47	Community Policing Plan	8/1/2003	√	√	
48	Departmental Management and Annual Management Report	7/02/2003	√	√(c)	
49	Monitor Selection and Compensation	4/15/2003	√	N/A	√ (8/03)
50	Compliance Unit Liaison Policy	3/4/2003	√	N/A	√ (8/03)
51	Compliance Audits and Integrity Tests	9/1/2005	√	N/A	√ (10/05) (11/06)

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 3 depicts the Department's overall training status.

TABLE 3: STATUS OF TRAINING COMPLIANCE (AS OF JUNE 28, 2007)

Publication Type/ Number	Task	Publication Title	# Not Trained	# Requiring Training	% Trained
BFO 03-02	20	19APR04-Supervisory Span of Control	2	690	99.71%
BFO 03-03	47	30DEC05-Community Meetings	2	704	99.27%
		CLETS Less Than Full Access TRNG	64	987	93.52%
DGO A-18	22	16DEC03-Management Level Liaison	0	696	100.00%
DGO A-3	19	12APR04-Department Organization	12	987	98.78%
DGO A-7	48	14NOV03-Annual Report	0	46	100.00%
DGO B-6	21/44	27APR04-Perform Reviews and Appraisals	18	987	98.18%
DGO B-7	47	30DEC05-Public Appearance	16	987	98.38%
DGO B-8	42	27MAY05-Field Training Program	0	690	100%
DGO B-20	43	06APR05-Department Training Program	13	987	98.68%
DGO C-4		26JUL06-Uniforms & Equipment	2	690	99.71%
DGO C-8	27	29DEC06-Oleoresin Capsicum	66	753	91.24%
DGO D-16	33	Check-In and Orientation Procedures	0	44	100.00%
DGO D-17	40	PAS & iPAS – Supv/CMDRS/MNGR	2	179	99.71%
DGOJ-4/4.1/TBIII-B		30MAY07-Pursuit Policy	98	690	85.80%
DGO K-3/4/4.1	24, 25,	17FEB06- Use of Force	1	752	99.87%
DGO K-9		01AUG06 – Department K-9 Program	2	690	99.71%
DGO M-3	2, 4, 5, 6, 7, 8, 12, 14, 15, 16, 45	06DEC05-Complaint Manual	17	987	98.28%
DGO M-4.1	28, 29	Criminal Investigations as Member of Dept	17	987	98.28%
		Field Based Reporting (FBR)	101	856	88.20%
IAD P&P 07-02		Pitchess Motions Process	6	30	80.00%
IAD P&P 07-07		Office Security	4	30	86.67%
DGO M-18	18	13MAY04-Arrest Approval	0	690	100.00%
DGO M-19	34	15NOV04-Racial Profiling	0	690	100.00%
IB	38	Citizens Signing Police Report	4	744	99.46%
		LERT – Law Enforcement Response TERRORISM	38	690	94.49%
	33	MOR314.48&MOR314.49-RPRTNG VIOLAT	31	987	96.86%
		NIMS-ICS 100/200/700-BASIC SEMS	58	987	94.12%

		MEMO-16JAN07-Promotional Consideration	41	987	95.85%
NSA	18, 33, 34, 37	NSA Compliance Training #1	20	987	97.97%
RWM N-1		15APR07-Misdemeanor Citation	80	699	88.56%
RWM N-2		15APR07-Traffic Citations	74	690	89.28%
RWM R-2		15APR07-Stop Data Collection Form	73	690	89.42%
RWM A-4		16SEP05-Common to Most Report	3	779	99.61%
RWM K-1	18	10NOV06-Consolidated Arrest Report	13	690	98.12%
RWM M-3	18	10NOV06-Juvenile Arrest Log Procedures	8	690	98.84%
SO8061	27	01OCT03-Control O.C. Spray	3	744	99.60%
SO8064	39	13APR04-Civil Action Procedures	2	738	99.73%
SO8092	37	23NOV03-Retaliation Against Witnesses	14	987	98.58%
SO8136	33	13APR04-MOR370.18	14	987	98.58%
SO8257	18	20MAY05-Supervisor Approval of Arrest	0	751	100.00%
SO8262	36	12SEP05-Transport of Person	0	751	100.00%
SO8287	18	12AUG05-Disposition Code SDA	0	751	100.00%
SO8435	20	26JUL06-ACTING SGT PROCESS	2	690	99.71%
SO8536		29DEC06-Probable Cause Arrest Authorization	10	690	98.55%
SO8552		01FEB07-Term TB V-T.1-Internal Invest Proc Manual	18	194	90.72%
SO8553		01FEB07-Term DGO M-3&TB V-T.1- Internal Invest Proc Manual	15	194	92.27%
SO8565		11MAY07-Revision of DGO M-3	77	194	60.31%
TB III-A.5	47	TB III-A.5-30DEC05-COMMUNITY ORIENTED POLICING	1	765	99.87%
TB III-B.4		TB III-B.4-29SEPT06-Handcuffing Tech	6	690	99.13%
TB III-B.8		TB III-B.8-26JUL06-Wrap Restraint Device	3	690	99.57%
TB III-G		28OCT05-Crowd Control	0	690	100.00%
TB III-H		TB III-H-26JUL06-Specialty Impact Munitions	4	690	99.42%
TB III-H.1		TB III-H.1-26JUL06-Use of TASER	3	690	99.57%
TB III-H.2		TB III-H.2-26JUL06-Handheld Impact Weapon	4	690	99.42%
TB III-N		TB III-N-29SEPT06-Mentally Ill Person	4	690	99.42%
TB III-X		TB III-X-26JULY06-Lethal Force & Vehicles	2	690	99.71%
TB V-F.2		TB V-F.2-26JULY06-Chemical Agents	3	690	99.57%
TB V-G		TB V-G 01AUG06-Use of Police K-9	3	690	99.57%
			1,073	41,451	97.41%

AUDIT AND REVIEWS

THE AUDIT AND INSPECTIONS UNIT OVERVIEW

In accordance with the Agreement, the Department is required to conduct six annual audits. The following six areas are to be prioritized, but the OIG may substitute audits of other areas.

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 three audits and two reviews. The audits conducted were of Mobile Data Terminals, Management Level Liaison (Task 22), and Community Policing (Task 47) and the two reviews were of Use of Force (Tasks 24, 25, & 35) and Academy and In-Service Training (Task 43). The purpose of conducting these audits/reviews was to identify deficiencies that could impact compliance with the Agreement and Departmental policy, as well as inefficiencies in practice.

Mobile Data Terminals

The Office of Inspector General completed its third annual audit of Mobile Data Terminals on March 9, 2006. The audit revealed that the number of daily transmissions (messages) between mobile data terminals declined from the previous year and most of the transmissions occurred between personnel assigned to the Ranger Section. Of the 471 messages transmitted during the audit period, none were found to contain inappropriate language, wording that constitutes a policy violation or lengthy conversations unrelated to work. In addition, the audit revealed that a system had been implemented to monitor and archive transmissions. A sergeant assigned to the Bureau of Field Operations Administrative Section has been designated as the Mobile Data System Manager and is responsible for monitoring transmissions. The Information Technology Unit is responsible for downloading and archiving transmissions.

Management Level Liaison

The Office of Inspector General completed an audit of the Management Level Liaison (MLL) on April 10, 2007, which found the Department in full compliance with the NSA requirements for this task. The purpose of the audit was to assess the Department's efforts towards achieving compliance with the tracking of criminal cases that were lost or dropped due to bad reports, defective search warrants, granted Motions to Suppress, contradictory evidence or testimony, or any other indication of performance problems or misconduct, as well as to determine if the

Management Level Liaison was cooperating with the required agencies and the IMT. The audit covered the time period of January 1, 2006 through December 31, 2006.

During 2006, the MLL met with the courts and contacted the District Attorney's Office and the Public Defender's office each month seeking information on any case that was lost due to MLL criteria such as bad reports, defective search warrants, granted Motion to Suppress, contradictory evidence or testimony, or any other indication of performance problems or misconduct. The MLL discovered a total of 11 cases that required investigation by the Internal Affairs Division (IAD). For all 11 cases, the IAD was notified, the investigations were conducted, and the results were reported in Monthly MLL reports. Summary tables at the end of each Monthly MLL report included the status of each case thereby allowing the command staff, and any other readers, to track the cases. In addition to the MLL's tracking system, the IAD tracked the cases by flagging them in their database as MLL cases. Each case was accounted for and verified in the tracking systems. The MLL also met and cooperated with the IMT, as required by the Agreement.

Community Policing Audit

The Audit Unit completed an audit of Task 47, Community Policing, on November 17, 2006. The audit covered the period from October 1, 2005 to December 31, 2005. The Department is in compliance with the requirements that OPD hosts at least one community meeting per quarter in each Patrol Service Area and that required personnel attend a community meeting each quarter (97%), but not quite in compliance with the requirement that required personnel attend the meeting in their required area (80%). Due to inadequate systems and documentation, the Department was not in compliance with the requirements that OPD measures community policing and problem solving activities; reports on required elements at Crime Stop meetings; and handles meeting requests appropriately.

During the course of the audit, the Department began making numerous changes to fix the deficiencies identified. The form used to document community meeting attendance and scheduling of requested meetings is being revised and the associated policy is being updated to ensure accurate documentation of community meeting attendance and scheduling of requested meetings. Also, better systems for documenting measures for community policing and problem solving activities are being developed.

Discussions with the IMT and Department personnel, during the audit, revealed varying interpretations of the language of Task 47 and of community policing in general. The ability to determine compliance with some of the community policing requirements will continue to be a challenge even as the Department implements better systems; specifically, how community policing and problem solving activities are measured and how to add value to management meetings by discussing positive statistics of problem solving activities, use of force incidents, and complaints. As a result of the challenges identified during this audit, the Department is currently seeking the consulting services of a nationally recognized expert on community policing. The positive changes implemented during the course of this audit, along with an increased level of clarity of community policing, will result in compliance with Task 47.

Academy and In-Service Training Review

The Audit Unit completed a review of academy and in-service training on August 29, 2006. The purpose of the review was to identify deficiencies and provide workable solutions to obtain

compliance with the NSA. The NSA requires that all members receive 40 hours of in-service training every 18 months and that this training incorporates professionalism, ethics and scenario-based exercises. The NSA also requires that sergeants and commanders receive 20 hours of leadership/management training every 18 months and that 40 hours of supervisory/leadership training is provided as required to newly promoted supervisors and commanders.

To help meet these requirements and those of the California Commission on Peace Officer Standards and Training (POST), the Training Division offers a 40-hour, week-long block of in-service training to officers and sergeants, referred to as Continuing Professional Training (CPT). The CPT curriculum encompasses professionalism, ethics, and scenario based training.

Although the Training Division attempts to schedule CPT every 18 months, the demand of providing other in-service and academy training has resulted in the time period extending beyond 18 months. Within an 18 month time period, the Audit Unit determined there were numerous occurrences in which officers and sergeants were receiving more than 40 hours of training other than CPT. For those courses provided outside of CPT, determining if the course content met NSA requirements was difficult due to lack of clear documentation (ex. lesson plans and curricula). In addition, most commanders received well over the 40 hours of training required in an 18 month period; however, documentation of course content was often lacking.

Along with tracking and providing training, the Training Division is tasked with selecting academy instructors through a specific process outlined in General Order B-20. Based upon interviews with Training Division staff, it appears that the appropriate steps were taken prior to the appointment of training instructors; however, most instructor files do not contain supporting documentation. Selection process documentation, such as the instructor consideration memorandum, personnel evaluation matrix, Instructor Development Course completion certificate and sample presentation, is not included in most of the reviewed files.

As a result of the audit, the Training Division has hired additional help and has made many changes in the way training is tracked; the way instructor are evaluated; and has improved documentation for instructor files.

Use of Force Review

The Audit Unit completed a review of Use of Force reporting and investigation (Tasks 24, 25 and 35) on December 22, 2006. The purpose of the review was to assess the Department's efforts towards achieving compliance with the new use of force policies, and to identify deficiencies in policy and practice. The new use of force policies were implemented on May 13, 2006. The audit team reviewed all Level Two use of force incidents in July 2006, which totaled 21 incidents. In addition, the audit team reviewed the use of force database and available Force Review Board (FRB) findings.

The review revealed that the Department has implemented effective methods towards improving the quality and completeness of use of force investigations and the associated review process. Supervisors are responding to the scene of use of force incidents and conducting investigations. Witnesses to the use of force are being identified and in almost all cases supplemental reports are being submitted by all members/employees on the scene. Most importantly, supervisors are making solid determinations about compliance with policy by answering key questions that are required by the NSA. In addition, the review process is successful in identifying important omissions, for example additional members involved and types of force used.

The most significant weaknesses identified were related to evidence, packet completeness and the Use of Force Database. Most use of force narratives were lacking a clear analysis of evidence, and use of force packets inconsistently included evidence, such as TASER downloads, technician reports and photographs. The Use of Force Database did not always capture the corrections made during the review process and never included the findings of the Force Review Board. During the course of this review, OIG staff shared findings and recommendations with the use of force subject matter experts and the Internal Affairs Division. Separate from this review, the subject matter experts had already begun to identify deficiencies and areas of improvement in policy, practice and the Negotiated Settlement Agreement (NSA). As a result of their evaluation and the audit team's review, many adjustments to the policy and use of force reporting forms had begun before the review was completed.

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.

I. INTERNAL AFFAIRS DIVISION

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

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: In Policy, Training, and Actual Practice Compliance

Deliverables:

- Internal Affairs Division Policy and Procedures Manual (IAD Manual “Manual”)
- Internal Affairs Division Policy and Procedure 07-07, *Office Security*

Implementation Activities²

The Manual was published on December 6, 2005 and training was completed in early 2006.

Conditional Actual Practice Compliance

In November 2006, the IMT deemed the Department in Actual Practice Compliance with Task 1, IAD Staffing and Resources. They found that IAD is performing in accordance with the selection criteria, staffing, and training and qualifications of IAD.

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)

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: In Policy, Training, and Partial 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*
- Special Order 8553, TB V-T.1, *Internal Investigations Procedure Manual*

IMT Audit Summary

During this reporting period, the IMT conducted an audit to determine actual practice compliance with this task. The IMT found the Department was not yet in actual practice compliance with the timeliness of investigations and discipline recommendations. The IMT assessed all investigations with intake dates of March 1, 2006, through May 31, 2006, that were not administratively closed or informally resolved to determine the timeliness of OPD internal investigations. They did not consider extensions granted to investigators by IAD management.

There were a total of 161 cases that fit the IMT’s selected parameters: 121 IAD investigations and 40 DLIs. Of the 121 IAD investigations in the dataset, 64 (53%) were completed, reviewed, and ready for discipline recommendation within 90 days of the IAD intake date as required by M-3. Fourteen of the 121 IAD cases had yet to be completed at the time of the review. Of the 40 DLIs reviewed, five (13%) were completed, reviewed, and ready for discipline recommendation or approved within the 120 days as required by General Order M-3. Eighteen of the 40 DLI cases had yet to be completed at the time of the audit.

Their assessment of the timeliness of the Department’s disciplinary process was based on every sustained case with an incident date after the implementation of M-3. Of the 29 sustained cases, 16 (55%) were completed within 30 days of the IAD commander’s approval.

OPD’s Response

The Department felt the IMT should have considered extensions in determining whether a case is timely. Additionally, the IMT should include informally resolved matters and administratively closed matters when assessing compliance with Task 2’s timeliness requirements, particularly given the extensive work that goes into many of these cases.

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

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: In Policy and Training Compliance

Deliverables:

- Internal Affairs Division Policy and Procedures Manual

Ibid, page 23 to review associated Manual Implementation Activity for this Task.

IMT Audit Summary

During this reporting period, the IMT conducted an audit to determine actual practice compliance with this task. The IMT found the Department was not yet in full actual practice compliance, but partial compliance with conducting integrity tests. At the time of the audit, the IMT found that OPD had not yet developed any standards or criteria for identifying individuals who were the subject of repeated allegations of misconduct, or for conducting integrity tests in these circumstances.

Although the Department is not in full compliance with Task 3, the IMT was impressed by the commitment of IAD staff and by its decision to conduct particular tests for the express purpose of detecting retaliatory conduct. The IAD has identified a number of resource deficiencies that have prevented it from developing successful integrity testing. Additionally, the Division has started drafting a policy for its Integrity Unit setting forth the criteria for conducting such tests when member/employees have been the subject of allegations of misconduct.

OPD’s Response

An Integrity Unit Policy and Procedure has been written and is in the approval process. It sets forth the criteria for conducting integrity tests in situations where members and/or employees have been the subject of repeated allegations of misconduct. It was written to identify the more egregious offenders and ensure investigators do not have to investigate a number of individuals that may not need to be the subject of integrity testing just because they met a certain set criteria.

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

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: In Policy and Training 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*
- Special Order 8553, TB V-T.1, *Internal Investigations Procedure Manual*

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

IMT Audit Summary

During this reporting period, the IMT audited the Department’s actual practice compliance with Task 4. The IMT found the Department in partial compliance, noting significant progress with this task.

OPD is in compliance with the requirement that it maintain a central control system for complaints and Department requests to open investigations. It is also in compliance with the requirements that IAD and the Chief be informed as soon as practicable of complaints that are likely to generate unusual interest; the Department maintain a process for informally resolving Class II misconduct allegations; and that formal complaints are initiated when the informal complaint process is not successful.

However, the Department has not fully resolved all problems with tracking complaint investigations or internal requests for investigations, and the requirement that it meet specified criteria before deciding whether or not a complaint should be informally resolved, administratively closed, or investigated. The IMT did find that 90% of the administratively

closed cases reviewed, were appropriate for administrative closure pursuant to the Department's policy. Additionally, the Department's definition of "Summary Findings" is not appropriate for resolving the majority of internal investigations. The term is currently used by the Department to indicate cases that are completed by IAD's intake unit rather than its investigative unit. They do not include investigative reports and often do not include interviews of the subject officer.

OPD's Response

The Department recognizes that cases resolved via "Summary Finding," did not comply with the requirements of the Agreement and has completed a stipulation to the Agreement, which has been approved. The Department contests cases resolved via Summary Finding are still thorough investigations, while allowing for a reduction in the IAD workload and providing quicker resolution to investigations. In the long run, "Summary Findings" will benefit both the officers and complainants.

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

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."

Deliverables:

- Information Bulletin, *Preliminary Complaint Investigation Procedures*

Status: In Policy and Training Compliance

Update

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 23 for IAD Manual implementation activity, and page 24 for DGO M-3 implementation activity.

IMT Audit Summary

During this reporting period, the IMT audited the Department's actual practice compliance with Task 5. Since the Department is in the process of developing a system to document compliance with this task, the IMT agreed to refrain from auditing the provisions outlined in Task 5.1 through 5.14. Although the IMT did not find the Department in compliance with 5.15 through 5.21, they did note that the Department has made significant gains in gathering all relevant evidence, considering that evidence, making credibility determinations, and resolving inconsistent statements. The IMT also found that case files were far better organized and easier to follow than in the previous assessments.

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

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: In Policy and Training 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*
- Special Order 8553, TB V-T.1, *Internal Investigations Procedure Manual*

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 24 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

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: In Policy and Training 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*
- Special Order 8553, TB V-T.1, *Internal Investigations Procedure Manual*
- Information Bulletin, *Internal Affairs Notification*
- Information Bulletin, *Preliminary Complaint Investigation 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 24 to review associated DGO M-3 Implementation Activities for this Task.

IMT Audit Summary

During this reporting period, the IMT audited the Department's actual practice compliance with Task 7. The IMT found the Department in partial compliance with methods for receiving citizen complaints. The Department was in compliance with the requirements that officers have complaint forms and brochures available while on duty; complaint forms are processed in accordance with state law; and IAD is accepting and investigating anonymous complaints to the extent reasonably practicable.

The IMT found the Department was not in compliance with ensuring complaint forms were available at designated Department and municipal locations. Neither the complaint forms nor informational brochures were always available. Task 7.1 requires OPD to operate a recordable, toll-free complaint hotline. Based on two unanswered calls the IMT placed to the complaint hotline on different days, the IMT found the Department is not yet in compliance with this requirement. The IMT did not complete their assessment of 7.3, which requires OPD to accept anonymous complaints and investigate them to the extent possible.

OPD's Response

The Department contends it is neither possible nor realistic to always have the complaint forms available at all designated Department and municipal locations because anyone can come along and take them. Additionally, the complaint forms and informational brochures are not separate; the complaint form contains the information for filing a complaint.

Based on the dates provided by the IMT of the two unanswered calls to OPD's toll-free complaint hotline, the hotline phone log indicated the line was properly transferred on such days. The Internal Affairs Division has spoken with intake officers and checked with the City Attorney to figure out what may have happened and ensure the same problem does not occur in the future.

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

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: In Policy and Training Compliance

Deliverables:

- Revised Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*
- Special Order, 8553, TB V-T., *Internal Investigations Procedure Manual*

Ibid, page 24 to review associated DGO M-3 Implementation Activities for this Task.

IMT Audit Summary

During this reporting period, the IMT audited the Department's actual practice compliance with Task 8. The IMT found the Department was in compliance with how to classify all misconduct allegations as Class I or Class II offenses. The Department fell short of being compliant with the requirement that Class I allegations of misconduct be investigated by IAD unless otherwise directed by the Chief of Police. Seventy-nine percent of the cases reviewed were properly assigned. The Department fell just short of complying with the requirement that all interviews/statements be recorded (91%).

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

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: In Policy and Training Compliance

Deliverables:

- Internal Affairs Division Policy and Procedures Manual

Ibid, page 23 to review associated IAD Manual Implementation Activities for this Task.

IMT Audit Summary

During this reporting period, the IMT audited the Department's actual practice compliance with this task. While the IMT found the Department is not in actual practice compliance, they noted significant progress with this task. The most notable improvement made was how quickly IAD contacted complainants to learn the details of their complaint and to begin the investigative process. The greatly improved quality of OPD internal investigations is in large part due to the quick contact of complainants by the IAD intake unit. Complainants in 67% of the cases the IMT reviewed were contacted as soon as possible by IAD in accordance with this requirement. The IMT stated if the Department continues to improve in this area, actual practice compliance will be attained shortly.

OPD's Response

Often times the complaints from OPD personnel come in the form of a letter of memorandum outlining the important information and IAD is confident that they can contact OPD personnel when ever necessary. Additionally, many lawsuits are discovered by OPD many months after the incident and contacting the complainant “as soon as possible” provides no benefit with regards to determining the nature, scope and severity of the complaint as quickly as possible.

A number of legal claims are not complaints of misconduct and OPD should not be required to contact the person filing the legal claim. For those that may be considered a complaint, the issue is the same as the one identified for lawsuits.

Task 10: Procedure Manual for Investigations of Citizen Complaints

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

Assigned Unit: IAD

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: In Policy, Training and Actual Practice Compliance

Deliverables:

- Internal Affairs Division Policy and Procedures Manual

Ibid, page 23 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

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: In Policy and Training Compliance

Deliverables:

- Internal Affairs Division Policy and Procedures Manual

Ibid, page 23 to review associated IAD Manual Implementation Activities for this Task.

IMT Audit Summary

During this reporting period, the IMT audited the Department's actual practice compliance with this task. The IMT found the Department in compliance with notifying member/employee's of an alleged complaint made against them. In most cases, the IMT found insufficient documentation that subject employees were provided a brief synopsis of the complaint against them and that subject employees were not permitted to read complainant or witness statements prior to being interviewed. They were able to verify that subject employees were provided a synopsis of the complaint against them and that the synopsis was retained in the file in only 37% of cases. Additionally, the IMT found that in only 38% of the cases they reviewed IAD had notified the subject's immediate supervisor and commander that a complaint had been filed against him or her.

The IMT did find the Department in compliance with the requirement that they provide subject members/employees access to the underlying data upon which the complaint investigation report is based.

OPD's Response

Each Complaint Information Report (CIR) currently provides a synopsis of the complaint against the officer. CIR's are provided to the subject officers prior to their interview, which fulfills the requirements of the Agreement. Task 11 does not specify how soon the officer has to receive the information prior to the interview.

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

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: In Policy and Training Compliance

Deliverables:

- Revised Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*
- Special Order 8553, TB V-T.1, *Internal Investigations Procedure Manual*

Ibid, page 24 to review associated M-3 Implementation Activities for this Task.

IMT Audit Summary

During this reporting period, the IMT audited the Department's actual practice compliance with this task. The IMT found the Department was not yet in actual practice compliance with requiring investigators to disclose relationships that might lead to bias or a perception of bias.

Of the cases the IMT reviewed, the Department's new disclosure forms were filled out and included in 70% of the formal investigations. Since the use of the forms was in the early stages, many disclosure forms were not completed until the investigation was underway or completed. The IMT did note the Department will be able to attain compliance with this task when the use of the new disclosure forms is used consistently.

The IMT also found the Department was not complying with the requirement that investigators be recused when it is clear that their relationship with the subject or involvement in the incident might lead to bias or a perception in bias. Seven cases were identified in which investigators had relationships to the incident and/or individuals involved in the incident where the nature of the relationship could compromise or be perceived to compromise the investigative process. In five of the seven cases, the investigators disclosed involvement in the incident or a close working relationship to a subject officer. In the remaining two cases, the investigators did not disclose their involvement as supervisors or witnesses to the incident being investigated. The investigators were not recused in any of these seven cases nor was there documentation of any evaluation of whether the investigator should have been replaced, other than a checkmark indicating that the investigator was not reassigned. The place on the recusal form directing commanders to provide a reason why reassignment was or was not justified was left blank on every form that was completed.

OPD's Response

The NSA requires that investigators disclose relationships that might lead to a perception of bias and a review of the form is all that is required, it is the commanders' final decision. Additionally, an explanation would only be provided if the person signing the form recommends the case be re-assigned, which is instructed do so, on the forms. It is not a requirement of the Agreement that an explanation is provided.

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

Settlement Agreement Language:

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

Status: In Policy, Training, and Actual Practice Compliance

Deliverables:

- Internal Affairs Division Policy and Procedures Manual 07-02

During the last reporting period, the IMT conducted an actual practice audit of Task 13. They found the Department in compliance with this task. The Department has since then implemented additional checks to facilitate complete and accurate responses to Pitchess discovery motions. The IMT noted the improved responsiveness appears due in part to the greater consistency provided by a dedicated Pitchess Officer and Pitchess Attorney.

Ibid, page 23 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

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: In Policy, Training, and Actual Practice Compliance

Deliverables:

- Revised Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*
- Revised Departmental General Order F-7, *Driver’s Licenses*
- Special Order 8553, TB V-T.1, *Internal Investigations Procedure Manual*
- Internal Affairs Division Policy and Procedure 07-04, *California Driver’s License Verification*

Actual Practice Compliance

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

Ibid, page 24 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

Settlement Agreement Language:

- “By June 15, 2004, OPD shall develop a policy to ensure that, except upon written authorization from the Chief of Police, the appropriate chain-of-review, from the first-level commander up, shall be responsible for reviewing recommended findings and the Discipline Officer shall be responsible for making disciplinary recommendations in sustained internal investigations .”
- “By October 1, 2004, OPD must implement this policy.”

Status: In Policy, Training, and 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)
- Special Order 8552, *Summary Findings*
- Special Order 8553, TB V-T.1, *Internal Investigations Procedure Manual*

Actual Practice Compliance

During this reporting period, the IMT audited OPD's actual practice compliance with this task. Task 15 is comprised of two requirements. The first requirement is that the chain of command review recommended findings in completed investigations. While the chain of command continues to review recommended findings in Division-level investigations, OPD no longer requires this review for investigations conducted by IAD. Instead, these investigations are reviewed by IAD commanders. This practice is consistent with General Order M-3 which has been approved by the parties and IMT. The second requirement requires the Discipline Officer make disciplinary recommendations in sustained internal investigations, which was also deemed in actual practice compliance.

Ibid, page 24 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

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: In Policy and Training Compliance

Deliverables:

- Revised Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*
- Special Order 8553, TB V-T.1, *Internal Investigations Procedure Manual*

Ibid, page 24 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 has no separate requirements or provisions. It 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

II. SUPERVISORY SPAN OF CONTROL & UNITY OF COMMAND

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

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: In Policy, Training and Conditional 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. The first revision of M-18 was published on October 1, 2005 and during this reporting period a second revision occurred and was published November 10, 2006. The IMT has also determined that this policy is in compliance with the Agreement. Special Order 8536 was created for Supervisors to ensure only available witnesses *to the criminal offense* have been identified.

Training Update

Training began on December 8, 2006 and 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 8536, is currently at a 98% compliance rate.

Conditional Practice Compliance

In June 2007, the IMT found the Department in conditional practice compliance with this task (one requirement remains to be assessed). The IMT reviewed all arrests made from March 15, 2006, through April 16, 2006 and all arrests involving an investigated use of force. Based on the reports provided, they identified a total of 873 arrests subject to task 18's requirements; felony and drug arrests; arrests for Penal Codes 69, 148, and 243 (b)(c); investigated uses of force; and

juvenile arrests. The IMT found the Department has made significant progress in ensuring that Supervisors respond to the scene of an arrest and that the required elements are reviewed and documented on the Consolidated Arrest Reports (CAR's).

The average rate of supervisory response to the scene for the required arrests was 94%; 90% for felony arrests; 87% of the drug arrests; 100% of the arrests for Penal Codes 69, 148, 243(b)(c); and 100% of the arrests involving investigated uses of force. These rates clearly showed a considerable improvement over the previous supervisory rate of 71% in the IMT's last audit of this task.

The IMT found the Department in compliance with all of the provisions that were assessed, except for one provision that has not been assessed due to concerns regarding the reliability of the data.

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: In Policy and Training Compliance

Deliverables:

- New Departmental General Order A-19, *Supervisory Span of Control*

Policy

DGO A-3 was published on April 12, 2004. During this reporting period, OPD replaced BFO 03-02 and BOI 04-02 with DGO A-19, *Supervisory Span of Control*. The new DGO outlines the responsibilities of the primary sergeant and mandates on only sergeant to no more than eight field officers. 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-19. Training compliance is currently reported at 98%.

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

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: In Policy and Training 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

During this reporting period, the Department replaced BFO 03-02 and BOI 04-02 with DGO A-19, *Supervisory Span of Control*. Additionally, Special Order 8435, *Acting Sergeant Selection Process* was published, establishing procedures for ensuring that those individuals who serve as acting sergeants have the necessary skills and training to do so.

Training Update

As of the publication date of this report, the Department has exceeded substantial training compliance on Special Order 8435, *Acting Sergeant Selection Process*.

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

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: In Policy and Training 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.

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

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: In Policy, Training, and Actual Practice Compliance

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.

Actual Practice Compliance

This task was one of the first tasks to be deemed in actual practice compliance by the IMT based on the Department’s establishment of the MLL’s position and the MLL’s efforts to identify relevant cases and, when appropriate, refer cases for internal investigations. A second audit was conducted in May 2005 to ensure that the Department was maintain practice compliance with this task but the IMT found the Department’s actual practices were no longer in compliance with the requirements outlined in the Agreement. They found the Department was doing an inadequate job of tracking MLL cases to ensure that they were resolved in a timely manner.

The IMT conducted another audit in June of this year and found that the Department had significantly improved the manner in which it tracks MLL cases. The due diligence and new measures set in place by the MLL have resulted in improved investigation timeliness and ensured MLL cases do not suffer. As a result he IMT found this task to be back in actual practice compliance.

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: In Policy and Actual Practice Compliance

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.

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:
Capt. D. Kozicki	BFO/SAC/Admin	7/1/2006
Capt. B. Fairow	BOS/Admin	8/19/2006
Capt. B. Fairow	OCOP/IAD	10/14/2006
Capt. F. Lowe	BFO/Patrol/2 nd	8/19/2006
Capt. E. Breshears	BOS/Admin	10/14/2006
Capt. S. Tull	BFO/Patrol/1 st	10/14/2006
Capt. R. Orozco	BOA/Admin	12/23/2006
Capt. C. Vierra	YFSS/Admin	1/27/2007
Lt. F. Mestas	BOI/CID	8/16/2006
Lt. S. Whent	BFO/Patrol/2 nd	8/26/2006
Lt. S. Whent	IAD/Admin	2/3/2007
Lt. M. Grier	BFO/Patrol/2 nd	9/23/2006
Lt. M. Grier	Personnel/Medical Unit	7/1/2006
Lt. D. Allison	BFO/SOG	11/25/2006
Lt. D. Lozares	OCOP/OIG	11/25/2006
Lt. M. Johnson	BOS/Communications	2/3/2007
Lt. B. Medeiros	BFO/CLASS	2/3/2007
Lt. C. Mufarreh	BFO/SAC/PSA4	2/3/2007
Lt. K. Mullnix	BOI/CID	2/3/2007
Lt. D. Norfleet	BFO/Patrol/3 rd	2/3/2007
Lt. F. Melara Jr	BFO/Patrol/2 nd	5/12/2007
Lt. M. Yoell	BOI/CID	5/7/2007

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

III. POLICY AND PROCEDURES FOR USE OF FORCE NOTIFICATION & REPORTING

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

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: In Policy and Training 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 launched on May 13, 2006. Since the launch of the new Use of Force policies there has been a significant increase in the number of reports completed by members. Both good and poor tactical decisions made by officers and supervisors have been identified, resulting in retraining when deemed necessary. The identification of, and training for, tactical considerations that are associated with uses of force continues to be explored.

The Department has had roughly eight months to evaluate the new policies, specifically regarding the decisions of when and how to use and report force and the investigation and review of uses of force.

Recommended adjustments to the policies and NSA have been identified and discussed with both the Independent Monitoring Team (IMT) and the Plaintiff's Attorneys in an effort to find the most effective and reasonable way to use, report, investigate, and review uses of force. Revised policies have been submitted that incorporate these identified issues and represent a reasonable standard by which compliance can be achieved. The revised policies will give supervisory staff more discretion in the level of investigation to conduct; will clarify responsibilities for both supervisory and line staff, and will streamline the review process to reduce redundancies.

OIG Review Summary

The Audit Unit completed a review of the use of force reporting and investigations (Tasks 24, 25, and 35). The purpose of the review was to assess the Department's efforts towards achieving full compliance with the new use of force policies, and to identify deficiencies in policy and practice. The audit team reviewed all Level Two use of force incidents in July 2006, which totaled 21 incidents.

The review revealed that the Department has implemented effective methods towards improving the quality and completeness of use of force investigations and the associated review process. Supervisors are responding to the scene of use of force incidents, conducting investigations and more importantly making solid determinations about compliance with the policy. The review process has also been successful in identifying important omissions and thoroughness of the reports.

The most significant weaknesses identified were related to evidence, packet completeness and the Use of Force Database. Most use of force narratives were lacking a clear analysis of evidence, and use of force packets inconsistently included evidence. The Use of Force Database did not always capture the corrections made during the review process and never included the findings of the Force Review Board. During the course of this review, OIG staff shared their findings and recommendations with the use of force subject matter experts and the Internal Affairs Division. Separate from this review, the subject matter experts had already begun to identify deficiencies and areas of improvement in policy, practice and the Negotiated Settlement Agreement (NSA).

USE OF FORCE TABLE

Reported Uses of Force (01 Jul 06 to 30 June 07)			
Level 1	Level 2	Level 3	Level 4
6	202	237	1437

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

Settlement Agreement Language:

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

Status: In Policy and Training 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%. Under these new policies, Use of Force investigative packets now contain detailed information that previously was not consistently available. This has resulted in better, more complete investigations and a review process that can take into account all information when determining the appropriateness of uses of force. However, in many cases, it has taken multiple hours, over several days, for supervisors to complete the required reports, but as they become more proficient at Use of Force Investigations, the time to complete the reports should decrease.

Ibid, page 44 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: In Policy and Training 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 44 to review associated Use of Force Implementation Activities and 35 for OIG Audit Summary.

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: In Policy Compliance

Deliverables:

- Departmental General Order C-8, *Oleoresin Capsicum (OC)*
- 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 Assessment 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 policy compliance on this Task.

Policy

This policy is currently in policy compliance as Special Order 8061, which was published on October 1, 2003. New Departmental General Order C-8, *Oleoresin Capsicum (OC)* was published December 29, 2006 outlining the policy and procedures for ordering, receiving, and issuing OC, “Pepper” Spray.

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: In Policy and Training 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 was completed during this reporting period of all relevant staff and has exceeded 99%.

IAD Manual

Ibid, pages 23 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

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: In Policy and Training Compliance

Deliverables:

- Departmental General Order M-4, *Coordination of Criminal Investigations*
- Internal Affairs Division Policy and Procedures Manual
- Internal Affairs Division Policy and Procedure 07-06, *IAD Call-Out Procedures*

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 was completed this reporting period of all relevant staff and has exceeded 99%.

IAD Manual

Ibid, page 23 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: In Policy and Training 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 44 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: In Policy and Training Compliance

Deliverables:

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

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. During this reporting period, the Department published Homicide Policy and Procedure 01, *Lethal Force/In-Custody Death Investigations* Training Bulletin and Training Bulletin III-H, *Police Conduct with the Mentally Ill*, both of which were deemed in policy compliance by the IMT. The Department has exceeded substantial training compliance on both training bulletins.

During this reporting period nine officer involved shootings were investigated and the actions of those officers involved were found by the Executive Review Force Board as complying with the policy and procedures of Departmental General Orders.

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

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: In Policy and Actual Practice Compliance

*** No training required**

Deliverables:

- Research report

Implementation Activities

The Department’s 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. During this reporting period, the Public Safety Committee approved the Department's RFP for the cameras. The In Car Video (ICV) will be installed in the Departments police vehicles early to mid 2007.

IV. REPORTING PROCEDURES

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

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: In Policy and Training 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*
- Training Bulletin V-T.3, *Reporting Misconduct*

Implementation Activities

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.

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: In Policy and Training 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 and the Department has attained an overall training percentage of 100%.

During this reporting period new Stop Data Forms were drafted and approved by the IMT. A stop data section was added to the citation form to reduce the redundancy of data collection, and the old stop data was revised, which will be used for all non-citation stops. The new Stop Data Forms was designed to be more user friendly, and there are more choices in the different categories of tracking, allowing for the answers to be more accurate. The Department is currently in the middle of printing the new Stop Data Forms and training will be conducted before the forms are used out in the field, which is expected to occur during the next reporting period.

During this reporting period the Department began the process of implementing Field Based Reporting (FBR). To date approximately 80-85% members of the Department have been trained and there have been close to 20,000 reports created and completed in FBR since October 2006.

The Technology Unit continues to monitor the FBR project, coordinate with Motorola, fix problematic reports, and provide the Deputy Chief of the Bureau of Field Operations with status reports. The ultimate goal is to have BFO become responsible for the maintenance of the system since report writing is one of the main functions of patrol officers.

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

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: In Policy and Training 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*

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 44 to review associated Use of Force Implementation Activities and 35 for OIG Audit Summary.

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

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: In Policy and Training 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

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: In Policy and Training 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.

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

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: In Policy, Training, and Actual Practice Compliance

Deliverables:

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

Policy

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

Actual Practice Compliance

In March 2006, the IMT deemed the Department in Actual Practice Compliance for the second time 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

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: In Policy and Training 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. During this reporting period the Internal Affairs Division created a new Departmental General order, E-3.1, *Compliance to Department Notification* for this task and is currently waiting for approval from the IMT. It provides specific guidelines for the selection into specialized units, notification requirements, the IAD Integrity Testing Unit responsibilities, and notification compliance checks.

V. PERSONNEL ASSESSMENT SYSTEM (PAS)

Task 40: Personnel Assessment System (formally PIMS)

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

Assigned Unit: BOS

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: In Policy and Training Compliance

Deliverables:

- Subcommittee on the Personnel Assessment System (PAS)
- New Departmental General Order
- Relational database and associated computer hardware and software

Policy: On December 29, 2006 DGO D-17, *PAS Purpose* was published outlining the use of the PAS system, and related program administration responsibilities.

Implementation Activities

Despite the initial challenges, the Department has been able to developed, tested, and implemented an early identification system and intervention policy that complies with the provisions of NSA Tasks 40 and 41. This policy, know as the Personnel Assessment System (PAS) utilizes a “home grown” computerized relational database system developed through collaboration between the City’s Police and Information Technology departments. This system, known as the Internal Personnel Assessment System, or i-PAS, is accessible to all commanders, managers and supervisors via the City’s intranet system. Utilizing a web browser, commanders, managers and supervisors are able to review i-PAS data for all NSA requirements relating to their subordinates. The Department is one of only a few law enforcement agencies that have implemented such a system that will enable supervisors, managers and commanders to comprehensively track and monitor the job performance of its members and employees.

The Department, however, is one of only a few law enforcement agencies that have implemented such an elaborate system. To date, there are no proven policies or thresholds that guarantee successful performance. An extensive amount of research has gone into the methodologies used by the limited number of agencies employing an early identification and intervention system. It has also consulted with statistics researchers from the University of California - Berkeley before selecting a method of analysis. PAS currently uses a peer group methodology, applying histograms to determine performance outliers. This methodology has been review with the

industry recognized expert in the field of law enforcement early identification and intervention, Professor Emeritus Samuel Walker of the University of Nebraska - Omaha, the IMT and the Plaintiffs' Attorneys.

As of the publication of this report the Department will have run two quarterly threshold reports, in April and July 07. Persons identified by the PAS Activity Review Panel as meeting a threshold required a comprehensive PAS Activity Review and Report conducted by their immediate supervisor and reviewed via the chain-of-command. From this review supervisors may recommend one of four options; Intervention, Supervisory Monitoring, No Action or Recognition. The supervisors' recommendations must be reviewed and accepted via the chain-of-command and the PAS Activity Review Panel. Once accepted, recommended actions must be taken and follow-up provided for intervention and supervisory monitoring.

I-PAS is an award winning public agency technological solution, having been recognized with an "Honorable Mention" award in the medium size public safety and emergency management agency category of the 2007 Technology Solutions Awards Program of the Public Technology Institute. From this honor the Department has been invited to submit a nomination to the International Chiefs' of Police awards program for consideration. It is the commitment of the Department and the men and women assigned to this project that have ensured its success in such a short period of time. The Chief of Police and the City's Chief Technology Officer have both recognized the i-PAS development team members with agency awards.

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 PAS, 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: In Policy and Training 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.

VI. FIELD TRAINING OFFICER PROGRAM

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: In Policy and Training Compliance

Deliverables:

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

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 FTFC 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.

IMT Audit Summary

During the seventh reporting period, the IMT evaluated whether the Department’s actual practices comply with Task 42. The IMT determined that although the department had not fully complied with the requirements of Task 42, it had made substantial and remarkable progress, deeming it in partial compliance. The IMT conducted a second audit this reporting period and found the Department in partial actual practice compliance. The IMT continue to be impressed by the Field Training Program Coordinator (FTPC) and his strong leadership skills and the steps he continues to take to modernize, standardize, and improve the Department’s FTO Program.

The Department was found in compliance with the following requirements outlined in Task 42:

- Trainee officers were rotated to new FTO’s at the required intervals and to new geographic areas of the City;
- Prior to rotations, trainee officers were interviewed and given an opportunity to raise any questions or concerns they may have had about the quality of training received;
- Offering incentives to officers who serve as FTOs;

- Assignment to an FTO position contingent upon the successful completion of a training course designed for FTOs and approved by OPD and POST;
- The FTPC or his/her designee conduct random audits of the FTO program to ensure that the FTOs complete daily evaluations of trainee officers and that the selection standards for FTOs are maintained;
- Assigning trainee officers to field duties with “acting” FTOs when regularly assigned FTOs are absent;
- OPD provide field commanders and supervisors training on the FTO program;
- Conduct focus groups with randomly selected trainees regarding their field training experiences; and
- Specified commanders (Training Division Commander, FTO Program Coordinator, BFO Deputy Chief, and BOS Deputy Chief) meet to review the results of the focus group sessions.

The Department attained compliance during this reporting period with the requirement that all of the nomination and qualification requirements, except for the requirement that it bar candidates for two years from the selection process who have an excessive number of citizen complaints, sustained investigations, or excessive numbers of use of force incidents. The IMT found the Department did not evaluate the actual complaints files of those candidates with sustained findings or the use of force reports of those candidates with uses of force.

Upon their review the IMT found the FTO files often contained inaccurate and/or incomplete information regarding the candidate’s complaint history. The IMT also found the Department was not in compliance with the requirement that an FTO be removed from the program when a sustained allegation of excessive force; unlawful arrest; false testimony; racial, ethnic, sexual-orientation, or gender-based discrimination; or other serious examples of police misconduct.

During this review period, the IMT found two FTOs had a sustained Class I offense. OPD is not in compliance with this requirement because one of the FTO’s with a sustained Class I offense was not removed. The Field Training Unit did not realize that the officer had been sustained for a Class I offense (an unlawful entry of a residence) because the case did not list the offense category. As a result, no one reviewed the case or a summary of the case to discern the nature of the sustained violation. Consequently, OPD did not decertify the FTO or otherwise explain why decertification was inappropriate (9th Status Report of the Independent Monitor, pg, 73).

The IMT stated they believe the Department is capable of achieve actual practice compliance with Task 42 in the very near future.

OPD’s Response

By law the Department cannot review anything but sustained and not-sustained findings and the FTO Coordinator has set up a system with IAD to evaluate complaints and use of force incidents for the certified FTO’s and candidates on the FTO Eligibility List. This process has been in place for nearly a year. For those two FTO’s with sustained Class I offenses, one left the program. All sustained cases are sent to the BFO Administrative Sergeant and BFO Deputy Chief for review.

VII. ACADEMY AND IN-SERVICE TRAINING

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: In Policy and Training 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.

OIG Review Summary

The NSA requires that all members receive 40 hours of in-service training every 18 months and that his training incorporates professionalism, ethics and scenario-based exercises. The NSA also requires that sergeants and commanders receive 20 hours of leadership/management training every 18 months and that 40 hours of supervisory/leadership training is provided as required to newly promoted supervisors and commanders. The purpose of the Audit Unit’s review was to identify deficiencies and provide workable solutions to obtain compliance with the NSA.

To help meet the requirements mandated by the NSA, the Training Division offers a 40-hour, week-long block of in-service training to officers and sergeants, referred to as “Continuing Professional Training (CPT).” Although the Training Division attempts to schedule CPT every 18 months, the demands of providing other in-service and academy training have resulted in the time period extending beyond 18 months. The Audit Unit found that there numerous occurrences in which officers and sergeants were receiving more than 40 hours of training other than CPT. For those courses, provided outside of CPT, the lack of clear documentation (ex. Lesson plans and curricula) made it difficult to determine whether or not the course content met NSA requirements. The same issue was found with commanders as well.

Along with tracking and providing training, the Training Division is tasked with selecting academy instructors through a specific process outlined in General Order B-20. Based upon

interviews with staff members in training, it appears that the appropriate steps were taken to select the appropriate instructors; however most instructor files did not contain supporting documentation. Such documentation did not include the instructor consideration memorandum, personnel evaluation matrix, and Instructor Development Course completion certificate.

To correct the problem, the Training Division has hired additional help and has made many changes in the way training is tracked; the way instructors are evaluated; and documentation control for instructor files.

VIII. PERSONNEL PRACTICES

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 and shall accurately reflect the quality of each member/employee’s performance. 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: In Policy and Training Compliance

Deliverables:

- Revised Departmental General Order B-6, *Performance Appraisal*
- Special Order 8650, Revision of DGO B-6, Part III

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 the last reporting period OPD re-drafted B-6, and the IMT determined that it complied with the Settlement Agreement. As of the publication of this report 97% of personnel staff has been trained on the revised policy.

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

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: In Policy and Training Compliance

Deliverables:

- Departmental Discipline Policy Manual (including the Discipline Matrix)
- Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*
- Special Order 8553, TB V-T.1, *Internal Investigations Procedure Manual*
- Internal Affairs Policy and Procedure 07-05, *Skelly Process*

Implementation Activities

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

Ibid, page 67 to review associated Departmental Discipline Policy Implementation Activities for this Task.

IMT Area of Concern

During this reporting period, the IMT evaluated the Department's implementation of the new disciplinary system by the discipline recommendations and decisions in every sustained case involving conduct occurring on or after December 6, 2005, the date the new policy was implemented.

A total of 29 cases were reviewed and the IMT found the Department selected and/or sustained violations that did not fit the facts of the alleged misconduct. Additionally, they found that in some cases with multiple violations, OPD incorrectly calculated the correct presumptive penalty resulting in lower disciplinary recommendations than outlined in the Matrix. The Matrix requires that in cases with more than one sustained violation, penalties be added together. The IMT also observed instances of discipline recommendation memoranda with inaccurate accounts of employee's disciplinary history.

The IMT recognize that some of the concerns they have outlined here have occurred because the Department has decided that a number of the current penalties and formulas, if applied, would result in unduly harsh discipline. The Department is in the process of substantially revising the Matrix to bring it more in line with the Chief's disciplinary philosophy. The have recommended that the Department complete the proposed revisions as soon as possible and that it implement safeguards against incorrect charging and sustaining decisions so that deviations from the Matrix are the exception and, where they do occur, their justification is documented.

OPD's Response

The policy clearly states the Chief has the final decision when it comes to imposing discipline upon departmental personnel. The key is to try and impose fair and consistent discipline; the Matrix only serves as a guideline. It is the Department's view lower penalties brings the disciplinary system more into like with the Chief's disciplinary philosophy and is currently in the

process of substantially revising the Matrix to bring it more in line with the Chief's approach and achieving actual practice compliance.

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: In Policy and Training Compliance

Deliverables:

- Memorandum from the Office of Chief of Police on Promotional Consideration (16 Jan 07)

Implementation Activities

As of the publication of this report, a Memorandum on Promotional Consideration issued by the Office of the Chief of Police regarding promotional consideration was published and accepted by the IMT as the Department’s policy for Task 46. The new policy has been distributed to Department personnel and substantial training compliance has been achieved.

IMT Audit Summary

During this reporting period, the IMT audited the Department’s actual practice compliance with Task 46. The IMT found the Department in compliance with two of the three provisions of this task. The IMT did find the Department is in compliance with the requirements that sustained misconduct cases be a determining factor in an individual’s suitability for promotion, and considering sustained Class I offenses. The IMT also found the Department in compliance with promotional consideration with regards to the Chief’s consideration of the following elements: 1) commitment to community policing; 2) quality of citizen contacts; 3) number of citizen complaints; 4) instances of unnecessary use of force; and 5) support for Departmental integrity measures. However, they did find room for improvement in the manner in which citizen complaints information is handled in the promotional process. The Department is working to ensure that the Chief is not provided information that should not be considered for promotional decisions.

The IMT found the incomplete information was due to a variety of factors including improperly narrow instructions to individuals responsible for gathering the information and the Department's inconsistent and decentralized data management practices. However, the issue of incomplete complaint data was mitigated by OPD's inclusion of the Complaint Investigation Report index (CIR index) in most of the promotional packets provided to the Chief and City Administrator. Information is not being provided that would permit the Chief to evaluate whether the number of complaints is appropriate for the particular candidate given factors such as type of assignment, location and a variety of other criteria that should be considered in determining whether the number of citizen complaints is "excessive" for a particular candidate.

Task 46.2 mandates individuals with a sustained Class I offense be ineligible for promotion for twelve months following the sustained finding. In the promotions audited, there was one sustained allegation of Class I misconduct that was completed within § 3304 and within twelve months prior to promotion. This sustained allegation of Class I misconduct should have made the individual presumptively ineligible for promotion. It is apparent that the Chief did take the sustained allegation of misconduct seriously but the sustained misconduct was not identified as Class I misconduct and the Chief did not recognize it as such. There is no indication that the Chief was aware that the candidate was presumptively ineligible for promotion or that he considered the candidate presumptively ineligible when making his promotion decision.

OPD's Response

The IMT were unable to clarify exactly why the sustained MOR violations noted above were not identified as Class I in materials provided to the Chief. According to OPD, if these MOR violations were alleged today, they would immediately be assigned a Class I designation and this information would be provided to the Chief during the promotional process. Currently, the Department is in the process of assigning each MOR provision a class designation and ensuring that each allegation of misconduct is assigned a class designation at the outset of the investigation.

IX. COMMUNITY POLICING PLAN

Task 47: Community Policing Plan

Settlement Agreement Section XI.; page 41, line 17 – page 42, line 9
Assigned Unit: BFO

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: In Policy and Training 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*

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.

OIG Audit Summary

The audit covered the period from October 1, 2005 to December 31, 2005. The Department is in compliance with the requirement that OPD hosts at least one community meeting per quarter (97%) in each Patrol Service Area (PSA) and that required personnel attend a community meeting each quarter. However, the Department fell short of compliance, with the requirement that required personnel attend the meeting in their required Area (80%). Due to inadequate systems and documentation, the Department was not in compliance with the requirements OPD

measures community policing and problem solving activities; reports on required elements at Crime Stop meetings; and handling meeting requests appropriately.

During the course of the audit, the Department began making numerous changes to fix the deficiencies identified; in particular the form used to document community meeting attendance and scheduling of requested meetings is being revised and the associated policy is being updated to ensure accurate documentation of such meetings attendance and scheduling. Additionally, better systems for documenting measures for community policing and problem solving activities are being developed.

X. DEPARTMENTAL MANAGEMENT AND ANNUAL MANAGEMENT REPORT

Task 48: Departmental Management and Annual Management Report

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

Assigned Unit: BOS

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: In Policy and Training Compliance

Deliverables:

- New Departmental General Order A-7, *Annual Management and Departmental Report*
- Annual Management Reports
- Memorandum from the Chief of Police on Annual Management Reports (1 Apr 07)

Policy

A new Departmental General Order was drafted, staffed, and reviewed by all parties. The policy was published on November 24, 2003. In November 2006, the new General Order A-7 was published and trained on. The revised policy clarifies the required contents in the Fiscal Management Report prepared by each reporting units.

Training

DGO A-7 has exceeded substantial compliance, which is currently reported at 98%. As of the publication date of this report, training on the revised DGO A-7, has exceeded substantial training compliance, which is currently reported at 100%.

IMT Audit Summary

During this reporting period, the IMT audited the Department’s actual practice compliance with Task 48. The Department remained in compliance with the requirements that each functional unit prepares a management report and that the Division Commanders and Deputy Chief’s meet with the Chief of Police to discuss the reports. However, the Department did not meet the submission deadliness set out in the policy. During the IMT’s last audit of this task, only 22% if the Department’s annual management reports included the required information and this reporting period the number rose to 84%.

One of the areas the IMT noted as an area of weakness was fiscal management. During this reporting period, General Order A-7 was revised to clarify the contents in the Fiscal Management section of the report and make it easier to prepare.

XI. INDEPENDENT MONITORING

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: In Policy and Training Compliance

*** No training required**

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.

The IMT continued to be on site during this reporting period and remained a full-time presence in Oakland for over a year now.

XII. COMPLIANCE UNIT

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: In Policy and Actual Practice Compliance

*** No training required**

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: In Policy and Actual Practice Compliance * No training required

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.

IMT Audit Summary

During this reporting period the IMT conducted a second audit of OPD's actual practice compliance with this task. The IMT found the Department remains in actual practice compliance with Task 51. The OIG completed the following audits/reviews during 2006: OC Log and Checkout Procedures (March 30, 2006); Promotional Consideration (April 24, 2006); Personnel Arrested, Sued or Served (May 19, 2006); Transporting Detainees and Citizens (May 24, 2006); In-Service and Academy Training (August 29, 2006); Community Policing (November 17, 2006) and Use of Force (December 22, 2006).

HOUSEKEEPING PROVISIONS

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.