



**OAKLAND POLICE DEPARTMENT  
MONTHLY PROGRESS REPORT  
NOVEMBER 1, 2013**

**OFFICE OF THE COMPLIANCE DIRECTOR  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

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## Office of the Compliance Director

U.S. District Court, Northern District of California

November 1, 2013

This is the fifth monthly progress report, issued as required by Judge Thelton E. Henderson's Compliance Director Court Order dated December 12, 2012.

This month I am pleased to report the completion of a number of Benchmarks, and notable progress on many of the remaining carryover items.

On October 25, 2013, the Independent Monitor filed his Fifteenth Quarterly Report with the Court. I have carefully reviewed this document and compared the remaining non-compliant or partially compliant NSA Tasks with the remaining open Benchmarks. This analysis shows several areas where there are opportunities to improve the alignment of the Monitor's findings with the Benchmark process. My staff and I will be working during the month of November to develop supplemental Benchmarks that are focused on these remaining NSA-related Tasks so that we can bring them to as early a closure as possible.

A handwritten signature in dark ink that reads "Thomas C. Frazier". The signature is written in a cursive, flowing style.

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## **INTRODUCTION**

The Compliance Director Court order dated December 12, 2012, addresses the reporting duties of the Compliance Director and delineates, among other requirements, the following:

1. "Within 30 days of his or her appointment, the Compliance Director will file a remedial action plan ('Plan') that both addresses deficiencies that led to noncompliance and explains how the Plan will facilitate sustainable compliance with all outstanding tasks by December 2013 or as soon thereafter as possible."
2. "Within 60 days of his or her appointment, the Compliance Director will file a list of benchmarks for the OPD to address, resolve, and reduce: (1) incidents involving the unjustified use of force, including those involving the drawing and pointing of a firearm at a person or an officer-involved shooting; (2) incidents of racial profiling and bias-based policing; (3) citizen complaints; and (4) high-speed pursuits. In developing these benchmarks, the Compliance Director will consult with the Monitor, Plaintiffs, the Mayor, the City Administrator, the Chief of Police, the OPOA, and, as necessary, subject-matter experts to ensure that the benchmarks are consistent with generally accepted police practices and national law enforcement standards."
3. "Beginning on May 15, 2013, and by the 15th of each month thereafter, the Compliance Director will file a monthly status report that will include any substantive changes to the Plan, including changes to persons responsible for specific tasks or action items, and the reasons for those changes. The monthly status reports will also discuss progress toward achieving the benchmarks, reasons for any delayed progress, any corrective action taken by the Compliance Director to address inadequate progress, and any other matters deemed relevant by the Compliance Director."

On April 3, 2013, the Court issued an order extending these deadlines as follows:

1. The Compliance Director will file a remedial action plan on or before May 1, 2013.
2. The Compliance Director will file a list of benchmarks on or before May 31, 2013.
3. The Compliance Director will begin filing monthly reports on July 1, 2013, and reports will be due on the 1st of each month thereafter."

## **SIGNIFICANT EVENTS IN OCTOBER**

1. The Compliance Director's staff conducted research into the hiring, background investigative processes, and police academy policies and practices applicable to new recruits.
2. The Compliance Director conducted extensive discussions with, and provided guidance to, the Criminal Investigations Division (CID) command personnel regarding mandatory rotation, training, testing, selection, and span of control in the Division.
3. The Compliance Director's staff prepared extensive documentation of several Force Review Boards and Executive Force Review Board hearings attended by both the Compliance Director's staff and the IMT Deputy Monitor in September 2013.
4. The Compliance Director provided extensive editing and revisions to the draft Department General Order (DGO) K - 4.1 (Force Review and Executive Force Review Board Policy).
5. The Compliance Director provided extensive editing and revisions to the draft of the Force Review Board Information Bulletin (IB) which will be distributed Department-wide upon approval.
6. The Compliance Director conducted substantial discussions with BFO command personnel regarding mandatory rotation in Special Operations. This is one segment of the Department-wide career development and succession planning Benchmark.
7. The Compliance Director's staff researched the use of Personal Digital Video Recorders by OPD personnel during probation searches, SWAT operations, and parole searches.
8. The Compliance Director has communicated with OPD executives regarding the necessity to update Training Bulletin (TB) III-H SIM (less lethal) Policy and DGO K-3 Use of Force Policy. These contacts were made subsequent to the approval of TB III-G Crowd Control and Management Policy, which serves as a prerequisite to these two policies.
9. The Compliance Director was heavily involved in monitoring and making suggestions about the development of a new and updated Early Warning System (PAS2) to help identify Departmental personnel who may require a higher than routine level of supervision or monitoring. In addition to contributing substantive suggestions and modifications to make the new system more effective, the Compliance Director, along

with plaintiffs and the OPOA, have emphasized the need for the new system to be sustainable and effective in the years to come.

10. The Compliance Director participated in the meeting where the RCC, Inc. radio side-by-side draft study was released.

11. The Compliance Director and staff were heavily involved in the planning for both the Occupy Oakland second anniversary and the Urban Shield events, where significant protest activity was anticipated.

12. The Compliance Director reviewed and approved OPD's revised Mutual Aid Policy (DGO L-03).

## **BENCHMARK PROGRESS**

Following are the agreed-upon benchmarks missed from prior months and the October 2013 benchmarks extracted from the Compliance Director's Benchmarks Plan published May 31, 2013. Each benchmark contains a short summary of progress achieved towards completion during the month of October 2013.

NOTE 1: The identifying benchmark numbers in this summary refer to the corresponding number in the "top twenty" priorities identified in the Benchmark Plan.

NOTE 2: Items identified as "Tasks" refer to specific non-compliant or partially compliant items from the Independent Monitor's quarterly reports of OPD compliance with the Negotiated Settlement Agreement.

NOTE 3: Items NOT identified as "Tasks" are items identified and inserted in the benchmark process by the Compliance Director.

NOTE 4: For purposes of this report, the Compliance Director considers policy modifications to be a three-part process. Part one of this process is the OPD drafting/modification and Compliance Director/Monitor review/approval of the policy document. Part two is the development and approval of OPD training bulletins and training syllabi supporting the newly revised/approved policy. Part three is documentation of completion of required training and policy implementation.

NOTE 5: Each benchmark in the following list includes steps the Compliance Director deems necessary for OPD to gain compliance with each benchmark. Only when OPD demonstrates that all steps listed have been satisfactorily achieved will the benchmark be considered to be "completed." Items identified as NSA-related Tasks will then be referred to the Independent Monitor for final compliance review.

NOTE 6: "Progress" entries for each benchmark are color-coded. **Blue** highlights indicate benchmark completion. **Red** highlights indicate that the benchmark remains pending, with a revised due date set. Blue and red text indicates progress during the month of September only.

## **JULY 2013 BENCHMARKS PENDING**

### **BENCHMARK #15a**

Submit backlogged DNA samples to the FBI's Combined DNA Index System database (CODIS). **Complete implementing the procedures and protocols necessary to permit outsourcing of all backlogged unprocessed DNA kits.**

**OPD RESPONSIBLE PARTY:** Deputy Chief D. Outlaw.

**STEPS NECESSARY TO ACHIEVE COMPLIANCE:** Completed Compliance Director review and approval of procedures and protocols.

**JULY PROGRESS:** PENDING. OPD draft procedures and protocols have been submitted to the Compliance Director for review. This review will be completed in August. The completion date for this benchmark has been reset to 30 August 2013.

**AUGUST PROGRESS:** PENDING. OPD draft procedures and protocols have been submitted to the Compliance Director in a timely fashion. On August 21, 2013, the Compliance Director's Office met with OPD executive and command staff members, and representatives from the OPD laboratory. Issues regarding Sexual Assault Response Team (SART) kits and non-SART kit biological evidence were discussed, including matters associated with contracting DNA analysis. OPD draft procedures and protocols are expected to be approved by the Compliance Director the week of September 1, 2013.

**SEPTEMBER PROGRESS:** PENDING. After further consultation with the Alameda County District Attorney's Office (DA's Office), it has been mutually agreed that OPD and the DA's Office will enter into a Memorandum of Understanding (MOU) that SART kits will be dealt with on a county-wide basis by the DA's Office. The DA's Office is currently drafting this MOU to include OPD's technical specifications. OPD anticipates taking this draft MOU to the Oakland City Council Public Safety Committee for review and approval on November 11, 2013. Upon receiving anticipated Committee approval, the MOU will go before the Council on November 19, 2013, for final debate and approval.

**OCTOBER PROGRESS:** PENDING. The District Attorney's Office (DA's Office) reports that Bode, Inc. and the Alameda County Sheriff's Office are close to completing the MOU covering outsourced analysis of DNA evidence. Per agreement between OPD and the DA's Office, this MOU will be modified by the DA's Office and republished as the agreement between OPD and the DA's Office.

### **BENCHMARK #18**

Purchase and deploy modern crowd control weapons/munitions, TASERs, and additional PDRDs - **Complete update of the less lethal weapons/munitions use policy.**

**OPD RESPONSIBLE PARTY:** Deputy Chief D. Outlaw.

**STEPS NECESSARY TO ACHIEVE COMPLIANCE:**

1) Compliance Director review and approval of the revised Department Crowd Control and Crowd Management Policy is necessary prior to the completion of this Benchmark.

2) Following approval of the revised Crowd Control and Crowd Management Policy, OPD is required to submit revisions to the less lethal weapons/munitions policy for Compliance Director review and approval. Compliance Director approval of the revised less lethal weapons/munitions policy is also necessary for completion of this benchmark.

3) Upon Compliance Director approval of both the revised crowd control policy and the revised less lethal weapons/munitions policy, new benchmarks will be established for completion, review, and approval of supporting training materials. Additional future benchmarks will also be established for completion of necessary training and full policy implementation.

**JULY PROGRESS:** PENDING. Completion of this policy revision is dependent upon completion of the current initiative to revise OPD's Crowd Control and Crowd Management Policy. This policy revision is being developed in cooperation with the plaintiffs' attorneys and other stakeholders, and is at about the 90% completion point. Upon completion of the Crowd Control Policy redraft, and its review/approval by the Compliance Director, the final revisions to the less lethal weapons/munitions use policy can be completed and sent to the Compliance Director for review.

The benchmark for completion of this item has been reset for 30 August 2013.

**AUGUST PROGRESS:** PENDING. Completion of the Less Lethal and Specialty Impact Munitions (SIM) policy revision, referred to as Training Bulletin III-H, is dependent upon completion of the current initiative to revise OPD's Crowd Control and Crowd Management Policy. This policy revision is being developed in cooperation with the plaintiffs' attorneys and other stakeholders, and is at about the 98% completion point. A meet-and-confer meeting requested by the National Lawyers Guild and the American Civil Liberties Union with the City on the remaining issues was held on August 30, 2013. All but one of the remaining issues was resolved. That issue has been referred back to OPD for further discussion. Upon completion of the Crowd Control and Crowd Management Policy redraft, and its review/approval by the Compliance Director, the final revisions to Training Bulletin III-H can be completed and sent to the Compliance Director for review.

**SEPTEMBER PROGRESS:** PENDING. The revised draft Crowd Control and Crowd Management Policy was reviewed and approved by the Compliance Director on September 25, 2013. Progress on benchmark 18 can now move forward.

**OCTOBER PROGRESS:** PENDING. OPD delivered the revised draft policy (TB III-H – Specialty Impact Munitions) to the Compliance Director for review on October 29, 2013.

**BENCHMARK #19a**

Develop needed training programs - **Increase Patrol level use of force training for Officers by 20 hours per year.**<sup>1</sup>

**OPD RESPONSIBLE PARTY:** Deputy Chief D. Outlaw.

**STEPS NECESSARY TO ACHIEVE COMPLIANCE:** Provide the Compliance Director with a training proposal for review. Approval of this proposal is necessary to achieve completion of this benchmark

**JULY PROGRESS:** PENDING. Conversations between OPD and the Compliance Director's staff have led to the realization that a blend of training is more realistic than simply depending on increased simulator (MILO) training to achieve the desired goal of providing patrol officers with increased capabilities to deal with potential violence under stress short of using deadly force. OPD's Training Division will craft a proposal to blend increased simulator time and reality-based training. Upon the Compliance Director's review and approval of this revised training plan, a revised benchmark timeline for development and implementation of this training will be crafted and inserted in the updated Benchmark Plan.

The first step is the development/presentation of the OPD blended training proposal. A benchmark for this to be completed has been set as 30 August 2013.

**AUGUST PROGRESS:** PENDING. A revised training proposal and a suggested source of reality-based training were submitted in a timely fashion. The Compliance Director responded with a variety of questions regarding the curricula, instructor qualifications, and manner of presentation. The OPD subsequently provided additional information to the Compliance Director late in the month. This supplemental information is currently under review by the Compliance Director. Communications regarding the crafting of lesson plans and instructor characteristics have been exchanged between the Compliance Director's office and OPD.

**SEPTEMBER PROGRESS:** TRAINING PROPOSAL COMPLETED. Compliance Director review of the proposal submitted by OPD has been completed. The proposal is approved.

DEVELOPMENT AND IMPLEMENTATION OF TRAINING REMAINS PENDING. This benchmark requires the development and implementation of a recurring training program. While OPD has satisfactorily developed the training plan, a final determination of "COMPLETED" cannot be determined until OPD provides documented evidence that this training plan has been implemented, and that the ongoing training has commenced.

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<sup>1</sup> The original benchmark was to increase training to 20 hours per year. In consultation with the OPD, the Compliance Director has determined that a more appropriate benchmark would be to increase training by 20 hours per year, so that officers receive an additional 20 hours per year of training in this critical area. The OPD has agreed to this change.

OPD advises that the revised lesson plans will be completed by October 11. Training will commence on January 14, 2014.

**OCTOBER PROGRESS:** PENDING. OPD reports that the MILO training portion of the training has been completed. Other videos for use in the program are on order. OPD has provided the Compliance Director with a link to a Power Point lesson plan for roll call training addressing the use of the Taser (ECW). Taser training is but one piece of the total curriculum in the additional 20 hours per annum required in the Benchmark. OPD has been advised by the Compliance Director that the Power Point lesson plan for the ECW alone is inadequate and does not complete the step necessary for Benchmark #19a. OPD advises that curriculum development, lesson plans, and scheduling are in the development process and should be completed by November 30, 2013.

## **AUGUST 2013 BENCHMARKS PENDING**

### **BENCHMARK #9a**

Task 25: Use of Force Investigations and Report Responsibility - **Finalize the new Use of Force (UOF) Policy K-3.**

**OPD RESPONSIBLE PARTY:** Deputy Chief D. Outlaw.

#### **STEPS NECESSARY TO ACHIEVE COMPLIANCE:**

- 1) Provide the Compliance Director with a copy of the revised policy for review. Compliance Director approval of the revised policy is necessary for completion of this benchmark.
- 2) Upon Compliance Director review and approval of the revised policy, OPD is required to provide the Compliance Director with a revised training syllabus supporting the newly revised/approved policy for review and approval.
- 3) Upon Compliance Director review and approval of the revised training syllabus, OPD is required to provide documentation that this training has been delivered to appropriate personnel, along with training record copies of five randomly selected personnel who have received the training.

**AUGUST PROGRESS:** PENDING. The draft policy revision was provided to the Compliance Director in a timely manner and on schedule. The proposed revision is pending approval by the Compliance Director. A meet-and-confer meeting requested by the National Lawyers Guild and the American Civil Liberties Union with the City on the remaining issues of the Crowd Control and Crowd Management policy was held on August 30, 2013. All but one of the remaining issues was resolved. That issue has been referred back to OPD for further discussion. Upon completion of the Crowd Control and

Crowd Management Policy redraft, and its review/approval by the Compliance Director and the Independent Monitor, the final revisions to the less lethal weapons/munitions use policy can be completed and sent to the Compliance Director and the Independent Monitor for review. The less lethal weapons/munitions use policy, which is also the subject of Benchmark #18, is the only outstanding item in Policy K-3.

**SEPTEMBER PROGRESS:** PENDING. The revised draft Crowd Control and Crowd Management Policy was reviewed and approved by the Compliance Director on September 25, 2013. Progress on benchmark 9a can now move forward.

**OCTOBER PROGRESS:** PENDING. OPD delivered the revised policy (DGO K-3 – Use of Force) to the Compliance Director for review on October 29, 2013. This policy will also require approval by the IMT.

### **BENCHMARK #10**

Task 30: Executive Force Review Board (EFRB) - **Complete the review of the revision of policy K-4.1 (EFRB). Implement the revised policy.**

**OPD RESPONSIBLE PARTY:** Deputy Chief D. Outlaw.

#### **STEPS NECESSARY TO ACHIEVE COMPLIANCE:**

- 1) Provide the Compliance Director with a copy of the revised policy for review. Compliance Director approval of the revised policy is necessary for completion of this benchmark.
- 2) Upon Compliance Director review and approval of the revised policy, OPD is required to provide the Compliance Director with a revised training syllabus supporting the newly revised/approved policy for review and approval.
- 3) Upon Compliance Director review and approval of the revised training syllabus, OPD is required to provide documentation that this training has been delivered to appropriate personnel, along with training record copies of five randomly selected personnel who have received the training.

**AUGUST PROGRESS:** PENDING. OPD provided the Compliance Director with a proposed revision of the draft policy in a timely manner and on schedule. The revised draft is extensive and addresses a function in the Department which directly relates to issues of force and accountability. The significance of the policy, coupled with the observations of the Compliance Director's staff who have attended Force Review and Executive Force Review Boards, requires a diligent and studious review.<sup>2</sup> Due to the

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<sup>2</sup> The Compliance Director and staff have attended a variety of Force Review and Executive Force Review Boards. The boards attended in August were deficient, as were others dating back to the Occupy Oakland Report of June 2012. Memoranda expressing concerns and recommendations in areas ranging

infrequent occurrence of these boards, more time is necessary for comprehensive review of this process.

**SEPTEMBER PROGRESS:** PENDING. A review of revisions and implementation to this policy is underway within the Compliance Director's Office.

**OCTOBER PROGRESS:** PENDING. Steps 2 and 3, training and policy implementation, are incomplete. Joint review of the conduct of these boards is underway between the Compliance Director's Office and the staff of the Independent Monitor.

### **BENCHMARK #12**

Task 40 - Personnel Assessment System (PAS) – Purpose – **Complete personnel training.**

**OPD RESPONSIBLE PARTY:** Deputy Chief E. Breshears.

**STEPS NECESSARY TO ACHIEVE COMPLIANCE:** Provide the Compliance Director with a copy of the training curricula delivered, and copies of five randomly selected officer training records showing completion of this training.

**AUGUST PROGRESS:** PENDING. Benchmarks #13a and 13b (revisions of Department General Order D-17 and Bureau of Risk Management Policy 13.01) must be completed before the training required by this benchmark can be designed and delivered.

**SEPTEMBER PROGRESS:** The Compliance Director's Office identified two additional issues that must be addressed before the PAS Policy can be finalized. This training cannot be developed until the revised policy has been reviewed and approved. OPD advises that revised documents incorporating the additional changes will be submitted to the Compliance Director's Office for review. A revised due date of November 30, 2013, has been established for this benchmark.

**OCTOBER PROGRESS:** PENDING. As a prerequisite to OPD completing Benchmark #12, both policy and procedures related to PAS required updating, revision, and subsequent approval by the Compliance Director. Training needs to be predicated on current policy and procedure, which are outlined and required in Benchmark #13a and Benchmark #13b. The Compliance Director has reviewed and approved the changes made to both of these Benchmarks, permitting OPD to develop curricula as required in the Benchmarks. When curricula are approved by the Compliance Director, the OPD will implement training as required in Benchmark #12.

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from preliminary force investigations to objective fact presentation about the August 2013 boards were prepared and forwarded to the Chief of Police.

**BENCHMARKS #13a AND 13b**

**#13a:** Task 41- Use of Personnel Assessment System (PAS) - **Revise Department General Order D-17 (PAS Policy).**

**OPD RESPONSIBLE PARTY:** Deputy Chief E. Breshears.

**#13b:** Task 41- Use of Personnel Assessment System (PAS) – **Revise Policy 13.01 - Bureau of Risk Management Policy and Procedures.**

**OPD RESPONSIBLE PARTY:** Deputy Chief D. Outlaw.

**STEPS NECESSARY TO ACHIEVE COMPLIANCE:**

- 1) Provide the Compliance Director with a copy of the revised policy for review. Compliance Director approval of the revised policy is necessary for completion of this benchmark.
- 2) Upon Compliance Director review and approval of the revised policy, OPD is required to provide the Compliance Director with a revised training syllabus supporting the newly revised/approved policy for review and approval.
- 3) Upon Compliance Director review and approval of the revised training syllabus, OPD is required to provide documentation that this training has been delivered to appropriate personnel, along with training record copies of five randomly selected personnel who have received the training.

**AUGUST PROGRESS:** PENDING. OPD provided the Compliance Director with a proposed revised policy as it relates to the current PAS. The revision was provided in a timely manner and on schedule. OPD reported that this proposed revision had been provided to all parties as required. Two issues have surfaced requiring supplemental review and probable revision of the PAS policy, which were not known until after the revision was submitted. First, information which may impact the current PAS policy has been provided at workshops conducted by Sierra Systems.<sup>3</sup> Second, a meeting with OPD executive staff, the Compliance Director's staff, and the Independent Monitor's staff revealed information about internal OPD processes which, if verified, will require revision to the proposed policy. The information has been provided to OPD executive staff, who will be responsible for decisions regarding further revisions, submission to all parties to the NSA, and ultimate submission to the Compliance Director for review and approval.

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<sup>3</sup> The City of Oakland has contracted with Sierra Systems for the purpose of developing a Request for Proposal relevant to the new PAS2 technology system. A significant part of the development process requires workshop discussions with stakeholders. One example is revision regarding the role of supervisors and the PAS Board when determining when personnel monitoring or interventions are considered necessary.

**SEPTEMBER PROGRESS:** PENDING. In August, the Compliance Director's Office identified two additional issues that must be addressed before the PAS Policy can be finalized. Training cannot be developed until the revised policy has been reviewed and approved. OPD has recently submitted the revised documents incorporating the additional changes for Compliance Director review.

**OCTOBER PROGRESS:** PENDING. OPD provided the Compliance Director with draft versions of DGO D-17 and Bureau of Risk Management Policy and Procedure 13.01. However, subsequent to this submission, discussions about PAS policy occurred between the Compliance Director, the IMT, and OPD. Information exchanged in these discussions was not congruent with the draft policy, e.g., issues associated with the role of supervisors, command, and executive personnel and the mechanics of evaluation, determination, and implementation. OPD submitted revised drafts of DGO D-17 and BRM PP 13.01 to the Compliance Director, who approved both policies. Completion of revised training curricula and delivery of training on both revised and approved policies remains to be accomplished.

## **SEPTEMBER 2013 BENCHMARKS PENDING**

### **BENCHMARK #4**

High Speed Pursuits – **Adopt new policy.**

**OPD RESPONSIBLE PARTY:** Assistant Chief P. Figueroa.

**STEPS NECESSARY TO ACHIEVE COMPLIANCE:** Identify and contract with a Subject Matter Expert (SME) qualified to review OPD's existing policy.

**SEPTEMBER PROGRESS:** PENDING. The Compliance Director has engaged an SME. OPD is in contact with the SME and has provided the current policy for review. Further benchmarks will be determined upon completion of the review of the SME's analysis.

**OCTOBER PROGRESS:** PENDING. AC Figueroa has had two policy discussions with the Compliance Director's SME. A draft of the revised policy is anticipated to be delivered to the City Attorney's Office for review by November 30, 2013, with the final OPD-approved draft delivered to the Compliance Director for review by December 15, 2013.

### **BENCHMARK #9**

Task 25: Use of Force Investigations and Report Responsibility - **Complete departmental training on new UOF policy.**

**OPD RESPONSIBLE PARTY:** Deputy Chief D. Outlaw.

**STEPS NECESSARY TO ACHIEVE COMPLIANCE:** The Compliance Director's Office will coordinate a meeting between the IMT and OPD to discuss this issue during a Technical Assistance visit. The Monitor and OPD can review cases held to be out of compliance so that OPD can adjust training appropriately.

**SEPTEMBER PROGRESS:** PENDING. The Compliance Director's Office will meet with OPD and the IMT during the IMT's October Technical Assistance visit. The purpose of this meeting will be to review cases held out of compliance so that OPD can adjust training appropriately. Further benchmarks will be determined pending the outcome of this meeting.

**OCTOBER PROGRESS:** **COMPLETED.** The IMT's Fourteenth Quarterly Report (pages 39 – 43) reports that this Task is in compliance.

### **BENCHMARK #15b**

Submit backlogged DNA samples to the National DNA database (CODIS) - **Establish the criteria for Categories "A, B, and C" of DNA evidence. Insure that these categories are consistent with the categories established by the District Attorney's Office.**

**OPD RESPONSIBLE PARTY:** Deputy Chief D. Outlaw.

**STEPS NECESSARY TO ACHIEVE COMPLIANCE:** Provide the Compliance Director with documentation indicating that these criteria have been established, and that they are consistent with the categories established by the Alameda County District Attorney's Office.

**SEPTEMBER PROGRESS:** PENDING. OPD provided the Compliance Director's Office with a completed product for review on September 19.

**OCTOBER PROGRESS:** **COMPLETED.** The OPD Criminal Investigations Division (CID) has established criteria for ranking all DNA evidence pending analysis in their possession. The criteria outlined are consistent with that of the Alameda County District Attorney's Office. Completion of Benchmark #15b was a prerequisite for the completion of Benchmark #15c.

**BENCHMARK #15c**

Submit backlogged DNA samples to the National DNA database (CODIS) - **Complete development of a listing of all Category “A” DNA evidence (sexual assault and other crimes) that warrants immediate analysis.**

**OPD RESPONSIBLE PARTY:** Deputy Chief D. Outlaw.

**STEPS NECESSARY TO ACHIEVE COMPLIANCE:** Provide the Compliance Director with documentation indicating that the required list of “Category A” DNA evidence has been completed.

**SEPTEMBER PROGRESS:** PENDING. This list cannot be completed until the category criteria for the DNA samples is finalized and approved, as required by Benchmark #15b.

**OCTOBER PROGRESS:** COMPLETED. OPD has documented a listing of all Category “A” DNA evidence in their possession. The listing is outlined into four categories: A, B, C and Grant-Funded. The total number of category “A” DNA samples (based on the criteria established in Benchmark #15b) pending analysis, as of September 16, 2013, stands at 74. The total number of DNA samples pending analysis, not including Sexual Assault Response Team (SART) kits is 248. It is the expectation of the Compliance Director that the accounting of DNA evidence will remain current, and that tracking, analysis, and criminal investigative/enforcement follow-up of DNA evidence will improve substantially.

**BENCHMARK #15d**

Submit backlogged DNA samples to the National DNA database (CODIS) - **Work with the District Attorney’s Office to immediately outsource all DNA evidence identified in the “Category A” analysis.**

**OPD RESPONSIBLE PARTY:** Deputy Chief D. Outlaw.

**STEPS NECESSARY TO ACHIEVE COMPLIANCE:** Provide the Compliance Director with documentation indicating that the DNA evidence identified in the “Category A” analysis has been outsourced for analysis.

**SEPTEMBER PROGRESS:** PENDING. No DNA evidence has been outsourced to date. Outsourcing cannot commence until the OPD/DA MOU is in place.

**OCTOBER PROGRESS:** PENDING. No DNA evidence has been outsourced to date. Outsourcing cannot commence until the OPD/DA MOU is in place.

### **BENCHMARK #16**

Enhance capabilities to follow up on confirmed fingerprint identifications in solving robberies/burglaries - **Complete update of policies/practices to insure effective use of AFIS quality prints.**

**OPD RESPONSIBLE PARTY:** Deputy Chief D. Outlaw.

**STEPS NECESSARY TO ACHIEVE COMPLIANCE:** Provide the Compliance Director with draft updated policies/practices for review.

**SEPTEMBER PROGRESS:** PENDING. OPD provided the Compliance Director's Office with completed drafts of CID P&P 13-01 and 13-02, and a copy of DGO M-4, which is still under OPD revision. (CID P&P 13-01 is CID Policy and Procedure for investigative call-outs, and for robbery and assault investigative criteria. CID P&P 13-02 is the OPD's DNA Cold Hit Project. DGO M-4 is OPD's policy for the coordination of criminal investigations.)

**OCTOBER PROGRESS:** COMPLETED. OPD provided the Compliance Director with updated versions of DGO M-4, which references coordination of criminal investigations, and CID Policy and Procedures 13-01 and 13-02 as they relate to Robbery and Assault investigations. The Compliance Director has approved the updates made to each of these policy and procedure documents as the changes relate to latent print examination, investigator responsibilities, notifications, AFIS, and CAL ID.

## **OCTOBER 2013 BENCHMARKS**

### **BENCHMARK #8**

Task 24: Use of Force Reporting Policy - **Complete Departmental General Order (DGO) K-4 use of force reporting requirements training for all officers.**

**OPD RESPONSIBLE PARTY:** Deputy Chief D. Outlaw.

**OCTOBER PROGRESS:** COMPLETED. The IMT's Fourteenth Quarterly Report indicated that OPD is in compliance with all subtasks of Task 24.

### **BENCHMARK #17**

Formalize a career development program of rotational assignments and temporary detail assignments - **Develop draft plan for rotations as an adjunct to the existing Departmental transfer policy.**

**OPD RESPONSIBLE PARTY:** Deputy Chief D. Outlaw.

#### **STEPS NECESSARY TO ACHIEVE COMPLIANCE:**

1. Utilize an intra- and inter-Department collaborative process to research and determine:
  - a. Why the Program is necessary, to include the necessity/advantage of meeting and conferring with the Oakland Police Officers' Association. Determine goals, objectives, and outcomes of the program including structure and implementation models.
  - b. Components of the Program, e.g. mandatory rotation of assignments within the Department, mandatory and discretionary training, promotional preparation, real-time exposure to internal and external events, participation in organizational and community projects, and mentoring sessions.

The intermediate benchmark due date for completion of these components of the program is December 15, 2013. Deliverables to the Compliance Director for these components will be a revised draft Departmental Transfer Policy for review and approval.

2. Ensure ongoing interaction with the Compliance Director's Office as research and development advance, and during formal implementation. The intermediate due date for final completion and adoption of the revised Policy is February 15, 2014. Final completion of Benchmark #17 shall be defined as full and sustainable implementation of the policy for 6 months.

**OCTOBER PROGRESS:** PENDING. The development of a comprehensive revision to OPD's existing rotation policy has yet to begin. However, during the month of October, OPD, with significant Compliance Director's Office involvement, has worked on revising the SWAT rotation policy.

## **CONCLUDING THOUGHTS**

After modest progress in September, October produced very satisfying results. A number of pending Benchmarks from previous reports have been completed, and progress has been made on those Benchmarks that remain open. Of particular note this month is the exceptional efforts of the City Attorney's Office, which completed legal review of three draft OPD policy documents in less than a week.

While our focus remains on the remaining non-compliant NSA Tasks, other projects and priorities critical to the long-term growth and sustainability of OPD also required attention this month. For example:

- RCC, Inc. conducted a preliminary presentation of the side-by-side radio study, comparing Oakland's current radio system with the East Bay Regional Communications System Authority (EBRCSA). The importance of this decision on the future of OPD cannot be overstated.
- OPD's crowd control/crowd management operations were tested this month during picketing at the Port of Oakland, and demonstrations surrounding the second anniversary of Occupy Oakland and the conduct of FEMA's counterterrorism exercise "Urban Shield". OPD's responses, in terms of revised policies, updated and enhanced planning, advanced training, and tactical field operations shows that OPD has come a long way in a short period of time. My office has been heavily involved in the restructuring efforts leading to the current level of improvement.

As I look forward to November, I see our priorities as continued progress on open Benchmarks, and on developing new Benchmarks designed to ensure that we remain aligned with the IMT and our joint goal of completing the remaining non-compliant or partially-compliant NSA Tasks in a timely manner.