Community Policing Advisory Board
Notice of Meeting

1 Frank Ogawa Plaza, Oakland City Hall, Oakland, California 94612

Dec. 3, 2014 6:00 pm **Council Chamber, 3rd Fl.**

AGENDA

Welcome / Roll Call/ Call to Order

Committee Membership: Jay Ashford (M), Derrick Bulls (Dist. 7), Frank Castro (NW), John Garvey (Dist. 2), Sal Gomez (District 5), Krista Gulbransen (Dist. 4), Angela Haller (NW), Chairperson Marcus Johnson (AL), Cathy Leonard (Dist. 1), Don Link (M), Sheryl Walton (M), and Renia Webb (OHA).

Vacancies: District 3, District 6, and OUSD

Staff: Joe DeVries

Appointee Notes: Dist. = District; M = Mayoral; NW = Neighborhood Watch; OHA = Oakland Housing Authority; OUSD = Oakland Unified School District

Each person wishing to speak on items must fill out a speaker's card. Persons addressing the Community Policing Advisory Board shall state their names and the organization they are representing, if any.

1. **Open Forum:** Public comment is an opportunity to speak on items not on the agenda but within the jurisdiction of the Advisory Board. *Speakers are limited to two minutes.*

Agenda

2. **OPD Stop Data analysis project:** *In June 2014, Stanford University Professor Jennifer Eberhardt was contracted by the Oakland Police Department to administer a Stop Data analysis project, designed to identify and address tensions between the Oakland Police Department and the Oakland Community. The project will last at least a year.*

   Presenter: Professor Jennifer Eberhardt; Documentation: OPD Stop Data Annual Report--oak049861; **LINK** http://goo.gl/YurG6F

   Additional Reference Information: Nineteenth Quarterly Report of the Independent Monitor for the Oakland Police Department, Task 34: Vehicle Stops, Field Investigation, and Detentions, **LINK** http://goo.gl/nndiVi

3. **Ceasefire--Procedural Justice & Police Legitimacy** *is a field of study that is specific to how officers engage with the community and how this engagement impacts a community member's decision to comply, cooperate, or assist law enforcement.*

   Presenter: OPD Lt. Armstrong; Ceasefire Program Director Reygan Harmon; Documentation: Brief Outline—Procedural Justice, Procedural Justice--Expanded Course Outline, and

   Additional Reference Information: Procedural Justice- Fairness as a Crime Prevention Tool, **LINK** http://goo.gl/W2K8t8

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4. **NCPC Re-Certification**:

    1. Confirm Chair and NCPC Resource Committee findings that the following NCPCs should be re-certified: Beats 3Y, 9X, 10X, 12Y/13X, 13Y, 17XY, 22Y, and 25X. **ACTION**

    2. Confirm Chair and NCPC Resource Committee findings that the following NCPCs should be re-certified: Beats 2X/5X, 6X, 12X, 18XY/19, 25Y, 26XY, 30X, and 35Y. **ACTION**

5. Committee Updates

    1. Program and Resource Committee: Continued E-Newsletter and Tri-Fold Updates, Discussion /Possible Action.

    2. NCPC Resource Committee: NCPC Recertification status report and Beats under consideration for certification: are 2Y/5Y, 13Z, 16Y, 22X, 27X, 29X, 31YZ and 33/34X. Discussion / Action

6. Staff Report, i.e. status of vacancies

7. Chair Report & Updates

8. Agenda Building

Adjournment

Community Policing Advisory Board Webpage
http://www2.oaklandnet.com/Government/o/CityAdministration/d/CPAB/

Adjournment

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Brief Outline—Procedural Justice

Reygan Harmon, Ceasefire Program Director

Procedural Justice & Police Legitimacy is a field of study that is specific to how officers engage with the community and how this engagement impacts a community member's decision to comply, cooperate, or assist law enforcement. This field of study is particularly of interest in jurisdictions that have a significant population of minorities and other groups that have a historical distrust of law enforcement and where traditional problem oriented community policing has not been as successful.

Two Yale Professors, Tom Tyler & Tracey Meares, are leading experts in this body of work and recently the DOJ announced a $4.5 million grant to implement and study the impact of Procedural Justice. Also, Oakland was recently chosen as one 6 cities to participate in the DOJ's Violence Reduction Network. At the conference in DC this Fall Eric Holder and Bill Bratton talked about the importance of implementing procedural justice.

The OPD began to look into this work as part of the Ceasefire strategy. One of the 3 goals of the strategy is to improve community police relationships. In 2012 when these goals were developed the California Partnership for Safe Communities (CPSC) and Bob Wasserman found out about a training being offered by Chicago PD that was being taught to sworn personnel and that was largely based on Tyler & Meares work. In May 2013 I traveled to Chicago with AC Figueroa to look at and participate in the training. We were very impressed by the training because it offered officers a better understanding of challenges between law enforcement and minority communities and gave them specific and tangible things that they could do to better serve those communities regardless of what unit they were assigned to and their race.

As a result of our initial experience in Chicago we decided to come back to Chicago with members of the Ceasefire community working group, the CPSC, sworn personnel from OPD, and staff from the Human Services Division to receive hands on intensive training with Chicago trainers so that we could come back to Oakland and implement it. Both Salinas and Stockton PD also attended but Oakland was the only city that brought community members. After the Chicago training the aforementioned Oakland contingent began adapting the curriculum to Oakland and training would be instructors. In March 2014 we had a "dry run" with a few would be instructors, and in May the Chicago training staff came to Oakland to provide a 2 day intensive training and feedback session. By late May Lt. Armstrong, Lt. Holmgren and community members began teaching the class to sworn personnel within the OPD. Ofc. Kyle Haye has also recently joined the instruction team. To date OPD is the only jurisdiction in California (and maybe the nation) that has community member instructors.

Since May 2014 the Oakland Police Department has been implementing the Procedural Justice & Police Legitimacy for sworn personnel. To date we have trained over 300 sworn personnel and received rankings that average 90% and above. The goal is to train all sworn personnel and non sworn personnel that have significant contact with the public.

Lt. Armstrong's presentation will focus on the aforementioned facts and provide the committee information about OPD's procedural justice training.

Nineteenth Quarterly Report *of the* Independent Monitor *for the* Oakland Police Department

Robert S. Warshaw
Independent Monitor

Office of the Independent Monitor
Police Performance Solutions, LLC
P.O. Box 396, Dover, NH 03821-0396

October 30, 2014

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Section One

Introduction

This is the nineteenth quarterly report of the Monitor of the Negotiated Settlement Agreement (NSA) in the case of *Delphine Allen, et al., vs. City of Oakland, et al.,* in the United States District Court for the Northern District of California. In January 2010, under the direction of Judge Thelton E. Henderson, the Parties agreed to my appointment as Monitor of the Oakland Police Department (OPD). In this capacity, I oversee the monitoring process that began in 2003 under the previous monitor. The current Monitoring Team conducted our nineteenth quarterly site visit from August 11, through August 15, 2014, to evaluate the Department's progress with the NSA during the three-month reporting period of April 1, through June 30, 2014.

During our site visit, we met with several Department officials, including the Chief and Assistant Chief of Police and Deputy Chiefs; as well as personnel from the Office of Inspector General (OIG), Bureau of Field Operations (BFO), Bureau of Investigations (BOI), Bureau of Services (BOS), Internal Affairs Division (IAD), Training Section, and Communications Section; OPD officers, managers, supervisors, and commanders – including sergeants, lieutenants, and captains. We also conferred with the Plaintiffs' attorneys, City Administrator, and the Office of the City Attorney (OCA). During and since the time of our site visit, we observed Department meetings and technical demonstrations; reviewed Departmental policies; conducted interviews and made observations in the field; and analyzed OPD documents and files, including misconduct investigations, use of force reports, crime and arrest reports, Stop Data Forms, and other documentation.

In the body of this report, we again report the compliance status with the remaining active Tasks of the Agreement. By the end of the seven-year tenure of the previous monitor, the Department was in full compliance with 32 of the 51 required Tasks, and in partial compliance with 16 additional Tasks. As a result, the Parties agreed to reduce the number of Tasks under "active" monitoring to the current list of 22.

For this reporting period, we continue to find the Department in Phase 1, or policy compliance, with all 22 of the remaining active Tasks. With regard to Phase 2, or full compliance, we find that OPD is in compliance with 18 (82%) of the 22 remaining Tasks, and in partial compliance with two (9%) Tasks. We also placed two (9%) Tasks in deferred compliance status.

These numbers show an increase in compliance levels by one Task from the last reporting period – and the highest number of Tasks in compliance that we have found since the beginning of our tenure. These overall numbers reflect a change from *partial* compliance to *in* compliance with Task 20, *Span of Control;* Task 26, *Force Review Board*; and Task 30, *Executive Force Review Board.* The Department has wavered between *in* compliance and *partial* compliance on both Task 26 and Task 30 over the course of this monitorship. During this reporting period, the Department also experienced a change from *in* compliance to *deferred* compliance status with

Task 5, *Complaint Procedures for IAD*; and Task 45, *Consistency of Discipline Policy*. We describe these changes further below. During the last (eighteenth) reporting period, we found the Department in Phase 2 compliance with 17 Tasks, and in partial compliance with four Tasks. (We also deferred our assessment of one Task.)

During our most recent site visit, on August 14, 2014, the Court expressed its dismay with the recent reinstatement of an officer whom Chief Whent had terminated, and with the City's poor performance in other recent arbitrations – several of which also overturned terminations of officers who had been sustained for serious misconduct. The Court's Order referred to Tasks 5 (Complaint Procedures for IAD) and 45 (Consistency of Discipline), questioning, "whether Defendants are adequately preparing cases for arbitration such that consistency of discipline can be assured to the greatest extent possible." As described further below, as a result – despite the findings of our most recent assessments of those Tasks – I list those Tasks as in deferred compliance status. The investigation of the discipline and arbitration process is currently underway; I will discuss it further in future quarterly status reports.

While this inquiry is ongoing, I would like to note that in some other areas, the Department continues to make progress. Most notably, during this reporting period, for the first reporting period since the beginning of our tenure, the Department is in compliance with Task 20, *Span of Control*. We are pleased that the Parties recently reached agreement on a slightly altered manner of assessing the most substantive subtasks of Task 20; this demonstrated the Parties' shared commitment to advancing the sustainability of these reforms.

One of the impediments to compliance with Task 20 had been the Department's use of "certified acting sergeants." Sergeants are the building blocks of a police department's supervisory structure – they respond to scenes, handle complaints from citizens, approve arrests made by officers, and review and write reports that are eventually sent up the chain of command. Officers must know who they report to; the consistency of supervision makes a police organization effective and increases officers' accountability to their department, and the department's accountability to the community it serves. Since the beginning of our tenure, we had expressed our concerns with the practice of using acting sergeants – who are officers themselves – to supervise squads of officers. With the enactment of DGO D-13.1, *Assignment to Acting Sergeant of Police*, the Department officially discontinued its use of acting sergeants for patrol-related duties. (The Department, with our approval, continues to place acting sergeants in non-patrol assignments.) This policy change is a significant step forward.

The Department has benefitted from the leadership of Chief Sean Whent, whose commitment to the NSA and the future of the agency has been unwavering. Mayor Jean Quan's support – and that of interim City Administrator Henry Gardner – has been an essential ingredient in the advances the Department has made. Reforms transcend city departments, so the active participation of *all* City leaders is essential for success. The City and the community must forge ahead, collaboratively, to bring about the sustainable reform that the public so richly deserves.

Chief (Ret.) Robert S. Warshaw
Monitor

Monitoring Team:
Chief (ret.) Charles D. Reynolds, *Deputy Monitor*
Lt. Colonel (ret.) J. Rick Brown
Robin Busch-Wheaton
Eric P. Daigle, Esq.
Commander (ret.) John M. Girvin
John M. Klofas, Ph.D.
Assistant Director (ret.) Joseph R. Wolfinger

Compliance Assessment Methodology

The body of this report is comprised of our assessments of compliance with the individual requirements of the 22 active Tasks of the NSA. Each requirement is followed by information about the compliance status of the requirement during our previous reporting period, a discussion regarding our assessments and the current status of compliance, a summary notation of Phase 1 and Phase 2 compliance (see below), and our planned next steps in each area.

The Monitor's primary responsibility is to determine the status of the Oakland Police Department's compliance with the requirements of the 22 active Tasks. To accomplish this, the Monitoring Team makes quarterly visits to Oakland to meet with OPD's Office of Inspector General (OIG) and other Department personnel – at the Police Department, in the streets, or at the office that we occupy when onsite in the City. We also observe Departmental practices; review Department policies and procedures; collect and analyze data using appropriate sampling and analytic procedures; and inform the Parties and, on a quarterly basis, the Court, with information about the status of OPD's compliance.

Our Team determines compliance through an examination of policies and implementation of practices that are relevant to each of the active Tasks. First, we determine if the Department has established an appropriate policy or set of procedures to support each requirement. Following this, we determine if the Department has effectively implemented that policy.

Based on this process, we report the degree of compliance with requirements on two levels. First, we report if the Department has met policy compliance. Compliance with policy requirements is known as **Phase 1 compliance,** and the Department achieves it when it has promulgated appropriate policies and trained relevant Department members or employees in their content. Second, we report on the extent to which the Department has implemented the required policies. Implementation-level compliance is reported as **Phase 2 compliance.** In general, to achieve full compliance, the Department must achieve both Phase 1 and Phase 2 compliance; that is, an appropriate policy must be adopted, trained to, and operationally implemented.

Our conclusions with regard to Phase 1 or Phase 2 compliance will fall into the following categories:

- **In compliance**: This is reported when policy requirements are met (Phase 1) or effective implementation of a requirement has been achieved (Phase 2).

- **Partial compliance**: This is reported when at least one, but not all, requirements of a Task have achieved compliance, showing progress toward full compliance. Tasks will remain in partial compliance as long as we determine there is continued progress toward reaching substantial, or full, compliance.

- **Not in compliance**: This is reserved for instances where partial compliance has not been achieved and no progress has been made.

Many sub-requirements of the 22 active Tasks require the analysis of multiple instances of activity, cases, or observations. In these circumstances, our analysis is based on a review of all cases or data, or, when appropriate, on statistically valid samples of the population. To reach our conclusions based on analyses of cases, the Department must meet a minimal standard. The Parties have agreed upon these compliance standards, which range from 85% to 95%, or a Yes/No standard.

This methodology supports a sound and rigorous review of the Department's compliance with the requirements of the 22 active Tasks. We recognize, however, that the high demands of this methodology may not be fully realized in all elements of all reviews. There will be circumstances in which we will be unable to determine fully the compliance status of a particular requirement due to a lack of data, incomplete data, or other reasons that do not support the completion of our work in a manner consistent with timely reporting. Under such circumstances, we will opt not to compromise our methodology by forcing a conclusion regarding compliance levels. Instead, we will report a finding as **Deferred.** This finding is not intended to reflect negatively on the Department or to otherwise imply insufficient progress. In such circumstances, we expect that a more complete assessment of compliance in the area in question will be determined in our next report.

Our compliance assessment methodology directs the Monitoring Team in our work and underlies the findings presented in this report. We fully expect that this methodology will govern our work throughout our tenure in this project. Any consideration of revision or change of this methodology will be presented to the Parties and the Court.

Task	**Phase 1: Policy and Training**	**Phase 2: Implementation**			
	In Compliance	In Compliance	Partial Compliance	Not in Compliance	Deferred
Task 2: Timeliness Standards and Compliance with IAD Investigations	√	√			
Task 3: IAD Integrity Tests	√	√			
Task 4: Complaint Control System for IAD and Informal Complaint Resolution Process	√	√			
Task 5: Complaint Procedures for IAD	√				√
Task 6: Refusal to Accept or Refer Citizen Complaints	√	√			
Task 7: Methods for Receiving Citizen Complaints	√	√			
Task 16: Supporting IAD Process - Supervisor/ Managerial Accountability	√	√			
Task 18: Approval of Field-Arrest by Supervisor	√	√			
Task 20: Span of Control for Supervisors	√	√			
Task 24: Use of Force Reporting Policy	√	√			
Task 25: Use of Force Investigations and Report Responsibility	√	√			
Task 26: Force Review Board (FRB)	√	√			
Task 30: Executive Force Review Board (EFRB)	√	√			
Task 33: Reporting Misconduct	√	√			
Task 34: Vehicle Stops, Field Investigation, and Detentions	√		√		
Task 35: Use of Force Reports – Witness Identification	√	√			
Task 37: Internal Investigations - Retaliation Against Witnesses	√	√			
Task 40: Personnel Assessment System (PAS) – Purpose	√	√			
Task 41: Use of Personnel Assessment System (PAS)	√		√		
Task 42: Field Training Program	√	√			
Task 43: Academy and In-Service Training	√	√			
Task 45: Consistency of Discipline Policy	√	√			√
Total Tasks	22	18	2	0	2

Section Two

Compliance Assessments

Task 2: Timeliness Standards and Compliance with IAD Investigations

Requirements:
Fairness to complainants, members/employees and the public requires that internal investigations be completed in a timely fashion.

1. *On or before December 1, 2003, OPD shall develop policies regarding timeliness standards for the completion of Internal Affairs investigations, administrative findings and recommended discipline.*
2. *Compliance with these timeliness standards shall be regularly monitored by IAD command and the Department's command staff. If IAD experiences an unusual proliferation of cases and/or workload, IAD staffing shall be increased to maintain timeliness standards.*

(Negotiated Settlement Agreement III. B.)

Discussion:
OPD published Departmental General Order M-03, *Complaints Against Department Personnel and Procedures*, which incorporates the requirements of Task 2, on December 6, 2005. General Order M-03 was revised most recently on August 22, 2013. As the Department has trained at least 95% of relevant personnel on this policy, we find OPD in continued Phase 1 compliance with this Task.

OPD has been in Phase 2 compliance with Task 2 since the thirteenth reporting period.

Task 2.1 requires that internal investigations (IAD and Division Level) – including review, approval, findings, and discipline – be completed in accordance with the timeliness standards developed by OPD (compliance standard: 85%). To assess this subtask, we reviewed a list of all internal investigations resulting in formal findings (unfounded, sustained, exonerated, or not sustained) that were approved between April 1, and June 30, 2014, and calculated the number of days between the complaint date and the approval date for each case. We excluded from the dataset cases that were administratively closed, those that involved on-duty traffic accidents or service complaints, and those that did not involve Manual of Rules (MOR) violations. We segregated the remaining cases into Class I or Class II categories. If a case involved at least one alleged Class I violation, we classified it as Class I.

Departmental policy requires that at least 85% of Class I misconduct investigations and at least 85% of Class II misconduct investigations must be completed within 180 days to be considered timely.[1] Of the 41 Class I cases we reviewed, 37, or 90%, were in compliance with established timelines – an increase from the 86% we found during the last reporting period. Also, two of the Class I cases were completed in exactly 180 days, and 20 cases were completed in between 170 and 179 days. Of the 71 Class II cases we reviewed, 66, or 93%, were in compliance with established timelines – a decrease from the 97% we found during the last reporting period. Four of the Class II cases were completed in exactly 180 days, and 16 cases were completed in between 170 and 179 days. Of the 27 sustained findings that we reviewed, all (100%) were in compliance with established discipline timelines.[2] This was the same percentage that we found during the last reporting period.

OPD is in compliance with Task 2.1.

Task 2.2 requires that IAD and OPD command staff regularly monitor compliance with these timeliness standards (compliance standard: Yes/No). The primary responsibility for monitoring compliance with timeliness standards rests with IAD, which generates weekly reports listing the Department's open investigations and critical deadlines for investigations retained in IAD and those handled at the Division level. The reports are distributed to IAD command staff and the respective Bureau Deputy Chiefs.

In addition to the reports, the IAD Commander discusses pending deadlines for key open investigations during IAD's weekly meetings with the Chief; the deadlines are also reflected in written agendas for these meetings. IAD also occasionally, as needed, emails individual reminders on cases approaching due dates to investigators and their supervisors. During this reporting period, we received and reviewed copies of individual Bureau and Department-wide Open Investigation Reports, Cases Not Closed Reports, 180-Day Timeline Reports, and agendas for the weekly meetings between the Chief and IAD staff. The content of these documents demonstrates active monitoring of case timeliness. A Monitoring Team representative occasionally attends and observes these weekly meetings. The Department is in compliance with Task 2.2.

Task 2.3 requires that if IAD experiences an unusual proliferation of cases and/or workload, IAD staffing be increased to maintain timeliness standards (compliance standard: Yes/No). During the current reporting period, IAD opened 284 cases, an increase of 71 cases from the last reporting period. This comes after several reporting periods of reduced numbers of complaints, which the Department attributed to the implementation of the revised DGO M-03. During this reporting period, OPD did not assign any additional personnel to IAD, nor reassign any current IAD personnel. At this point, it does not appear that timeliness was adversely affected by the

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[1] OPD classifies misconduct as either "Class I" or "Class II." Per DGO M-03, Class I offenses "are the most serious allegations of misconduct and, if sustained, shall result in disciplinary action up to and including dismissal and may serve as the basis for criminal prosecution." Class II offenses include "all minor misconduct offenses."

[2] We reviewed 17 cases involving sustained findings; several cases involved more than one sustained finding.

slight increase in cases received; if the upward trends continue, we will discuss with IAD its plans for additional staffing. Also, the Chief approved 245 cases, a decrease of 95 cases from the last reporting period. OPD is in compliance with Task 2.3.

OPD is in Phase 2 compliance with Task 2.

Compliance Status:
Phase 1: In compliance
Phase 2: In compliance

Next Steps:
During the next reporting period, we will again confer with IAD command staff regarding workload trends and staffing requirements. In particular, we are interested in learning more about the recent uptick in complaints, if this trend continues.

Task 3: IAD Integrity Tests

Requirements:
IAD shall be proactive as well as reactive.

1. *IAD shall conduct integrity tests in situations where members/employees are the subject of repeated allegations of misconduct.*
2. *IAD shall have frequency standards, among other parameters, for such integrity tests.*

(Negotiated Settlement Agreement III. C.)

Discussion:
On January 25, 2007, OPD published Internal Affairs Policy & Procedures 07-01, *Integrity Testing,* which incorporates the requirements of this Task. The Department updated this policy in January 2009. As the Department has trained at least 95% of relevant personnel on this policy, we find OPD in continued Phase 1 compliance with this Task.

OPD has been in Phase 2 compliance with this Task since the sixth reporting period.

Task 3.1 requires that IAD conduct integrity tests in situations where members/employees are the subject of repeated allegations of misconduct (compliance standard: Yes/No); and **Task 3.2** requires that IAD's integrity tests be conducted in accordance with the frequency standards and other parameters IAD has established (compliance standard: 90%).

To assess the Department's Phase 2 compliance with these subtasks, we reviewed files – including operations plans, after-action reports, supporting documents, and evidence – related to the 10 integrity tests that were conducted from April 1, through June 30, 2014. Our review focused on the scope of the investigations, whether OPD conducted integrity tests on members

and employees who were the subject of repeated allegations, and whether the selective integrity tests that OPD conducted complied with the parameters established by IAD. Of the 10 tests conducted during this reporting period, five were planned tests, in which the Integrity Testing Unit reviewed the records of OPD members and employees to verify that their vital information and records were current and, therefore, followed Departmental policy.[3] All five planned tests focused on individual members and employees of OPD who were the subjects of high numbers of allegations of misconduct over the prior 18 months; all five planned tests passed.

The remaining five integrity tests were selective tests, focusing on whether the officers who were subjects of the test failed to adhere to OPD policies.[4] Two of these tests were conducted on officers who were the subjects of repeated allegations, and addressed the sources of the repeated allegations. All five selective tests passed.

The selective tests during this reporting period covered multiple topics. One of the tests focused on whether an officer who was subject of repeated allegations conducted himself in a professional manner and activated his PDRD in accordance with policy. The ITU reviewed his PDRD footage to determine if it was consistent with offense reports, stop data forms, and field interviews. The ITU found that the officer was in accordance with policy.

Another test focused on a clerk who had been the subject of repeated allegations of rudeness while assisting citizens on the telephone. The ITU conducted a test using a decoy who called the employee multiple times while monitoring the call. The test found that the subject provided accurate information and was professional and courteous.

Another test focused on an officer who allegedly accessed the Department's Consolidated Records Information Management Systems (CRIMS) for personal use. The ITU investigation found no evidence of misuse.

Another test was assigned to the ITU when allegations were made to IAD that an officer was loitering at the residence of an alleged prostitute and providing security for her. The ITU conducted surveillance on the residence and the subject officer. ITU cleared the investigation after it did not observe or discover any misconduct on the part of the subject officer.

The final test involved an examination of the financial reports that are required by members assigned to specialized units, and it found that the members updated their personal information records when required. In the course of this test, ITU discovered that there was a policy deficiency; it did not apply to officers who were temporarily assigned to the units. OPD is currently changing the policy so that it applies to temporarily and permanently assigned members.

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[3] Planned integrity tests are designed specifically to test the compliance – with Departmental policies or procedures – of specific members or employees who are identified as the subject of the test.

[4] Pursuant to Internal Affairs Policy & Procedures 07-01, selective integrity tests are targeted enforcement tools aimed at addressing specific issues regarding specific members, employees, or units.

OPD is in Phase 2 compliance with Task 3.

Compliance Status:
Phase 1: In compliance
Phase 2: In compliance

Next Steps:
During our next site visit, we will again meet with ITU and the IAD Commander to discuss the Integrity Testing Unit and its testing.

Task 4: Complaint Control System for IAD and Informal Complaint Resolution Process

Requirements:

1. *Within 90 days, OPD shall develop a policy regarding an informal complaint resolution process which may be used by supervisors and IAD to resolve service complaints and Class II violations that do not indicate a pattern of misconduct as described in Section III, paragraph H (2). This process shall document the receipt of the complaint, date, time, location, name or the person making the complaint, the name of the person receiving the complaint, how the matter was resolved and that the person making the complaint was advised of the formal complaint process with the CPRB. The documentation shall be forwarded to an IAD Commander for review. If the informal complaint resolution process fails to resolve the complaint or if the person making the complaint still wishes to make a formal complaint, the person receiving the complaint shall initiate the formal complaint process pursuant to Section III, paragraph E. An IAD Commander shall make the final determination whether the ICR process will be utilized to resolve the complaint. OPD personnel shall not unduly influence persons making a complaint to consent to the informal complaint resolution process.*
2. *IAD shall establish a central control system for complaints and Departmental requests to open investigations. Every complaint received by any supervisor or commander shall be reported to IAD on the day of receipt. If IAD is not available, IAD shall be contacted at the start of the next business day. Each complaint shall be assigned an Internal Affairs case number and be entered into a complaint database with identifying information about the complaint. OPD personnel shall notify IAD and the Chief of Police, or designee, as soon as practicable, in cases likely to generate unusual public interest.*

3. *Criteria shall be established which must be met prior to moving, from "open" to "closed," any investigation in the complaint database.*[5]

(Negotiated Settlement Agreement III. D.)

Discussion:

There are four Departmental policies that incorporate the requirements of Task 4: Department General Order M-03, *Complaints Against Department Personnel and Procedures* (published December 6, 2005 and revised most recently on August 22, 2013); Department General Order M-3.1, *Informal Complaint Resolution Process* (published December 6, 2005 and revised most recently on November 10, 2008); Special Order 8552, *Update of Departmental Training Bulletin V-T.1, Internal Investigation Procedure Manual* (published February 1, 2007); and Communications Division Policy & Procedures C-02, *Receiving and Logging Complaints Against Personnel and Use of Force Incidents* (published April 6, 2007). As the Department has trained at least 95% of relevant personnel on these policies, we find OPD in continued Phase 1 compliance with this Task.

Only two provisions of Task 4 (4.7 and 4.10) are being actively monitored under the MOU. During all of the previous reporting periods, we found OPD in Phase 2 compliance with both of these requirements.

Task 4.7 requires that every complaint received by any supervisor or commander be reported to IAD on the day of receipt (compliance standard: Yes/No). If IAD is not available, the supervisor or commander shall contact IAD at the start of the next business day. To assess Phase 2 compliance for Task 4.7, we reviewed 91 Daily Incident Log (DIL) entries and a random sample of 65 IAD case files that were approved during the period of April 1, through June 30, 2014. The Office of Inspector General forwards completed DILs to us on a daily basis. We found no evidence of unwarranted delay in the delivery of these complaints or in the intake process once IAD was made aware of them. OPD is in compliance with Task 4.7.

Task 4.10 requires that OPD comply with criteria it has established when resolving complaints through informal complaint resolution (ICR), administrative closure, or summary finding (compliance standard: 90%).[6] This subtask is intended to ensure that OPD provides the proper level of investigation for each complaint, and does not resolve meritorious complaints of misconduct without determining – and documenting – whether the OPD member or employee committed misconduct.

During this reporting period, from a sample of IAD cases that were approved between April 1, and June 30, 2014, we reviewed 10 cases in which at least one allegation was resolved via administrative closure, eight cases in which at least one allegation was resolved via informal

[5] The underlined requirements are the only provisions of Task 4 that are being actively monitored under the MOU.

[6] Summary findings are investigations in which the Department believes a proper conclusion can be determined based on a review of existing documentation with limited or no additional interviews and follow-up.

complaint resolution (ICR), and nine cases in which at least one allegation was resolved via summary finding. We also reviewed three cases in which a combination of these closures was used.

In all but one of the ICRs we reviewed, the complainants agreed to the informal complaint resolution process. Where an agreement was secured in a telephone conversation, that information was contained in the case documentation (in many cases, the exact minute/second mark of the agreement was recorded) and in follow-up letters to the complainants. Five of the cases involved allegations of poor demeanor. In three cases, complainants alleged that their reports of crime were not properly investigated, or arrests were not made when they believed that arrests were justified. In one case, the complainant was upset with the slow response time to her report of a burglary in progress.

As mentioned above, in one case, the complainant did not agree to the ICR process. A citizen complained that an officer was using a smokeless tobacco product while guarding a prisoner. The allegation was sustained during a Division Level Investigation (DLI), but when the case was presented to the Chief of Police, he ordered that the case be informally resolved pursuant to policy M-3.1, Section III.A.1.b, which affords the IAD Commander – and consequently, the Chief of Police – the discretion to invoke the process. The Chief determined that this was "an isolated incident that lacked intention or egregiousness," and believed that training was more appropriate than discipline.

The administrative closures that we reviewed were investigated before IAD arrived at the determination that such a closure comported with policy. Two cases were administratively closed because they only involved complaints of delayed response times. Two cases were administratively closed because they did not involve MOR violations. Two others were closed because the complaints lacked specificity. In one, the complainant indicated that the officer was rude but did not elaborate, and the PDRD video did not reveal any improprieties. In the other, the complainant indicated that he was almost struck by an OPD vehicle while crossing the street, but he did not provide enough information to identify the vehicle or the operator.

The remaining allegations that were administratively closed comported with policy, in that the complaints either lacked specificity, claimed innocence of charges best left to appropriate adjudication venues to decide, or otherwise did not constitute MOR violations. Where they were accompanied by allegations that warranted a full investigation, these additional allegations were investigated in accordance with policy. We also identified several administrative closures in our Task 7.3 (Anonymous Complaints) review, and they are further discussed in that section.

The cases resolved via summary finding were approved for such designation as required by policy. In six of these cases, the interactions between officers and citizens were recorded on PDRDs, negating the need to interview all of the involved officers. In another case, security cameras outside of the Oakland Coliseum recorded the interaction complained of, revealing that security officers were involved and not OPD officers. In another case alleging improper

demeanor by a dispatcher, the audio recording of the call was sufficient to determine the appropriate finding. Summary findings are further discussed in Task 5.

OPD is in compliance with Task 4.10.

OPD is in Phase 2 compliance with Task 4.

Compliance Status:
Phase 1: In compliance
Phase 2: In compliance

Task 5: Complaint Procedures for IAD

Requirements:

1. *On or before December 1, 2003, OPD shall develop a policy so that, OPD personnel who become aware that a citizen wishes to file a complaint shall bring such citizen immediately, or as soon as circumstances permit, to a supervisor or IAD or summon a supervisor to the scene. If there is a delay of greater than three (3) hours, the reason for such delay shall be documented by the person receiving the complaint. In the event that such a complainant refuses to travel to a supervisor or to wait for one, the member/employee involved shall make all reasonable attempts to obtain identification, including address and phone number, as well as a description of the allegedly wrongful conduct and offending personnel, from the complainant and any witnesses. This information, as well as a description of the complaint, shall immediately, or as soon as circumstances permit, be documented on a Complaint Form and submitted to the immediate supervisor or, in his/her absence, the appropriate Area Commander, and shall be treated as a complaint. The supervisor or appropriate Area Commander notified of the complaint shall ensure the Communications Division is notified and forward any pertinent documents to the IAD.*
2. *An on-duty supervisor shall respond to take a complaint received from a jail inmate taken into custody by OPD, who wishes to make a complaint of Class I misconduct contemporaneous with the arrest. The supervisor shall ensure the Communications Division is notified and forward any pertinent documents to the IAD. All other misconduct complaints, by a jail inmate shall be handled in the same manner as other civilian complaints.*
3. *In each complaint investigation, OPD shall consider all relevant evidence, including circumstantial, direct and physical evidence, and make credibility determinations, if feasible. OPD shall make efforts to resolve, by reference to physical evidence, and/or use of follow-up interviews and other objective indicators, inconsistent statements among witnesses.*
4. *OPD shall develop provisions for the permanent retention of all notes, generated*

and/or received by OPD personnel in the case file.

5. *OPD shall resolve each allegation in a complaint investigation using the "preponderance of the evidence" standard. Each allegation shall be resolved by making one of the following dispositions: Unfounded, Sustained, Exonerated, Not Sustained, or Administrative Closure. The Department shall use the following criteria for determining the appropriate disposition:*

   a. *Unfounded: The investigation disclosed sufficient evidence to determine that the alleged conduct did not occur. This finding shall also apply when individuals named in the complaint were not involved in the alleged act.*
   b. *Sustained: The investigation disclosed sufficient evidence to determine that the alleged conduct did occur and was in violation of law and/or Oakland Police Department rules, regulations, or policies.*
   c. *Exonerated: The investigation disclosed sufficient evidence to determine that the alleged conduct did occur, but was in accord with law and with all Oakland Police Department rules, regulations, or policies.*
   d. *Not Sustained: The investigation did not disclose sufficient evidence to determine whether or not the alleged conduct occurred.*
   e. *Administrative Closure: The investigation indicates a service complaint, not involving an MOR violation, was resolved without conducting an internal investigation; OR*
   f. *To conclude an internal investigation when it has been determined that the investigation cannot proceed to a normal investigative conclusion due to circumstances to include but not limited to the following:*
      1) *Complainant wishes to withdraw the complaint and the IAD Commander has determined there is no further reason to continue the investigation and to ensure Departmental policy and procedure has been followed;*
      2) *Complaint lacks specificity and complainant refuses or is unable to provide further clarification necessary to investigate the complaint;*
      3) *Subject not employed by OPD at the time of the incident; or*
      4) *If the subject is no longer employed by OPD, the IAD Commander shall determine whether an internal investigation shall be conducted.*
      5) *Complainant fails to articulate an act or failure to act, that, if true, would be an MOR violation; or*
      6) *Complaints limited to California Vehicle Code citations and resulting tows, where there is no allegation of misconduct, shall be referred to the appropriate competent authorities (i.e., Traffic Court and Tow Hearing Officer).*
   g. *Administrative Closures shall be approved by the IAD Commander and entered in the IAD Complaint Database.*

6. *The disposition category of "Filed" is hereby redefined and shall be included under Administrative Dispositions as follows:*

a. *An investigation that cannot be presently completed. A filed investigation is not a final disposition, but an indication that a case is pending further developments that will allow completion of the investigation.*

b. *The IAD Commander shall review all filed cases quarterly to determine whether the conditions that prevented investigation and final disposition have changed and may direct the closure or continuation of the investigation.*

7. Any member or employee who is a subject of an internal investigation, as well as any other member or employee on the scene of an incident at which misconduct has been alleged by a complainant, shall be interviewed and a recorded statement taken. However, investigators, with the approval of an IAD Commander, are not required to interview and/or take a recorded statement from a member or employee who is the subject of a complaint or was on the scene of the incident when additional information, beyond that already provided by the existing set of facts and/or documentation, is not necessary to reach appropriate findings and conclusions.

(Negotiated Settlement Agreement III. E.)

Discussion:

There are six Departmental policies that incorporate the requirements of Task 5: Department General Order M-03, *Complaints Against Department Personnel and Procedures* (published December 6, 2005 and revised most recently on August 22, 2013); Communications Division Policy & Procedures C-02, *Receiving and Logging Complaints Against Personnel and Use of Force Incidents* (published April 6, 2007); Training Bulletin V-T.1, *Internal Investigation Procedure Manual* (published June 1, 2006); Special Order 8270, *Booking of Prisoners at the Glenn E. Dyer Detention Facility* (published June 24, 2005); Special Order 8565, *Complaints Against Department Personnel* (published May 11, 2007); and IAD Policy & Procedures 05-02, *IAD Investigation Process* (published December 6, 2005). In addition, NSA stipulations issued on December 12, 2005, and March 13, 2007, incorporate the requirements of this Task. As the Department has trained at least 95% of relevant personnel on these policies, we find OPD in continued Phase 1 compliance with this Task.

OPD has been in Phase 2 compliance with Task 5 since the fourteenth reporting period. In each of the prior reporting periods, we found the Department in partial compliance with Task 5.[7]

To verify Phase 2 compliance with Tasks 5.1 through 5.5, we reviewed 91 entries that appeared on the Daily Incident Logs (DILs) that were completed between April 1, and June 30, 2014. We identified these by randomly selecting 48 dates during this reporting period and reviewing the entries for each of those dates.

Task 5.1 requires that when a citizen wishes to file a complaint, the citizen is brought to a supervisor or IAD, or a supervisor is summoned to the scene (compliance standard: 95%).

[7] Pursuant to an agreement among the Parties, Tasks 5.7- 5.11, and 5.13-5.14 are not subject to active monitoring.

During the last reporting period, we found OPD in compliance with this subtask. During the current reporting period, of the 91 DIL entries, 24 complaints were taken by supervisors in the field; three complaints were received by IAD directly; and in the remaining 64 cases, complainants called 911 to express their dissatisfaction. In these latter cases, IAD or field supervisors were notified, except when the complaints were against Communications personnel (these were handled by a Communications supervisor) or were clearly service complaints (e.g., slow response time with no specific officer complained of). We noted 36 such service complaints. Twenty-two of these were for delayed response to calls for service. Five others involved dissatisfaction with OPD policies and procedures. During this reporting period, OPD remains in compliance with Task 5.1.

Task 5.2 requires that if there is a delay of greater than three hours in supervisory response, the reason for the delay be documented (compliance standard: 85%). OPD has added a checkbox to the DIL to record such delays. In addition to reviewing this section of the logs, we also checked the times of complaint receipt and supervisor contact with the complainant (or attempted contact where the complainant was unavailable – see Task 5.3). We identified two cases in which there appeared to be greater than a three-hour delay in contacting the complainant. In one case, the complainant was unable to speak to a sergeant due to her medical condition, despite the fact that the sergeant responded to the hospital to interview her. The other complaint was received via email, and the supervisor did not receive the complaint until he returned to work from his scheduled days off. Since the reason for the delay was explained in the log entry, OPD remains in compliance with Task 5.2.

Task 5.3 requires that where a complainant refuses to travel to a supervisor, or wait for one, personnel make all reasonable attempts to obtain specific information to assist in investigating the complaint (compliance standard: 90%). Of the 91 records in our dataset, we identified three instances in which the complainant "refused" interaction with a supervisor. All were received in Communications, and in each case, the complainants did not answer the callback telephone numbers provided during their initial calls. In one of these cases, a supervisor also attempted to contact the complainant in person, without success. OPD is in compliance with Task 5.3.

Task 5.4 requires that specific information be documented on a complaint form and submitted to the immediate supervisor or, in his/her absence, the appropriate Area Commander (compliance standard: 85%). To achieve compliance with this subtask, the DIL should contain the identification of personnel; witnesses or identifying information, if known (the log should state "unknown" if not known); the date, time, and location of the incident; and the time of contact or attempt to contact the complainant by a supervisor.

During the last reporting period, OPD had a 100% compliance rate with this subtask. During this reporting period, all of the logs we reviewed contained the required information ("unknown" was checked in 15 records). OPD has a 100% compliance rate during this reporting period, and is in compliance with Task 5.4.

Task 5.5 requires that the supervisor or Area Commander notify Communications and forward

any pertinent documents to IAD (compliance standard: 95%). OPD had a compliance rate of 100% with this subtask during the last reporting period. The DILs are administered by the Communications Section and forwarded to IAD each business day. Additionally, the DIL contains a field to record the name of Area Commander notified and the time of notification. This field was properly completed in all of the records we reviewed. OPD is in 100% compliance with Task 5.5 during this reporting period.

Task 5.6 requires that an on-duty supervisor respond to take a complaint received from a jail inmate taken into custody by OPD, who wishes to make a complaint of Class I misconduct contemporaneous with the arrest of the inmate. To assess Task 5.6 during this reporting period, we reviewed all complaints that appeared to have originated from North County Jail, Santa Rita Jail, Glenn E. Dyer Detention Facility, or Juvenile Hall, and were approved between April 1, and June 30, 2014. Using the IAD database, we did not identify any such complaints for the reporting period.

OPD remains in compliance with Task 5.6.

Task 5.12 requires that the Watch Commander ensure that any complaints that are applicable to Task 5.6 are delivered to and logged with IAD (compliance standard: 90%). Since by definition these complaints must be made contemporaneous with the arrest, an on-duty supervisor must respond to the jail. Under current policy, the Communications Section must record on the DIL complaints that are received and/or handled by on-duty supervisors; the DIL is forwarded daily to IAD. As mentioned in past reports, we deem the DIL system as functionally equivalent to the requirements of Task 5.12, and the Department remains in compliance with this subtask.

To assess **Tasks 5.15 through 5.19**, and **Task 5.21**, we reviewed a random sample of 25 IAD cases that were approved between April 1, and June 30, 2014. This sample included investigations completed by IAD and Division-level investigations (DLIs). It also included cases that were resolved via formal investigation and investigations that were resolved via summary finding.
As in our previous reviews, we treated **Tasks 5.15 and 5.16** as a single subtask with several elements, specifically that OPD: gathers all relevant evidence; conducts follow-up interviews where warranted; adequately considers the evidence gathered; makes credibility assessments where feasible; and resolves inconsistent statements (compliance standard: 85%). During the previous assessment period, we deemed the Department in compliance with *all* of these required elements 96% of the time. Of the 25 investigations we reviewed for this reporting period, we deemed 23, or 92%, in compliance with *all* of these required elements.

In eight cases, investigators conducted follow-up interviews with officers or civilians to seek clarification. In two of these cases, complainants and/or witnesses were interviewed multiple times.

Credibility assessments were made in 20 of the 25 cases. Four of the five cases without credibility assessments were handled via summary finding, and by policy, investigators are not

required to assess credibility in these instances since a determination can be made without interviewing all involved. In the other case, IAD interviewed one officer in a use of force case referred to IAD by a Force Review Board. The interview resulted in a justified finding for the use of force in question. While the case was in our sample, it did not constitute a full investigation by IAD.

We identified one credibility assessment as problematic. The investigating sergeant never made a definitive credibility assessment of one witness, but twice characterized her credibility as "of concern." We believe there was enough information to make a determination one way or the other.

In six cases, complainants or witnesses were appropriately deemed not credible. In three of the cases, PDRD recordings directly contradicted their statements. In the other three cases, physical evidence and/or their own inconsistent statements appropriately called into question the credibility of some of those interviewed.

We identified one case in which relevant evidence was not identified or considered during this review. The complainant alleged that an officer failed to properly investigate and document a domestic violence incident. We concur. The officer failed to take into account the statements of two witnesses as well as the physical evidence at the scene. The investigating sergeant went to great lengths to exonerate the officer, but we disagree with the finding.

OPD is in compliance with Task 5.15 and 5.16.

Task 5.17 requires that OPD permanently retain all notes generated and/or received by OPD personnel in the case file (compliance standard: 85%). OPD personnel document that all investigative notes are contained within a particular file by completing IAD Form 11 (Investigative Notes Declaration). During the previous reporting period, we found OPD in 100% compliance with this subtask. During this reporting period, the form was again properly completed in all 25 cases we reviewed. OPD is in compliance with this subtask.

Task 5.18 requires that OPD resolve each allegation in a complaint investigation using the preponderance of the evidence standard (compliance standard: 90%). During the last reporting period, OPD complied with this subtask in 92% of the cases we reviewed. During this reporting period, OPD complied with this subtask in 24, or 96%, of the 25 cases in our sample. OPD's review and consideration of electronic evidence continues to contribute to OPD's success in this area. In 14 of the cases we reviewed, PDRD recordings proved material to arriving at the appropriate findings. In two other cases, phone calls recorded in in the Communications Division were instrumental in determining the correct finding.

In one case, we do not believe that OPD appropriately used the preponderance of the evidence standard. In the domestic violence case referenced above, the investigating sergeant arrived at an exonerated finding for an allegation of failing to properly investigate and document the incident. Based on our review, we believe the complainant's allegation had merit and the finding should have been sustained.

OPD is in compliance with Task 5.18.

Task 5.19 requires that each allegation of a complaint is identified and resolved with one of the following dispositions: unfounded; sustained; exonerated; not sustained; or administrative closure (compliance standard: 95%). Our sample of 25 cases contained 76 allegations that received dispositions as follows: 30 exonerated; 6 not sustained; 30 unfounded; 6 sustained; and four administratively closed. PDRD video continues to be used in more and more cases to arrive at definitive conclusions. We did not agree with one of the findings, as noted in Task 5.18.

With a 99% compliance rate, OPD remains in Phase 2 compliance with this subtask.

Task 5.20 requires that the IAD Commander review all "filed" cases quarterly to determine whether the conditions that prevented investigation and final disposition have changed (compliance standard: 90%). A filed case is defined as an investigation that cannot be presently completed and is pending further developments that will allow completion of the investigation; filed is not a final disposition. As part of our review of this Task, we also review cases that are tolling. OPD defines a tolled case as an administrative investigation that has been held in abeyance in accordance with one of the provisions of Government Code Section 3304.

During our most recent site visit, we met with the Deputy Chief of the Bureau of Risk Management and the commanding officer of IAD, who advised that as of that date, no cases were classified as filed or tolling. Filed and tolling cases are reviewed with the Chief during his weekly IAD meetings and are listed by case number on the printed meeting agendas. OPD is in compliance with this subtask.

Task 5.21 requires that any member or employee who is a subject of an internal investigation, as well as any other member or employee on the scene of an incident at which misconduct has been alleged by a complainant, shall be interviewed and a recorded statement taken (compliance standard: 90%). However, with the approval of the IAD Commander, investigators are not required to interview and/or take a recorded statement in all cases. For example, interviews are not needed from a member or employee who is the subject of a complaint, or who was on the scene of the incident when additional information – beyond that already provided by the existing set of facts and/or documentation – is not necessary to reach appropriate findings and conclusions. Five of the 25 cases we reviewed were resolved via summary finding, and all were appropriately approved for such closure. (These do not include the cases referenced in Task 4, for which summary findings were also appropriate.) In four of these cases, the availability of PDRD video was the primary reason interviews were unnecessary.

OPD is in compliance with Task 5.21.

In response to the July reinstatement of an officer who had been terminated for his actions during the Occupy Oakland-related protests of 2011, Judge Henderson issued an Order, which reads in part:

> "This is not the first time an arbitrator has overturned an officer's termination by Defendants, and, indeed, this Court previously ordered the parties to discuss the reinstatement of [another officer] by arbitration at the September 22, 2011 status conference. The City's promises to correct deficiencies at that time have fallen short, and further intervention by this Court is now required.
>
> "Failure to address the issues addressed in this order will prevent compliance, let alone sustainable compliance, with the Negotiated Settlement Agreement ("NSA"). Defendants cannot be in compliance with Task 5 if the internal investigations leading to disciplinary decisions by Defendants are inadequate. Likewise, they cannot be in compliance with Task 45 if discipline is not consistently imposed. Because imposition of discipline is meaningless if it is not final, the Monitor and the Court must consider whether discipline is upheld at the highest level, most often arbitration…"

Consequently, until such time as OPD addresses the issues specifically outlined in Judge Henderson's Order, we consider OPD to be in deferred compliance status with Task 5.

Compliance Status:
Phase 1: In compliance
Phase 2: Deferred

Task 6: Refusal to Accept or Refer Citizen Complaints

Requirements:
Refusal to accept a citizen complaint, failure to refer a citizen to IAD (when that citizen can be reasonably understood to want to make a citizen's complaint), discouraging a person from filing a complaint, and/or knowingly providing false, inaccurate or incomplete information about IAD shall be grounds for discipline for any OPD member or employee.
(Negotiated Settlement Agreement III. F.)

Discussion:
OPD published Departmental General Order M-03, *Complaints Against Department Personnel and Procedures*, which incorporates the requirements of Task 6, on December 6, 2005. General Order M-03 was revised most recently on August 22, 2013. The requirements of this Task are also incorporated into Manual of Rules Sections 314.07, 398.70, and 398.76. As the Department

has trained at least 95% of relevant personnel on these policies, we find OPD in continued Phase 1 compliance with this Task.

OPD has been in Phase 2 compliance with Task 6 since the eighth reporting period.

Task 6 requires that OPD members and employees who refuse to accept a citizen complaint, fail to refer a citizen to IAD (when the citizen can be reasonably understood to want to make a citizen's complaint), discourage a person from filing a complaint, and/or knowingly provide false, inaccurate, or incomplete information to IAD, are disciplined (compliance standard: 95%). To assess Phase 2 compliance with this Task, we reviewed a random sample of 91 Daily Incident Log entries from April 1, through June 30, 2014; and a random sample of 25 IAD investigations (conducted by both IAD and via Division-level investigation) that were closed during the same period. We found no cases in which an allegation of Failure to Accept or Refer a Complaint went unaddressed.

We also queried the IAD database to identify any allegations of MOR 398.70-1, Interfering with Investigations; MOR 398.76-1, Refusal to Accept or Refer a Complaint; and MOR 398.76-2, Failure to Accept or Refer a Complaint; that were investigated and approved during this same time period. We identified two such cases. One resulted in sustained findings for one or more of the applicable MOR violations.

In this case, an anonymous complainant alleged that a dispatcher was rude during his call to report a person who was unconscious behind the wheel of a vehicle. While listening to the recording, the IAD intake officer noted that the complainant asked for the dispatcher's number and asked to speak to a supervisor. IAD sustained the allegation of Failure to Accept or Refer a Complaint (Unintentional). During the presentation of the sustained finding to the Chief, he directed that the case be handled via counseling and training, as noted in the case paperwork "due to lack of history and clear unintentional act and context in which the violation occurred." The context referred to the abusive demeanor of the complainant during the call.

In the other case, a complaint filed with Citizens Police Review Board (CPRB), the complainant alleged that an officer failed to take a complaint during a landlord/ tenant dispute which the officer responded to. The interaction was recorded on the officer's PDRD and the recording refuted the complainant's allegations. An appropriate finding of unfounded was reached.

OPD remains in Phase 2 compliance with Task 6.

<u>Compliance Status:</u>
Phase 1: In compliance
Phase 2: In compliance

Task 7: Methods for Receiving Citizen Complaints

Requirements:
On or before December 1, 2003, OPD shall develop a policy to strengthen procedures for receiving citizen complaints:

1. *IAD or Communication Division personnel shall staff a recordable toll-free complaint phone line, 24-hours a day, and receive and process complaints in accordance with the provisions of Departmental General Order M-3. The complainant shall be advised that the call is being recorded when a complaint is taken by IAD.*
2. *Guidelines for filing a citizen's complaint shall be prominently posted and informational brochures shall be made available in key Departmental and municipal locations.*
3. *OPD shall accept anonymous complaints. To the extent possible, OPD shall ask anonymous complainants for corroborating evidence. OPD shall investigate anonymous complaints to the extent reasonably possible to determine whether the allegation can be resolved.*
4. *OPD personnel shall have available complaint forms and informational brochures on the complaint process in their vehicles at all times while on duty. Members/employees shall distribute these complaint forms and informational brochures when a citizen wishes to make a complaint, or upon request.*
5. *IAD shall be located in a dedicated facility removed from the Police Administration Building.*
6. *Complaint forms and informational brochures shall be translated consistent with City policy.*
7. *Complaint forms shall be processed in accordance with controlling state law.*[8]

(Negotiated Settlement Agreement III. G.)

Discussion:
OPD published Departmental General Order M-03, *Complaints Against Department Personnel and Procedures*, which incorporates the requirements of Task 7, on December 6, 2005. General Order M-03 was revised most recently on August 22, 2013. As the Department has trained at least 95% of relevant personnel on this policy, we find OPD in continued Phase 1 compliance with this Task.

Only one provision of Task 7 (7.3) is being actively monitored under the MOU. OPD has been in Phase 2 compliance with this Task since the second reporting period.

To assess Phase 2 compliance with this Task, we reviewed all cases listed in the Internal Affairs Division database as originating from complainants who were "anonymous," "unknown," "refused," or any forms of those terms (such as "unk") and that were approved between April 1,

[8] The underlined requirement is the only provision of Task 7 that is being actively monitored under the MOU.

and June 30, 2014. We also reviewed all complaints during this selected time period that were tagged by IAD as originating from an anonymous complainant, and complaints in which the complainant field in the database was blank, to determine whether any were made anonymously.

Based on the above-listed criteria, we identified eight cases as potential anonymous complaints during this reporting period. After review, we determined that all were true anonymous complaints, and the complainants were not identified during the course of the investigations.

Six of the eight complaints were received via telephone calls to the Communications Division. The other two were sent as unsigned letters via inter-Departmental mail.

Where possible, complainants were asked to provide corroborating evidence. In most of the cases, the complainants terminated the contact before OPD could secure additional details of the complaint. However, the complaints were investigated to the extent reasonably possible as required by this subtask. IAD or field supervisors attempted to re-contact complainants if a callback number was available, even if the complainants expressly stated they wished to remain anonymous.

Five of the eight cases were administratively closed. Each met the criteria for such closure, and most lacked the details to identify the specific alleged misconduct and/or OPD personnel involved in the incidents. Four of the five were classified as service complaints. Three involved a delayed response to calls for service. In the fourth, the complainant was upset that her parking complaint was referred to a non-emergency line.

Three cases were investigated to the extent possible, and findings were reached. One involved a complaint against a dispatcher for asking "dumb questions." In another, the complainant alleged that officers working an off-duty detail at the Coliseum were discourteous. In the third case, an anonymous letter writer alleged improper behavior by two command officers.

OPD continues to provide citizens with informational business cards when their intent to file a complaint is unclear. The cards contain the information necessary to file a complaint at a later time if desired, and these citizen contacts are documented in a separate log in Communications. Like the Daily Incident Logs, these are forwarded to IAD – and the Monitoring Team – on a daily basis. This is the fourth reporting period in which this system has been used, and it appears to be having the desired effect of limiting those cases in which the complaint process is invoked unnecessarily.

The Department remains in Phase 2 compliance with Task 7.3.

<u>Compliance Status:</u>
Phase 1: In compliance
Phase 2: In compliance

Task 16: Supporting IAD Process - Supervisor/Managerial Accountability

Requirements:

On or before December 1, 2003, OPD shall develop a policy to ensure that supervisors and commanders, as well as other managers in the chain of command, shall be held accountable for supporting the IAD process. If an IAD investigation finds that a supervisor or manager should have reasonably determined that a member/employee committed or violated a Class I offense, then that supervisor or manager shall be held accountable, through the Department's administrative discipline process, for failure to supervise, failure to review, and/or failure to intervene.
(Negotiated Settlement Agreement III. O.)

Discussion:
Two Department policies, Departmental General Order M-03 and Training Bulletin V-T.1, incorporate the requirements of Task 16. OPD published Departmental General Order M-03, *Complaints Against Department Personnel and Procedures*, on December 6, 2005. General Order M-03 was revised most recently on August 22, 2013. OPD published Training Bulletin V-T.1, *Internal Investigation Procedure Manual*, on June 1, 2006; and Special Order 8552, *Update of Departmental Training Bulletin V-T.1, Internal Investigation Procedure Manual*, on February 1, 2007. As the Department has trained at least 95% of relevant personnel on these policies, we find OPD in continued Phase 1 compliance with this Task.

OPD has been in Phase 2 compliance with Task 16 since the fourteenth reporting period.

Task 16.1 requires that supervisors and commanders, as well as other managers in the chain of *command*, are held accountable for supporting the IAD process (compliance standard: Yes/No); and **Task 16.2** requires that if an IAD investigation finds that a supervisor or manager should have reasonably determined that a member/employee committed or violated a Class I offense, the supervisor or manager is held accountable, through OPD's administrative discipline process, for failure to supervise, failure to review, and/or failure to intervene (compliance standard: 90%).

To assess Task 16 during this reporting period, we examined 91 Daily Incident Log entries from April 1, through June 30, 2014; a random sample of 65 IAD cases (investigated by both IAD and via Division-level investigation, or DLI) that were approved by the Chief of Police between April 1, through June 30, 2014; and the seven sustained Class I investigations that were approved by the Chief of Police between April 1, through June 30, 2014.

Each of the seven sustained Class I investigations showed acceptable analyses of supervisors' abilities to identify the sustained misconduct. These seven cases included three cases of allegations of harassment/ hostile work environment, one case where an employee assaulted another employee, one allegation that OPD violated policy by releasing a firearm that was used in a suicide, a use of force case involving a canine, and an allegation of failure to supervise.

In three cases, members and employees alleged that another employee or supervisor was involved in harassment and discrimination, creating a hostile work environment within their units. In one of the cases, the supervisor had reported the inappropriate conduct by an employee at line-up. Another case involved allegations of inappropriate comments by a director in a workplace environment.

In one case, an employee alleged that he was assaulted by another employee. IAD found that the supervisor acted appropriately in handling and reporting the conduct. Another case found that a civilian supervisor failed to properly supervise her subordinates.

The final case involved a review of a canine deployment by the Force Review Board. The supervisor approved the use of the canine; however, the FRB found that the canine bite of the canine was unreasonable and not in compliance with Department policy. The board determined that the sergeant was on the search team for the suspect and authorized the use of the canine. When the subject was located, the subject complained of a dog bite. However, the supervisor reported that there was no indication that the canine made contact with the suspect. The FRB found that the canine had contact with the suspect, and the supervisor who conducted the UOF investigation did not conduct a complete and thorough investigation.

As we have discussed with OPD, the investigation report's member/employee accountability section should include an analysis of whether it was reasonable for a supervisor – through reviewing reports, investigating force, or supervising an officer – to identify misconduct. A transparent organization identifies – through close and effective supervision – any possible misconduct of its members.

During this reporting period, the cases that we reviewed properly evaluated supervisors' accountability. OPD is in compliance with this Task.

<u>Compliance Status:</u>
Phase 1: In compliance
Phase 2: In compliance

<u>Next Steps:</u>
During our next site visit, we will, as in the past, meet with the IAD Commander to discuss any Task 16-applicable cases for the next reporting period and steps the Department is taking to improve IAD investigators' evaluations of supervisors' accountability.

Task 18: Approval of Field-Arrest by Supervisor

Requirements:
Within 260 days from the effective date of this Agreement, the Chief of Police shall, based on contemporary police standards and best practices, develop and implement policies to address the following standards and provisions:

Approval of Field-Arrest by Supervisor

1. *OPD shall develop standards for field supervisors that encourage or mandate close and frequent supervisory contacts with subordinates on calls for service. The policies developed in this Section shall require supervisors to respond to the scene of (at least) the following categories of arrest, unless community unrest or other conditions at the scene make this impractical:*
   a. *All Felonies;*
   b. *All drug offenses (including narcotics, controlled substances and marijuana arrests if the subject is taken to jail).*
   c. *Where there is an investigated use of force;*
   d. *Penal Code §§69, 148 and 243(b)(c).*

The responding supervisor shall review the arrest documentation to determine whether probable cause for the arrest, or reasonable suspicion for the stop, is articulated, to ensure that available witnesses are identified, to approve or disapprove the arrest in the field, and to log the time of the contact.[9]
(Negotiated Settlement Agreement IV. A.)

Discussion:
Three Departmental policies incorporate the requirements of Task 18.2.2: DGO M-18, *Arrest Approval and Review in the Field* (published May 13, 2004 and updated October 1, 2005); Special Order 8536, *Probable Cause Arrest Authorization and Report Review* (published December 2006); and Training Bulletin I-O.4, *Legal Aspects Of Searching Persons On Parole And Probation* (published November 23, 2011). As the Department has trained at least 95% of relevant personnel on these policies, we find OPD in continued Phase 1 compliance with this Task.

Only one provision of Task 18 (18.2.2) is being actively monitored under the MOU. During all of the previous reporting periods, we found the Department in compliance with this subtask.

Task 18.2.2 requires that supervisors review arrest documentation to verify that available witnesses are identified (compliance standard: 90%). To assess Phase 2 compliance with this subtask, we reviewed arrest documentation for all of the applicable arrest categories, as well as documentation for arrests resulting in an investigated use of force. Specifically, we reviewed a random sample of 72 adult and one juvenile arrest reports documenting felony arrests; drug arrests; and arrests for Penal Code 69, 148, and 243(b)(c); as well as documentation for 14

[9] The underlined requirement is the only provision of Task 18 that is being actively monitored under the MOU.

arrests resulting in an investigated use of force; that occurred between April 1, and June 30, 2014. We reviewed these arrests to determine if supervisors reviewed the reports that listed witnesses or appropriately noted "no known witnesses," or referred to a canvass with no witnesses produced. In keeping with previous practice, if there was no mention of any witnesses in the crime report narrative, we accepted a "0" in the "witness" box on the cover sheet as sufficient documentation.

Of the 72 adult arrest reports, we excluded 61 from our dataset; for one or more of the following reasons: the arrest involved a warrant or probation or parole warrant detention; the arrest occurred outside of our selected time period; the incident was, in fact, a psychiatric detention that did not involve an arrest; or the arrest involved a misdemeanor offense that was not one of the arrests applicable to Task 18.2.2. Of the remaining 11 adult arrests and one juvenile arrest, there were two reports that did not document the presence of witnesses or no known witnesses; and a supervisor approved all of the arrests. This represents an 82% compliance rate relating to adult/juvenile arrests for this subtask. In addition, of the 14 arrests resulting in an investigated use of force, all were in compliance with Task 18.2.2.[10] This represents a 100% compliance rate among arrests resulting in an investigated use of force for this subtask.

Our review revealed an overall 91% compliance rate for Task 18.2.2. OPD is in Phase 2 compliance with this requirement.

Compliance Status:
Phase 1: In compliance
Phase 2: In compliance

Next Steps:
We will meet with OIG to discuss audits of this Task to ensure sustainability.

Task 20: Span of Control for Supervisors

Requirements:

On or before August 14, 2003, OPD shall develop and implement a policy to ensure appropriate supervision of its Area Command Field Teams. The policy shall provide that:

1. *Under normal conditions, OPD shall assign one primary sergeant to each Area Command Field Team, and, in general, (with certain exceptions) that supervisor's span of control shall not exceed eight (8) members.*
2. *During day-to-day operations, in the absence of the primary supervisor (e.g., due to sickness, vacation, compensatory time off, schools, and other leaves), the appropriate Area Commander shall determine, based on Department policy and*

[10] This number includes only Level 1, 2, and 3 uses of force because per DGO K-4, the documentation of witnesses of Level 4 uses of force is not required.

operational needs, whether or not to backfill for the absence of the sergeant on leave.

3. *If a special operation, (e.g., Beat Feet, Special Traffic Offenders Program (STOP), etc.) requires more than eight (8) members, the appropriate Area Commander shall determine the reasonable span of control for the supervisor.*
4. *If long-term backfill requires the loan or transfer of a supervisor from another unit, the Chief of Police and/or the Deputy Chief of Police shall make that decision.*

(Negotiated Settlement Agreement IV. C.)

Discussion:

Three Departmental policies incorporate the requirements of Task 20: Departmental General Order A-19, *Supervisory Span of Control,* issued on July 26, 2006; Departmental General Order D-13, *Assignment to Acting Higher Rank or Classification,* issued on June 17, 1999; and Departmental General Order D-13.1, *Assignment to Acting Sergeant of Police,* issued on May 14, 2014. (The publication of DGO D-13.1 cancelled Special Order 8435, which previously governed the selection process of acting sergeants.) As the Department has trained at least 95% of relevant personnel on the above-listed policies, we find OPD in continued Phase 1 compliance with this Task.

During the eighteenth reporting period, after finding OPD in partial Phase 2 compliance with Task 20 since the beginning of our tenure, we held a series of discussions with Department officials and the Plaintiffs' attorneys regarding our methodology for assessing Tasks 20.2 and 20.3, the two subtasks that held OPD out of full compliance with this Task. With the Department's tiered system of supervision now in place for over one year, we worked with the Parties to develop a new approach to the areas of consistency of supervision (Task 20.2) and span of control (Task 20.3) that is both practicable and sustainable in the long term. We describe this altered methodology further below.

Task 20.1 requires that sufficient primary sergeants be assigned at the draw board/master detail level to permit one primary sergeant for every eight officers under normal conditions (compliance standard: Yes/No). During the third reporting period, we were granted access to Telestaff, the Department's electronic scheduling system. Telestaff continues to function as a "master detail" that is updated at least daily as loans, transfers, and other personnel changes alter supervisory assignments. OPD remains in compliance with Task 20.1.

Task 20.2 requires that relevant squads – that is, Patrol squads, Problem-Solving Officer units, Crime Reduction Teams, Gang/Guns Investigation Task Force, and Foot Patrol – are actually supervised by their primary, or assigned, supervisors (compliance standard: 85%); and **Task 20.3** requires that a supervisor's span of control for the Department's relevant squads – that is, Patrol squads, Problem-Solving Officer units, Crime Reduction Teams, Gang/Guns Investigation Task Force, and Foot Patrol – does not exceed a 1:8 ratio on a day-to-day basis (compliance standard: 90%).

Since February 2013, OPD has used a tiered system of supervision in the Bureau of Field Operations (BFO). Under this system, each squad is assigned one primary sergeant and one relief sergeant. In the absence of both the squad's primary and relief sergeants, the squad is supervised by one of four "Tier 2 relief supervisors" or a sergeant who may be assigned elsewhere who is working overtime.

We are pleased that Department officials discontinued its use of acting sergeants for patrol-related duties. The Department continues to place acting sergeants in non-patrol assignments. As noted above, the Department recently revised its related policy, now known as DGO D-13.1, accordingly.

For Tasks 20.2 and 20.3, we examine the supervision of *each squad* on *each day* of the reporting period, as opposed to the supervision of patrol squads on only a random sample of days. We only consider supervision by primary sergeants or relief sergeants to be in compliance for these subtasks.

Under our recently altered methodology for Task 20.2, 90% of applicable squads must be supervised by a primary or relief sergeant for at least 85% of their working shifts. Also, if we find that *any* squad is not in compliance for two consecutive quarters; or if *any* squad achieves a compliance percentage of less than 75%, we will find OPD not in compliance with this subtask.

To assess Task 20.2 during this reporting period, we reviewed spreadsheets prepared by the Department for the months of April, May, and June 2014 that, by date, note which type of sergeant supervised each squad – a primary sergeant, relief sergeant, Tier 2 relief sergeant, or other. (Using Telestaff, we also spot-checked this data to verify its accuracy.) We calculated per squad the compliance percentages for this subtask during this reporting period. Each of the 43 applicable squads were in compliance – that is, all applicable squads during this reporting period were supervised by either a primary or relief sergeant for at least 85% of their working shifts. For the first reporting period since the beginning of our tenure, OPD is in compliance with Task 20.2.

Under our recently altered methodology for Task 20.3, 90% of applicable squads must not exceed the 1:8 supervisor to officer ratio at least 90% of their working shifts.

To assess Task 20.3 during this reporting period, we reviewed Telestaff and the spreadsheets described above to determine the ratio of supervisors to officers on all of the applicable squads. We found that all 43 applicable squads were in compliance; 100% of the squads maintained at least the 1:8 supervisor to officer ratio for at least 90% of the reporting period. OPD is in compliance with Task 20.3.

Task 20.4 requires that the Department's Area Commanders make backfill decisions and that these decisions are consistent with policy and operational needs (compliance standard: 90%). Due to the Department's current supervisory structure, this subtask may no longer be applicable. As noted previously, we have initiated conversations with the Parties regarding this issue. For now, we are deferring our compliance determination with Task 20.4.

Task 20.5 requires that the span of control for special operations is determined by an Area Commander and is reasonable (compliance standard: 90%). In addition, the Department requires that sergeants supervise all special operations. To assess this subtask, we reviewed a random sample of 25 special operations plans of the 152 total operations conducted between April 1, through June 30, 2014, to determine whether the span of control for these operations was determined by the relevant commander and was reasonable. Our review found that all 25 of the special operations in our sample met these requirements. OPD is in compliance with Task 20.5.

Task 20.6 requires that the Chief or his designee make decisions regarding any loans or transfers for long-term backfill (compliance standard: 85%). An Area Commander "backfills" a sergeant's slot when the primary, or assigned, sergeant is unable to supervise his/her squad on a short-term basis. However, the Chief or his designee (generally, the Assistant Chief or Deputy Chief) is required to determine any loans or transfers for *long-term* backfill.

We reviewed the Department's weekly Personnel Orders issued between April 1, through June 30, 2014 for the signature of the Chief or his designee. We found that all of the Personnel Orders during this time period contained such a signature, indicating the Chief's approval. The NSA does not require written documentation of loans and transfers for long-term backfills – merely that the Chief or his designee approves such loans and transfers. However, OPD policy requires such documentation. Specifically, Departmental General Order B-4, *Personnel Assignments, Selection Process, and Transfers,* states, "A unit commander/manager who needs a loan of personnel shall submit a justifying loan request to his/her Deputy Chief/Director requesting the loan." Based on our recent discussions with the BFO Deputy Chief and other BFO personnel, as well as our review of Personnel Orders for other purposes (see above), it appears that OPD's practice comports with Departmental policy. OPD is in compliance with Task 20.6.

OPD is in Phase 2 compliance with Task 20.

<u>Compliance Status:</u>
Phase 1: In compliance
Phase 2: In compliance

<u>Next Steps:</u>
The Department informed us recently that it plans to reduce the number of relief sergeants assigned to Patrol; it maintains that this change will not affect compliance with Tasks 20.2 and 20.3. We will monitor these developments closely.

Task 24: Use of Force Reporting Policy

Requirements:

The policy shall require that:

1. *Members/employees notify their supervisor as soon as practicable following any investigated use of force or allegation of excessive use of force.*
2. *In every investigated use of force incident, every member/employee using force, and every member/employee on the scene of the incident at the time the force was used, shall report all uses of force on the appropriate form, unless otherwise directed by the investigating supervisor.*
3. *OPD personnel document, on the appropriate form, any use of force and/or the drawing and intentional pointing of a firearm at another person.*
4. *A supervisor 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.*
5. *OPD notify:*
   a. *The Alameda County District Attorney's Office immediately or as soon as circumstances permit, following a use of lethal force resulting in death or injury likely to result in death.*
   b. *The City Attorney's Office as soon as circumstances permit following the use of lethal force resulting in death or serious injury. At the discretion of the City Attorney's Office, a Deputy City Attorney shall respond to the scene. The Deputy City Attorney shall serve only in an advisory capacity and shall communicate only with the incident commander or his/her designee.*
   c. *Departmental investigators regarding officer-involved shootings, in accordance with the provisions of Section V, paragraph H, of this Agreement.*
6. *OPD enter data regarding use of force into OPD's Personnel Assessment System (PAS).*

(Negotiated Settlement Agreement V. A.)

Discussion:

OPD published Departmental General Order K-4, *Reporting and Investigating the Use of Force* (February 17, 2006), which incorporates the requirements of Task 24. OPD revised DGO K-4 on August 1, 2007. On April 15, 2009, OPD issued Special Order 8977, amending DGO K-4. The revised policy also incorporates the requirements of Task 24. On November 23, 2010, OPD issued Special Order 9057, amending DGO K-4 to extend Level 1 and Level 4 reporting timelines. In December 2012, OPD issued a revision to Special Order 8977, *Use of Force Reporting – Pointing of Firearm/Restrained Subject/Use of Vehicle to Intentionally Strike a Subject*. As the Department has trained at least 95% of relevant personnel on these policies, we find OPD in continued Phase 1 compliance with this Task.

OPD has been in Phase 2 compliance with Task 24 since the fourteenth reporting period.

During this reporting period, the sample we requested for review (92 total) included: two Level 1; three Level 2; nine Level 3; and 78 Level 4 reports completed between April 1, and June 30, 2014.

Task 24.1 requires that members/employees notify their supervisor as soon as practicable following any reportable use of force or allegation of excessive use of force (compliance standard: 95%). To assess this subtask, we reviewed the UOF reports, crime reports (when applicable), and Computer Assisted Dispatch (CAD) purges for all of the force incidents in our dataset. The documentation for all of the incidents we reviewed was in compliance with this requirement.

Level 4 uses of force are self-reporting, and consequently, less documentation is required than for Level 1, 2, and 3 incidents. DGO K-4, Section VI A.1., states that involved personnel shall notify and brief their supervisors immediately or as soon as practicable. In all 92 incidents we reviewed, a supervisor was promptly notified regarding the force incident. OPD has a 100% compliance rate with this subtask. OPD is in compliance with Task 24.1.

Task 24.2 requires that in every reportable use of force incident, every member/employee on the scene of the incident at the time the force was used, reports all uses of force on the appropriate form, unless otherwise directed by the investigating supervisor (compliance standard: 95%); and **Task 24.3** requires that OPD personnel document, on the appropriate form, every use of force and/or the drawing and intentional pointing of a firearm at another person (compliance standard: 95%). All of the use of force reports, crime reports, and supplemental reports for the incidents in our sample met these requirements. We found that for Level 1 deadly force incidents, this information was contained in the crime and Internal Affairs Division reports; for Level 2 and Level 3 incidents, this information was contained in the use of force reports; and for Level 4 incidents, the information frequently appeared in the actual use of force, crime, or offense reports.

Officers Pointing Firearms: As indicated above, we reviewed a total of 92 use of force incidents; 73 of those incidents involved officers pointing firearms. The 73 incidents included one Level 1, one Level 2, two Level 3, and 69 Level 4 uses of force; and involved 151 instances of officers drawing and pointing their firearms.[11]

[11] The majority of the incidents we reviewed fell into one of the following categories: officers making high-risk vehicle stops; officers searching and entering buildings or premises with or without search warrants; and officers were attempting to detain subjects, either by foot pursuit or by searching areas such as alleys and yards.

Overall, we determined officers' pointing of their firearms to be appropriate in 148, or 98%, of the 151 instances we assessed.[12] We also noted with concern, the absence of justification for the pointing of a firearm in three (2%) of the 151 events; specifically, in these cases, there was no indication that the officer(s) or others faced immediate threat of harm.

The total racial breakdown for the 73 use of force events reviewed is as follows: Black, 73%; Hispanic, 21%; White, 4%; Asian, 1%; and Other, 1%. We also tabulated the racial breakdown of the subjects involved in the events where, in our opinion, the pointing of a firearm was not necessary or appropriate and found the following: the three unjustified pointing of firearms involved only three Black subjects.

In all cases, the supervisory review found the officers' use of force appropriate, objectively reasonable for a legitimate law enforcement purpose, and in compliance with OPD policy. While officers' actions in particular cases are troubling, the continued unquestioned supervisory and command approval – of both the documentation of officers' actions and the actions themselves – is illustrative of a need to address supervisory deficiencies.

OPD is in compliance with Tasks 24.2 and 24.3.

Task 24.4 requires that a supervisor respond to the scene upon notification of a Level 1, 2, or 3 use of force or an allegation of excessive use of force, unless community unrest or other conditions makes such response impracticable (compliance standard: 95%). Supervisors responded to the scene in all 14 applicable Level 1, 2, and 3 incidents in our sample. This represents a 100% compliance rate. OPD is in compliance with Task 24.4.

Tasks 24.5, 24.6, and 24.8 require certain notifications in uses of force relative to officer-involved shootings and the use of lethal force.[13] Specifically, **Task 24.5** requires that following every use of lethal force resulting in death or injury likely to result in death, OPD notify the Alameda County District Attorney's Office immediately or as soon as circumstances permit (compliance standard: 95%). **Task 24.6** requires that following every use of lethal force resulting in death or injury likely to result in death, OPD notify the City Attorney's Office as soon as circumstances permit (compliance standard: 95%). **Task 24.8** requires that following every officer-involved shooting, OPD notify Homicide and Internal Affairs investigators (compliance standard: 95%). During this reporting period, there was one Level 1 in-custody death in our dataset. OPD met the requirements of these subtasks in event by notifying the Alameda County District Attorney's Office, City Attorney's Office, and Homicide and Internal Affairs appropriately. OPD remains in compliance with these subtasks.

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[12] As in our more in-depth assessment of such incidents during the sixth reporting period, we gave the benefit of the doubt to involved officers whenever there was a question as to whether an officer's action was appropriate. We also assumed that the pointing of firearms was justified in cases where officers were responding to a burglary or criminal trespass involving an actual structure search, or when making a high-risk vehicle stop based on the legitimate belief that the vehicle was stolen.

[13] Task 24.7 is no longer applicable.

Task 24.9 requires OPD to enter data regarding use of force into OPD's Personnel Assessment System (PAS) (compliance standard: 95%). PAS now allows personnel to access use of force reports directly. OPD is in compliance with Task 24.9.

OPD is in Phase 2 compliance with Task 24.

Compliance Status:
Phase 1: In compliance
Phase 2: In compliance

Next Steps:
We will continue to meet with OPD to provide feedback on specific use of force reports and to assess how the Department is addressing the serious issue of pointing firearms – the act of which may not only be unnecessary and inappropriate, but which also elevates the risk for unfortunate and unjustified firearm discharges.

Task 25: Use of Force Investigations and Report Responsibility

Requirements:
An on-scene supervisor is responsible for completing an investigated use of force report in accordance with the provisions of Departmental General Order K-4, "Reporting and Investigating the Use of Force."

1. *OPD shall develop and implement a policy for conducting and documenting use of force investigations that include, at a minimum:*
    - *a. Documentation of the incident in either an Offense or Supplemental Report from the member(s)/employee(s) using force; and/or, when necessary, a statement taken from the member(s)/employee(s) using force;*
    - *b. Separating and separately interviewing all officers who were at the scene at the time of the incident;*
    - *c. A Supplemental Report from other members/employees on the scene or a statement taken, if deemed necessary by the investigating supervisor;*
    - *d. Identification and interviews of non-Departmental witnesses;*
    - *e. Consideration of discrepancies in information obtained from members, employees and witnesses, and statements in the reports filed;*
    - *f. Whether arrest reports or use of force reports contain "boilerplate" or "pat language" (e.g., "fighting stance", "minimal force necessary to control the situation");*
    - *g. Documentation of physical evidence and/or photographs and a summary and analysis of all relevant evidence gathered during the investigation; and*
    - *h. Consideration of training/tactical issues involving the availability and practicality of other force options.*

i. Supervisor's justification as to why any element of the policy was not documented; and

2. *All supervisors shall be trained in conducting use of force investigations and such training shall be part of a supervisory training course.*
3. *Use of force investigations shall include a recommendation whether the use of force was objectively reasonable and within Department policy and training. The recommendation shall be based on the totality of the circumstances and shall consider, but is not limited to, the following factors:*
   a. Whether the force used was pursuant to a legitimate law-enforcement objective;
   b. Whether the type and amount of force used was proportional to the resistance encountered and reasonably related to the objective the members/employees were attempting to achieve;
   c. Whether the member/employee used reasonable verbal means to attempt to resolve the situation without force, if time and circumstances permitted such attempts;
   d. Whether the force used was de-escalated or stopped reasonably when resistance decreased or stopped;
4. *use of force reports shall be reviewed by the appropriate chain-of-review as defined by policy.*
   The type of force used, the identity of the involved members, and the report preparer shall be the determining criteria for utilizing the appropriate chain-of-review. Reviewers may include, when appropriate, the chain-of-command of the involved personnel, the appropriate Area Commander on duty at the time the incident occurred, other designated Bureau of Field Operations commanders, and as necessary, the chain-of-command of the involved personnel up to the Division Commander or Deputy Chief/Director, and the Internal Affairs Division.
   Reviewers for Level 1-3 use of force investigations shall:
   a. Make a recommendation as to whether the use of force was in or out of policy,
   b. Order additional investigation and investigative resources when necessary, and
   c. Comment on any training issue(s) when appropriate.
5. *Any recommendation that the use of force did not comply with Department policy shall result in the incident being referred to the Internal Affairs Division to conduct additional investigation/analysis, if necessary.*
6. *Members/employees involved in a use of force incident resulting in serious injury or death and/or an officer-involved shooting, shall be separated from each other as soon as practicable at the incident scene, and kept apart until they have completed their reports and been interviewed.*

(Negotiated Settlement Agreement V. B.)

Discussion:
OPD published Departmental General Order K-4, *Reporting and Investigating the Use of Force* (February 17, 2006), which incorporates the requirements of Task 25. OPD revised DGO K-4 on August 1, 2007. The revised policy also incorporates the requirements of Task 25. On November 23, 2010, OPD issued Special Order 9057, amending DGO K-4 to extend Level 1 and Level 4 reporting timelines. As the Department has trained at least 95% of relevant personnel on these policies, we find OPD in continued Phase 1 compliance with this Task.

OPD has been in Phase 2 compliance with Task 25 since the fourteenth reporting period.

During this reporting period, we requested and reviewed 92 use of force reports, including: two Level 1; three Level 2; nine Level 3; and a random sample of 78 Level 4 use of force reports; that were completed between April 1, and June 30, 2014.

Task 25.1 requires IAD to complete a use of force report for every Level 1 use of force, and an on-scene supervisor to complete a use of force report for every Level 2 and 3 use of force (compliance standard: 95%). To assess this requirement during this reporting period, we reviewed documentation for 14 Level 1, 2, and 3 incidents. In all of the incidents, a supervisor responded to the scene and completed a use of force investigation. In addition, six Level 3 incidents in our Level 4 sample of 78 incidents were downgraded appropriately to a Level 4 use of force by a supervisor who was at the scene; the changes were documented and comported with the governing documents. OPD is in compliance with Task 25.1.

Task 25.2 requires that use of force reports/investigations include NSA-required elements (compliance standard: 90%) and are timely pursuant to DGO K-4 (compliance standard: 95%). All of the reports we reviewed for this subtask included the NSA-required elements. To assess investigation timeliness, we used a 75-day time limit for Level 1 incidents (including IAD Commander approval) plus one documented extension approved by the Chief of Police in advance of the due date, and a 15-day time limit for Level 2 and Level 3 incidents. For Level 4 incidents, as of November 23, 2010, OPD requires a review of the report by the end of the reviewing supervisor's next scheduled workday. This is a change – which we supported – from requiring a supervisor's review by the end of the tour of duty; it became effective by Special Order 9057.

During this reporting period, 91, or 99%, of the 92 reports we examined were submitted within the time limits established by this subtask. As noted above, Level 2 and Level 3 force investigations are considered timely if they are completed (including Division Commander approval) within 15 calendar days of the incident, with one documented approved extension by the Division Commander allowed. We only consider extensions if they were approved by the appropriate personnel *prior* to the pre-extension due date.

During this reporting period, OPD commanders took supervisory action against officers for not using their PDRDs as required in the Level 2, 3, and 4 cases we assessed. We encourage OPD to continue to hold supervisors accountable for ensuring that officers are using their PDRDs in accordance with Department policy.

OPD's overall compliance rate for timeliness is 99%, and for NSA-required elements is 100%. OPD is in compliance with Task 25.2.

Task 25.3 requires that all supervisors be trained on how to conduct use of force investigations, and that such training is part of a supervisory training course (compliance standard: 95%). As we have noted previously, OPD has incorporated use of force training into the continued professional training (CPT) that is required for all sergeants every 18 months to two years. During this reporting period, as part of CPT, OPD offered use of force training in areas including: firearms/force options; in-service firearms qualifications; and use of force case law review. Although these courses do not specifically address conducting investigations, they help supervisors to develop their knowledge and understanding in critical areas before being assigned use of force investigations. We encourage OPD to continue to provide periodic refresher training to underscore to supervisors the importance of conducting complete, thorough, and impartial use of force investigations that are submitted in a timely fashion. OPD is in compliance with Task 25.3.

Task 25.4 requires that the investigations include required recommendations (compliance standard: 90%). Areas of recommendation include: whether the force used was pursuant to a legitimate law enforcement objective; whether the type and amount of force used was proportional to the resistance encountered and reasonably related to the objective the officers were attempting to achieve; whether the officers used reasonable verbal means to attempt to resolve the situation without force, if time and circumstance permitted such attempts; and whether the force used was de-escalated or stopped reasonably when resistance decreased or stopped.

During this reporting period, we reviewed three Level 4 use of force incidents that involved the unjustified pointing of firearms. These reports did not comport with NSA-required elements; each of the incidents involved an unnecessary escalation to potentially using lethal force in situations where other less lethal force options were available to the officers or should have been considered.

The remainder of the cases, however, contained information showing that the force was used for a legitimate law enforcement purpose, was reasonable to the resistance encountered, and was de-escalated when resistance decrease or stopped; and that verbal means were used to attempt to resolve the situation without force.

OPD's compliance rate for this subtask is 97%. OPD is in compliance with Task 25.4.

Task 25.5 speaks to the review process, which includes chain of command review, making assessments as required by the NSA and policy, and ensuring that any violation of policy results in the incident being referred to Internal Affairs to conduct additional investigations or analysis (compliance standard: 95%). During this reporting period, we found that the supervisors included the required details, and the chain of command conducted critical reviews. In all of the Level 2, 3, and 4 reports – with the exception of the three Level 4 cases involving the unjustified pointing of firearms – the chain of command reviewed and commented on the quality of the investigations, any corrective action that was identified, and the appropriate documentation required for Supervisory Notes Files.

We also noted during this reporting period, especially in the unjustified cases of officers pointing their firearms, officers continue citing their "training and experience" and the location (high-crime area) of the event as justification for their initial encounter with citizens. The officers did not, however, document the additional and/or specific *circumstances present* justifying the particular stop. Of course, all citizens who live in high-crime areas are not all involved in criminal activity – and that should not be assumed from the outset. There has been a decrease of these types of justifications for lethal encounters; however, these justifications still occasionally appear in OPD UOF reports. We will continue to address this issue with OPD command staff and training personnel during our next site visit in an effort to ensure continued compliance with this requirement.

OPD's compliance rate for this subtask is 97%. OPD is in compliance with Task 25.5.

Task 25.6 addresses the need to keep officers involved in use of force incidents resulting in serious injury or death, or involved in a shooting, be separated from each other at the scene, and kept apart until they have been interviewed and completed their reports (compliance standard: 95%). We found the applicable Level 1 and Level 2 reports in compliance with this requirement. OPD is in compliance with Task 25.6.

OPD is in Phase 2 compliance with Task 25.

<u>Compliance Status:</u>
Phase 1: In compliance
Phase 2: In compliance

<u>Next Steps:</u>
During our next site visit, we will continue to discuss with OPD the use of force command review process involving the unjustified pointing of firearms.

Task 26: Force Review Board (FRB)

Requirements:
OPD shall develop and implement a policy concerning its FRB proceedings. The policy shall:

1. *Set out procedures, membership and a timetable for FRB review of use of force investigations involving Level 2 incidents, as defined in Department General Order K-4, REPORTING AND INVESTIGATING THE USE OF FORCE;*
2. *Require the FRB to review all use of force investigations;*
3. *Require the FRB to make a recommendation as to whether the use of force was in policy or out of policy;*
4. *Require the FRB to forward sustained policy violations to the Discipline Officer.*
5. *Require the FRB not to review any use of force allegation until the internal investigations has been completed;*
6. *Authorize the FRB to recommend to the Chief of Police additional use of force training or changes in policies or tactics, or additional standards, investigatory policies, or training for use of force investigations;*
7. *Require the FRB to conduct an annual review of use of force cases examined, so as to identify any patterns of use of force practices that may have policy or training implications, and thereafter, issue a report to the Chief of Police;*
8. *Require that the FRB membership include, at a minimum, one member from the Training Division, one member from the Field Training Officer program, and either the Bureau of Field Operations Deputy Chief or his/her designee;*
9. *Minimally, that one member of the FRB shall be replaced at least annually.*

(Negotiated Settlement Agreement V. C.)

Discussion:
Our review of Department General Order K-4.1, *Force Review Boards* (August 1, 2007), determined that this policy comports with the requirements of Task 26. As the Department has trained at least 95% of relevant personnel on these policies, we find OPD in continued Phase 1 compliance with this Task.

OPD has been in partial Phase 2 compliance with Task 26 since the sixteenth reporting period. Prior to that time, OPD was either in compliance or in partial compliance with Task 26.

Task 26.1 requires that the Force Review Board (FRB) review all Level 2 use of force investigations following the completion of the internal investigation (compliance standard: 95%). DGO K-4.1 requires that the FRB chair convene an FRB to review the factual circumstances of all Level 2 cases within 90 days of receipt of the use of force packet from IAD. OPD provided documentation for six incidents that were heard by the board during this reporting period of April 1, through June 30, 2014. We determined that all three of the FRB reports we reviewed were timely. OPD is in compliance with this subtask.

Task 26.2 requires that for every Level 2 use of force investigation, the FRB make a recommendation as to whether the use of force was in or out of policy (compliance

standard: 95%). All three FRB reports we reviewed contained recommendations noting that the use of force was in or not in compliance with policy, and all three noted agreement with the recommendation of the FRB by the Chief of Police or his designee.

We attended no FRB proceedings during our May 2014 site visit. We have observed in recent reporting periods that the FRBs are more routinely addressing deficient investigations conducted by investigators; however, the boards should more aggressively address the issue of investigators including justification for the involved officers' actions as part of their presentations moving forward.

OPD is in compliance with Task 26.2.

Task 26.3 requires that all FRB determinations that a use of force is out of compliance with OPD policy be forwarded to the Internal Affairs Division for disposition (compliance standard: 95%). Of the six incidents that were heard by the board during this reporting period, one event was found out of compliance, requiring a referral to IAD that was appropriately documented in the FRB reports provided.

Despite the Department's technical adherence to these provisions, we have noted previously that the board's informality and lack of structure was not consistent with the conduct of a review process of this nature. Over the past few months, we have seen great improvement in this area, and we are continuing to provide technical assistance to the Department regarding the conduct of these boards. As of the publication of this report, the revisions of DGO K-4.1, *Force Review Boards,* which incorporate these changes formally, have been completed and adopted by the Department (on May 14, 2014). The revised policy was distributed through PowerDMS, and OPD members received the required training. Accordingly, OPD is in compliance with this subtask.

Task 26.4 requires that the FRB make recommendations to the Chief of Police regarding additional use of force training, changes in policies or tactics, additional standards, investigatory policies, or training for use of force investigations (compliance standard: Yes/No). During the current reporting period, the three FRBs identified training issues; and discussed improper tactics, use of force reporting, activation of the PDRD, and the need for corrective supervisory counseling. OPD is in compliance with this subtask.

Task 26.5 requires that the FRB conduct an annual review of use of force cases examined to identify any patterns of use of force practices (including K-3) that may have policy or training implications (compliance standard: Yes/No); and **Task 26.6** requires that the FRB issue an annual report to the Chief of Police reporting on its annual review (compliance standard: Yes/No). The FRB issued its most recent annual review on April 23, 2013. The review identified several patterns and practices, including: officers are continuing to chase suspects who they believed to be armed with handguns into yards; and are striking resisting suspects to the head with either their fists and/or palm-hammer strikes. In addition, the review found that many officers are documenting in their reports that they *had* to use force because of the risk that a

suspect may be armed; and that they are not appropriately considering tactics during high-risk situations. The review also emphasized the need for canine officers, supervisors, and commanders to consider modifying the canine announcement to fit the incident in question – for example, circumstances in which a warning announcement could jeopardize officer safety.

According to the annual review, the FRBs have been tasking supervisors to train their officers after the board has identified training issues. The supervisors are required to document this training in the officers' Supervisory Notes Files and enter the information into PAS. Subject-matter experts conduct more involved training, and a training roster is submitted to the Training Section. The involved officer(s) are directed to be present during the presentation to receive training from the board's voting members and subject-matter experts, and/or praise for any outstanding work. Additionally, as a result of the findings of the FRB, the Department revises or develops new information or training bulletins, which are distributed to OPD personnel via the Department's electronic PowerDMS system. OPD is in compliance with these subtasks.

OPD is in Phase 2 compliance with Task 26.

Compliance Status:
Phase 1: In compliance
Phase 2: In compliance

Next Steps:
Since the beginning of our tenure, we have requested – in meetings with OPD and in all of our quarterly reports – that the Department schedule FRBs during our quarterly site visits, so that we may attend and observe the proceedings. We again request that the Department schedule its FRB hearings during our quarterly site visits; it is critical to our assessments that we be able to observe and evaluate the FRB process.

Task 30: Executive Force Review Board (EFRB)

Requirements:

1. *An EFRB shall be convened to review the factual circumstances surrounding any Level 1 force, in-custody death, or vehicle pursuit-related death incidents. A firearm discharge at an animal shall be reviewed by the EFRB only at the direction of the Chief of Police. The Board shall have access to recordings and/or transcripts of interviews of all personnel on the scene, including witnesses, and shall be empowered to call any OPD personnel to provide testimony at the hearing.*
2. *OPD shall continue the policies and practices for the conduct of EFRB, in accordance with the provisions of DGO K-4.1, FORCE REVIEW BOARDS.*

(Negotiated Settlement Agreement V. G.)

Discussion:
OPD published Departmental General Order K-4.1, *Force Review Boards* (February 17, 2006), which incorporates the requirements of Task 30. OPD revised DGO K-4.1 on August 1, 2007. The policy also incorporates the requirements of Task 30. As the Department has trained at least 95% of relevant personnel on these policies, we find OPD in continued Phase 1 compliance with this Task.

During the last two reporting periods, we found OPD in partial Phase 2 compliance with this Task. Prior to that time, OPD was either in compliance or in partial compliance with Task 30.

To assess the Department's compliance with this Task, we reviewed EFRB documentation and observed the one EFRB held during our May 2014 site visit. (This proceeding, summarized below, was a follow-up to a previously held EFRB).

Task 30.1 requires that OPD convene an EFRB within 45 days of the completion of the use of force (UOF) report by IAD (compliance standard: 95%). The EFRB reviewed one incident involving an in-custody death during this reporting period. We observed the EFRB.

In this incident, officers responded to a report from a woman who locked herself in her bedroom because she heard her brother screaming, and an additional person threatening to kill her brother and walking around the house. When the officers arrived, they noted that the suspect was likely under the influence of drugs. The subject struggled with the officers, and as they handcuffed him on the ground, he complained that he could not breathe. An officer ordered an ambulance, and during the wait for EMS, the suspect became unresponsive. Medical personnel arrived, and while they attended to the subject, he stopped breathing. He later died, and OPD initiated an in-custody death investigation. The Alameda County District Attorney found no criminality by the involved officers. The subject was found to have died by the Alameda County Coroner's Office due to "multiple drug intoxication associated with physical exertion." The officer's actions were found in compliance with OPD policy.

We verified that the EFRB fell within 45 days of the completion of the use of force reports covering the incident.

OPD is in compliance with this subtask.

Task 30.2 requires that the EFRB has access to recordings and/or transcripts of interviews of all personnel on scene, including civilian witnesses, and is empowered to call in any OPD personnel it believes should testify (compliance standard: Yes/No). In the documentation we reviewed, recorded statements and/or transcripts were available from all officers on the scene and other personnel needed to testify. OPD is in compliance with this subtask.

Task 30.3 requires that OPD complies with the policies and procedures set forth in DGO K-4.1, *Force Review Boards* (compliance standard: Yes/No). This policy outlines several requirements, including who comprises the board, the material to be made available for the

board, the conduct of the board, the information to be memorialized and follow-up actions, if warranted. We reviewed the reports that were prepared for the one incident that was heard by the board during the current reporting period. The required attendees were present. After review and deliberations, the board determined that the subject officers' actions in the one assessed case were in compliance with Departmental policy. The Chief of Police endorsed the EFRB findings within 60 days of the board's decision. The board assessed tactics, completed an analysis of each application of force, noted investigative concerns, and training issues and directed the required the appropriate corrective action.

Despite the Department's technical adherence to these provisions, we have noted previously that the board's informality and lack of structure was not consistent with the conduct of a review process of this nature. Over the past few months, we have seen great improvement in this area, and we are continuing to provide technical assistance to the Department regarding the conduct of these boards. As of the publication of this report, the revisions of DGO K-4.1, *Force Review Boards*, which incorporate these changes formally, have been completed and adopted by the Department (on May 14, 2014). The revised policy was distributed through PowerDMS, and OPD members received the required training. Accordingly, OPD is in compliance with this subtask.

OPD is in Phase 2 compliance with Task 30.

Compliance Status:
Phase 1: In compliance
Phase 2: In compliance

Next Steps:
Since the beginning of our tenure, we have requested – in meetings with OPD and in all of our quarterly reports – that the Department schedule EFRBs during our quarterly site visits, so that we may attend and observe the proceedings. We again request that the Department schedule any EFRB hearings during our quarterly site visits; it is critical to our assessments that we be able to observe and evaluate the EFRB process.

Task 33: Reporting Misconduct

Requirements:
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.

1. *Any member/employee of OPD may report a suspected case of police misconduct confidentially to the commander of IAD.*
2. *The member/employee reporting this conduct shall indicate clearly to the commander of IAD that the report is being made under these confidential provisions.*
3. *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.*
4. *The case shall be investigated without disclosure of the complainant's name, unless and until such disclosure is required by law.*
5. *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.*

(Negotiated Settlement Agreement VI. A.)

Discussion:
OPD has developed several policies that, in concert, incorporate the requirements of this Task. These include: Manual of Rules (MOR) Section 314.48, Reporting Violations of Laws, Ordinances, Rules or Orders; MOR Section 314.49, Confidential Reporting of Police Misconduct; Departmental General Order D-16, Check-In and Orientation; MOR Section 370.18, Arrests; and MOR Section 370.27, Use of Physical Force. The Department has trained at least 95% of relevant personnel on these policies, and remains in Phase 1 compliance with this Task.

Since monitoring under the NSA began, OPD has received confidential reports of misconduct in only four cases. We found OPD in Phase 2 compliance with Task 33 during the last two reporting periods.

Reporting Misconduct
Task 33.1 requires that in all sustained internal investigations, OPD conduct an assessment to determine whether members/employees/supervisors knew or should have known that

misconduct occurred (compliance standard: 95%); and **Task 33.2** requires that where OPD determines that members/employees/supervisors knew or should have known that misconduct occurred but did not report it as required, OPD is required to take appropriate action (compliance standard: 95%).

To assess OPD's Phase 2 compliance with these subtasks during this reporting period, we discussed management of reporting misconduct by officers and employees of the Department with the Commander of Internal Affairs. We queried the IAD database to identify any cases with sustained findings and discipline that were approved between April 1, and June 30, 2014, that were applicable to Task 33. We identified and reviewed 40 cases with a total of 50 sustained findings involving 42 officers and employees that were approved during this reporting period. We added three cases with three sustained findings pertaining to three officers that had been brought to our attention during our previous on-site review but which were not disciplined until the second quarter of 2014. Our review, therefore, encompassed 43 cases with 53 findings pertaining to 45 officers. We found no instances where OPD disregarded indications that its employees or officers failed to report misconduct.

Management Action to Address Reluctance to Report Misconduct
We noted previously that the activation of PDRDs can be key in resolving allegations of use of force that arise from citizen contacts – particularly during demonstrations. Accordingly, it is a serious violation for an officer dealing with such circumstances to fail to activate his/her PDRD.

In our review of the 53 sustained findings, we found nine in which an officer was equipped with an operational PDRD and should have activated it. In two of these cases, the officer failed to activate his/her PDRD during their first contact with the citizen and discipline was imposed on both. In the other seven cases, the officer activated the PDRD at the initial contact. Sanctions for the two failures to activate their PDRDs ranged from counseling (first instance) to written reprimand (second instance).

During our last review, we found that there were no cases in which the failure to activate a PDRD went unaddressed. There was one case, however, in which the discipline was sufficient but follow-up was needed. In that case the officer had failed to activate his PDRD on three separate occasions. While we felt that the discipline imposed was adequate, we commented that the officer's supervisor should more closely monitor his activities. A key responsibility of sergeants is to ensure that the officers they are supervising are complying with OPD policies. In the future, the supervisor could easily compare and review the officer's activities with his PDRD recordings to ensure that he is in compliance with OPD policies. An additional benefit of review of PDRD recordings would be that the sergeant would be able to evaluate the officer's tactics and interactions with citizens. We learned that OPD has followed up with this officer to ensure that he remains in compliance with the PDRD policy. His current supervisor conducts monthly audits of his PDRD use and submits audit forms up his chain of command.

The Chief discusses the requirements of Task 33, in the context of remaining issues needed to satisfy compliance with the NSA, at the Basic Training Academy with new recruits and at Continuing Professional Training (CPT) courses for both officers and sergeants during 2013. In March, he began speaking to the 2014 CPT classes. During the period from April 1, through June 30, 2014, he addressed 140 officers and sergeants at CPT and 91 officer trainees at the Basic Academy. He plans to continue this discussion to reinforce the requirements.

Confidential Reporting
Task 33.3 requires that OPD must maintain a functioning procedure that incorporates the NSA requirements related to establishing and maintaining confidential reporting of misconduct. These requirements include: **Task 33.3.1**: confidential reports of suspected misconduct may be made in person, by telephone, or in writing (compliance standard: Yes/No); **Task 33.3.2**: any OPD member/employee may report suspected misconduct confidentially to the IAD Commander, who shall document the report in a confidential file that shall remain accessible only to this IAD Commander (compliance standard: Yes/No); **Task 33.3.3**: confidentially reported cases are investigated without disclosure of the complainant's name, unless and until such disclosure is required by law (compliance standard: 95%); and **Task 33.3.4**: OPD informs all new and current employees of OPD's confidential reporting procedures (compliance standard: 95%).

As we have reported previously, OPD has established procedures as required by Tasks 33.3.1, 33.3.2, 33.3.3, and 33.3.4. Confidential reports of suspected misconduct may be made by various means to the IAD Commander; cases are investigated without identifying the complainant; and documentation of the report and investigation are kept in a confidential file maintained by the IAD Commander. Since monitoring began under the NSA, OPD has received only four such confidential reports. No new confidential reports were received during the period from April 1, through June 30, 2014.

There were 71 new hires (51 police officer trainees and 20 civilian employees) during the current reporting period. All were briefed and trained on confidential reporting procedures as required by Task 33. All signed documents to memorialize the training that is a part of the hiring module/practice before new employees report for duty/assignment.

OPD is in Phase 2 compliance with this Task.

<u>Compliance Status</u>:
Phase 1: In compliance
Phase 2: In compliance

Task 34: Vehicle Stops, Field Investigation, and Detentions

Requirements:

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."*

(Negotiated Settlement Agreement VI. B.)

Discussion:

There are four Departmental policies that incorporate the requirements of Task 34: General Order M-19, *Prohibitions Regarding Racial Profiling and Other Bias-Based Policing;* Report Writing Manual (RWM) Inserts R-2, N-1, and N-2; Special Order 9042, *New Procedures Regarding Stop Data Collection* (published June 2010); and Special Order 9101, *Revised Stop Data Collection Procedures* (published November 2012). As the Department has trained at least 95% of relevant personnel on these policies, we find OPD in continued Phase 1 compliance with this Task.

Task 34.1 requires that officers complete Stop Data Forms for every vehicle stop, field investigation, and detention (compliance standard: 90%). To assess Task 34.1 compliance during this reporting period, we reviewed a random sample of 375 stops to match them with corresponding completed Stop Data Forms. This sample included 125 Computer Aided Dispatch (CAD) entries, 125 Field Contact Cards, and 125 traffic citations. Using the Department's Forensic Logic Quicksearch program, we were able to locate a corresponding Stop Data Form for 100% of the stops in our sample. OPD is in compliance with Task 34.1.

Task 34.2 requires that Stop Data Forms be filled out with the following information: 1) time; 2) date; 3) location; 4) identification of member making stop; 5) reason for stop; 6) apparent race/ethnicity of individual(s) stopped; 7) gender of individual(s) stopped; 8) outcome of stop (arrest or no arrest); 9) whether a search was conducted; 10) outcome of any search; and 11) offense category (felony, misdemeanor, or infraction) (compliance standard: 85%). The entry of stop data into the Field Based Reporting (FBR) system requires officers to make a selection in

each form field. If an officer fails to fill in the information in any field, the system does not allow the form to be completed.

One of the more important data elements required by this Task is the capture of the reason or justification for the stop. This is essentially where any evaluation of the appropriateness of a stop commences. OIG periodically conducts internal reviews of Stop Data Forms to verify compliance with requirements, including the basis for stops. During this reporting period, we also focused on this important element in our review of 250 CAD entries and Field Contact Cards. Of the 250 stops, we eliminated 18 due to the lack of any narrative. Our analysis of the remaining 232 stops found seven to be questionable; accordingly, we determined that 97% of the stops in the sample were valid. This represents a continued improvement by OPD with its documentation of the stops. The Department is in compliance with Task 34.2.

In addition, we randomly selected 10 stops that occurred during this time period, and requested that the Department provide PDRD footage to evaluate the recording of the stop in comparison to the narrative report prepared by the officer. Of the 10 incidents, seven were traffic violations that resulted in two citations, three warnings, and two field interviews; three were probable cause stops that resulted in two field interviews and one felony arrest. OPD located 27 videos taken by officers during these 10 stops. Our review found that all of the reports were consistent and in compliance with the narrative report prepared by the officers.

Task 34.3.1 requires that OPD have a stop data database that can be summarized, searched, queried, and reported by personnel authorized by OPD (compliance standard: Yes/No). Special Order 9042 requires that officers "complete an electronic FBR [Field Based Reporting] Stop Data Collection Form (SDF) for certain arrests, every detention not resulting in an arrest (vehicle, walking, and bicycle stops), every consent search of a person conducted and any other investigative encounter." Officers must also complete a SDF "for consensual encounters (contacts) where the member talks with a person to confirm or dispel a suspicion that the person may be involved in criminal activity, although the person is free to leave." Data from the electronic Field Based Reporting system is automatically sent to the Department's Forensic Logic Quicksearch program, which allows Department personnel to search for and query officers' stop data.

During our quarterly and technical assistance site visits, members of our Team meet with OPD personnel to follow the Department's progress with data collection and analysis, and with the development of operational and intervention options. OPD organizes the data into tables and graphs depicting – both globally and by district – the breakdown of stops, the reasons for the stops, and any resulting action taken; including searches, the results of searches and arrests, and other actions.

In the prior reporting period, OPD completed its first Stop Data Analysis Report covering the period of April through November 2013. OPD released this report to the public on March 24 with the caveat that the report was preliminary, and that it did not represent an academic or research level analysis of the data. Nevertheless, the data contained in the report provides the

basis upon which OPD can further explore and/or identify areas where there may be disparities in the treatment of identified population groups. As time passes and the database grows, its predictive value will also increase. The data should provide the basis for determining training and intervention options; and, in accordance with the requirements of the December 12, 2012 Court Order, the development of strategies to "address, resolve and reduce…incidents of racial profiling or biased-based policing."

The production of this report was a culmination of five years of work by OPD. The collection of data and its analysis is a continuing activity that is expected to result in additional public progress reports. In the meanwhile, we recommend that OPD continue to elevate interest and attention to stop data by officers, supervisors, and command staff through presentations during its regular risk management meetings and training bulletins. In addition, OPD must engage in discussions about the development of intervention options.

We are encouraged by the progress made during recent reporting periods. OPD has developed a data collection process that appears to be reliably accurate. Encouragingly, the Department periodically verifies the accuracy of its data with internal audits. OPD is, however, at a critical juncture where any indicators of disparate treatment among populations groups must be addressed in order to determine whether there is a constitutionally valid basis for the disparity or there is a need for corrective intervention. Recognizing that this is easier said than done, we stand ready to assist the Department wherever possible. OPD is not in compliance with Task 34.3.1.

Task 34.3.2 requires that the data captured on the Stop Data Forms be entered completely and accurately into the database (compliance standard: 85%). As noted above, the entering of stop data into the Field Based Reporting system requires officers to make a selection in each form field. If an officer fails to fill in the information in any field, the system will not allow the form to be completed. Task 34.3.2 was created to govern the submission of data from the written forms to the computerized system. Since this type of data entry is no longer necessary, the Department is in compliance with Task 34.3.2.

OPD is in partial Phase 2 compliance with Task 34.

<u>Compliance Status:</u>
Phase 1: In compliance
Phase 2: Partial compliance

Next Steps:
During our next site visit and upcoming technical assistance visits, we will again meet with relevant Department personnel to discuss the Department's progress in this area. We will further discuss the Department's various Task 34-related data systems to assess their operability, accuracy, and utility in storage, and ease of access to stop data. We will continue to work with OPD on ways to verify the legal basis for stops, searches, and other related activities expeditiously. We will also discuss how conducting internal audits of its stop data forms can help the Department to identify any disparities in its treatment of citizens.

Task 35: Use of Force Reports - Witness Identification

Requirements:

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*
3. *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 use of force incident.*

(Negotiated Settlement Agreement VI. C.)

Discussion:
OPD published Special Order 8066, *Use of Force—Witness Identification* (April 12, 2004), which incorporates the requirements of Task 35. Additionally, OPD published Departmental General Order K-4, *Reporting and Investigating the Use of Force* (February 17, 2006), which also incorporates the requirements of Task 35. OPD revised DGO K-4 on August 1, 2007. The revised policy also incorporates the requirements of Task 35. As the Department has trained at least 95% of relevant personnel on these policies, we find OPD in continued Phase 1 compliance with this Task.

During all of the previous reporting periods, we found OPD in Phase 2 compliance with Task 35.

To assess Phase 2 compliance for Task 35 for this reporting period, we reviewed 14 use of force reports, including: two Level 1; three Level 2; and nine Level 3 use of reports covering incidents that occurred between April 1, and June 31, 2014. (Per DGO K-4, Level 4 use of force reports do not require witness identification.)

We assessed Task 35.1 in conjunction with Task 35.2. **Task 35.1** requires that use of force reports include the name, telephone number, and addresses of witnesses to the incident when such information is reasonably available to the members/employees on the scene (compliance standard: 90%); and **Task 35.2** requires that when there are no known witnesses, the use of force reports specifically state this fact (compliance standard: 90%). All 14 reports that we reviewed comported with these requirements. OPD is in compliance with these subtasks.

Task 35.3 requires reports to document instances where witnesses are present but circumstances prevent the author of the report from gathering the data (compliance standard: 90%). During this reporting period no incidents fell into this category. OPD is in compliance with Task 35.3.

Task 35.4 requires that use of force reports include the names of all other OPD members/employees witnessing the incident (compliance standard: 90%). We found no instances when an OPD witness was not documented in the 14 reports we reviewed. OPD is in compliance with Task 35.4.

OPD is in Phase 2 compliance with Task 35.

Compliance Status:
Phase 1: In compliance
Phase 2: In compliance

Task 37: Internal Investigations-Retaliation Against Witnesses

Requirements:
OPD shall prohibit retaliation against any member or employee of the Department who:

1. *Reports misconduct by any other member or employee, or*
2. *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.
(Negotiated Settlement Agreement VI. E.)

Discussion:
We have found OPD in continued Phase 1 compliance with this Task. OPD published Special Order 8092 on November 23, 2003, which incorporated the requirements of Task 37. This policy consists of two Manual of Rules (MOR) Sections: 398.73, *Retaliation Against Witnesses*; and 398.74, *Retaliation Against Witnesses, Accountability*. These MOR provisions (revised in

lieu of a City policy on retaliation) incorporate the requirements of Task 37. OPD has trained at least 95% of relevant personnel on these policies.

Following our review of retaliation cases in the fourteenth reporting period, we found OPD not in Phase 2 compliance with Task 37. In that report, we cited a case we regarded as involving serious retaliation after an officer provided information about another officer's beating of a handcuffed prisoner. We noted that the Department did not do enough to identify the perpetrator or protect the reporting officer when the retaliation came to light. In the last reporting period, we found no extant case fitting the Task 37 definition. In the prior review, we found three cases alleging retaliation in which OPD conducted thorough investigations. In all three cases, OPD concluded that the charges of retaliation were unfounded. There were no other cases alleging retaliation fitting the Task 37 definition.

In addition, the Chief personally provided training regarding retaliation to seven Continuing Professional Training (CPT) courses for both officers and sergeants. During the period from April 1, through June 30, 2014, he spoke to a total of 140 sergeants and officers who attended CPT. In addition, he addressed 91 police officer trainees at the Basic Academy.

Task 37.1 requires that officers be held accountable for retaliating against employees or members who report misconduct or serve as witnesses in proceedings against other members/employees (compliance standard: 95%); and **Task 37.2** requires that supervisors, commanders, and managers be held accountable if they knew or reasonably should have known that persons under their supervision engaged in retaliation (compliance standard: 95%).

We did not identify any cases during the period of April 1, through June 30, 2014 that contained allegations of retaliation, as defined by Task 37.

OPD is in Phase 2 compliance with Task 37.

Compliance Status:
Phase 1: In compliance
Phase 2: In compliance

Task 40: Personnel Assessment System (PAS) – Purpose

Requirements:
Within 635 days from the effective date of this Agreement, OPD shall enhance its existing complaint-tracking and select indicator systems so that it has a fully implemented, computerized relational database for maintaining, integrating and retrieving data necessary for supervision and management of OPD and its personnel. This data shall be used by OPD: to promote professional police practices; to manage the risk of police misconduct; and to evaluate and audit the performance of OPD members of all ranks, employees, and OPD units, subunits and shifts.

PAS shall contain information on the following:

1. *All uses of force required to be reported by OPD;*
2. *OC spray canister check-out log (see Section V, paragraph D)*
3. *All police-canine deployments; where the canine is deployed in a search for or to apprehend a suspect(s). It does not include, deployments for the purpose of locating bombs, narcotics, missing persons, etc., where the canine is not involved in an investigated use of force (i.e., deliberately or inadvertently bites or injures a person) If such force occurs, a Use of Force report is required.*
4. *All officer-involved shootings and firearms discharges, both on duty and off duty, excluding an intentional discharge while at a range facility; a discharge while engaged in a lawful recreational activity, such as hunting or target practice; a discharge by Criminalistics Division personnel for the purpose of scientific examination; and a discharge at an object (e.g., street light, alarm box, door lock or vehicle tire) to accomplish a tactical police purpose that does not result in injury;*
5. *All on-duty vehicle pursuits and on-duty vehicle collisions;*
6. *All complaints, whether made to OPD or CPRB;*
7. *All civil suits and/or tort claims related to members' and employees' employment at OPD, or which contain allegations which rise to the level of a Manual of Rules violation;*
8. *Reports of a financial claim as described in Section VI, paragraph G (3).*
9. *All in-custody deaths and injuries;*
10. *The results of adjudications of all investigations related to items (1) through (9), above, and a record of investigative findings, including actual discipline imposed or non-disciplinary action administered;*
11. *Commendations and awards;*
12. *All criminal arrests of and charges against OPD members and employees;*
13. *All charges of resisting or obstructing a police officer (Penal Code §§69 and 148), assault on a police officer (Penal Code §243(b)(c), or assault-with-a-deadly-weapon on a police officer [Penal Code §245(c)(d)];*
14. *Assignment history and rank history for each member/employee;*
15. *Training history for each member/employee;*
16. *Line-of-duty injuries;*
17. *Sick leave usage, particularly one-day sick leaves;*
18. *Report Review Notices or Case Evaluation Reports for the reporting member/employee and the issuing investigator;*
19. *Criminal cases dropped due to concerns with member veracity, improper searches, false arrests, etc.; and*
20. *Other supervisory observations or concerns.*

(Negotiated Settlement Agreement VII. A.)

Discussion:

After a prolonged period of partial compliance with this requirement, OPD resolved problems with accurate recording of arrest data within the risk management system and achieved full

compliance in our last report. The problems with the automatic import of arrest data into the County's data system were resolved. This solution was first explored as a pilot program and was fully implemented across all officers.

The Department reports that automatic import of arrest data has continued. The Department continues to audit the process, as it does data from other sources, and makes corrections as needed. This is an important process with regard to identifying and rectifying any problems that might arise. Data problems are not uncommon in complex data entry systems and this audit process will continue to be important.

The development of a new risk management database has also continued. The complete redesign of this system and its links to other Department data has proceeded with a highly qualified vendor selected and a sound management process successfully coordinated by another vendor. The project now rests with City government, which is managing the contract.

General Order D-17, Personnel Assessment Program, which incorporates the requirements of Tasks 40 and 41 was approved and signed off on by the Chief on November 20, 2013. As noted previously, the policy altered the PAS review procedures to incorporate an initial internal review by the PAS Unit when officers meet thresholds. Reviews, including any recommendations for monitoring or intervention are then forwarded to first line supervisors for review and comment. This is a change from the original process that moved directly to reviews up the chain of command. Under the current practice supervisors are more directly involved and have a chance to raise issues of their concern at an early stage. The Risk Management Unit sees the new process as beneficial. It also maintains an appropriate and desirable role for first line supervisors in the process.

PAS records for the quarter of April 1, through June 30, 2014 indicate that data were entered for all of the fields required by Task 40 – including the arrest data. The required data for the quarter included reports of 299 uses of force. This is a decline of 48% from the previous quarter that then showed a reversal of a downward trend. The current change is largely due to decreases in Level 4 uses of force that are at their lowest level reported under this monitorship. Arrests data also show that these declines are not accounted for by reductions in arrests that are consistent with earlier periods at over 4000.

The only unexpected finding in the data, once again, is the level of O.C. checkout during the quarter. This is also explained as related to the outfitting of the new class of officers.

A further breakdown of the types of use of force shows that, for this reporting period, there were no Level 1 uses of force. There were seven Level 2, 14 Level 3, and 276 Level 4 uses of force. The use of force figures show significant changes other than the reduction on Level 4 uses of force. Internal Affairs Complaints also show low numbers compared with earlier trends, although, at 192, those complaints are up slightly from the past several reports. Data counts for the current reporting period and the seven prior reporting periods is presented in the table below.

OPD Performance Activity Comparison by Quarter								
Performance Activity	**July 1 to September 30, 2012**	**October 1 to December 31, 2012**	**January 1 to March 31, 2013**	**April 1 to Jun 30, 2013**	**July 1 to Sept 30, 2013**	**Oct 1 to Dec 30, 2013**	**Jan 1 to March 31, 2014**	**April 1 to June 30, 2014**
Level 1 Uses of Force	1	0	1	3	3	0	0	0
Level 2 Uses of Force	5	7	3	10	4	8	1	7
Level 3 Uses of Force	29	15	26	26	12	24	14	16
Level 4 Uses of Force	741	612	509	483	412	314	564	276
Unintentional Firearms Discharge	0	0	0	0	0	0	0	2
Sick Leave Hours	9634.3	9857.65	11286.53	11041.94	11390	10935	9724	7798.08
Line of Duty Injuries	46	30	32	54	54	23	54	8
Narcotics Related Possessory Offenses Arrests	508	280	407	560	496	669	914	804
Vehicle Collisions	15	7	18	12	6	17	34	11
All Vehicle Pursuits	83	57	18	64	87	68	43	16
All Arrest	3516	2943	2853	3697	2759	3156	3743	4161
Arrests including PC 69, 148(a), 243(b)(c) & 245(c)(d)	58	31	34	36	28	27	27	25
Arrests only for PC 69, 148(a), 243(b)(c) & 245(c)(d)	8	7	9	4	5	2	1	12
Awards	121		76	55	65	124	102	115
Assignment History	9720	9791	10361	10337	10257	10361	11156	11337
Case Evaluation Reports	453	203	635	444	338	497	315	198
Report Review Notices--Positive	12	12	5	8	1	1	1	5
Report Review Notices--Negative	0	0	0	0	0	0	1	0
Canine Deployments	63	43	64	59	57	50	66	0
Financial Claims	0	0	0	0	0	0	0	0
Internal Affairs Complaints	465	277	186	295	140	136	150	192
In-Custody Injuries	24	13	21	13	2	31	4	12
Civil Suits (Tort Claims)	11	3	4	4	2	4	0	8
Criminal Cases Dropped	300	91	416	282	207	352	226	116
O.C. Checkouts	15	11	58	16	61	13	116	82
Officer Involved Shootings	2	1	2	3	1	0	1	3
Rank / Class History	2338	2326	2391	2334	2357	7302	2519	2521
Training History	5182	2096	20108	19589	8557	13827	17239	22886
Supervisory Notes	3072	3117	3139	3304	2852	2957	3114	3721
Arrest Made Against OPD	1	0	0	0	0	1	1	0

During the current reporting period, the Department continued to collect the necessary data and to audit for potential problems. The associated policy is in place, and implementation of the new arrest data processes continue to function well. This continues to support a finding of Phase 1 and Phase 2 compliance.

Compliance Status:
Phase 1: In compliance
Phase 2: In compliance

Task 41: Use of Personnel Assessment System (PAS)

Requirements:
Within 375 days from the effective date of this Agreement, OPD shall develop a policy for use of the system, including supervision and audit of the performance of specific members, employees, supervisors, managers, and OPD units, as well as OPD as a whole. The policy shall include the following elements:

1. *The Chief of Police shall designate a PAS Administration Unit. The PAS Administration Unit shall be responsible for administering the PAS policy and, no less frequently than quarterly, shall notify, in writing, the appropriate Deputy Chief/Director and the responsible commander/manager of an identified member/employee who meets the PAS criteria. PAS is to be electronically maintained by the City Information Technology Department.*
2. *The Department shall retain all PAS data for at least five (5) years.*
3. *The Monitor, Inspector General and Compliance Coordinator shall have full access to PAS to the extent necessary for the performance of their duties under this Agreement and consistent with Section XIII, paragraph K, and Section XIV of this Agreement.*
4. *PAS, the PAS data, and reports are confidential and not public information.*
5. *On a quarterly basis, commanders/managers shall review and analyze all relevant PAS information concerning personnel under their command, to detect any pattern or series of incidents which may indicate that a member/employee, supervisor, or group of members/employees under his/her supervision may be engaging in at-risk behavior. The policy shall define specific criteria for determining when a member/employee or group of members/employees may be engaging in at-risk behavior.*
6. *Notwithstanding any other provisions of the PAS policy to be developed, the Department shall develop policy defining peer group comparison and methodology in consultation with Plaintiffs' Counsel and the IMT. The policy shall include, at a minimum, a requirement that any member/employee who is identified using a peer group comparison methodology for complaints received during a 30-month period, or any member who is identified using a peer group comparison methodology for Penal Code §§69, 148 and 243(b)(c) arrests within a 30-month period, shall be identified as a subject for PAS intervention review. For the purposes of these two criteria, a single incident shall be counted as "one" even if there are multiple complaints arising from the incident or combined with an arrest for Penal Code §§69, 148 or 243(b)(c).*
7. *When review and analysis of the PAS threshold report data indicate that a*

member/employee may be engaging in at-risk behavior, the member/employee's immediate supervisor shall conduct a more intensive review of the member/employee's performance and personnel history and prepare a PAS Activity Review and Report. Members/employees recommended for intervention shall be required to attend a documented, non-disciplinary PAS intervention meeting with their designated commander/manager and supervisor. The purpose of this meeting shall be to review the member/employee's performance and discuss the issues and recommended intervention strategies. The member/employee shall be dismissed from the meeting, and the designated commander/manager and the member/employee's immediate supervisor shall remain and discuss the situation and the member/employee's response. The primary responsibility for any intervention strategies shall be placed upon the supervisor. Intervention strategies may include additional training, reassignment, additional supervision, coaching or personal counseling. The performance of members/ employees subject to PAS review shall be monitored by their designated commander/manager for the specified period of time following the initial meeting, unless released early or extended (as outlined in Section VII, paragraph B (8)).

8. Members/employees who meet the PAS threshold specified in Section VII, paragraph B (6) shall be subject to one of the following options: no action, supervisory monitoring, or PAS intervention. Each of these options shall be approved by the chain-of-command, up to the Deputy Chief/Director and/or the PAS Activity Review Panel.

Members/employees recommended for supervisory monitoring shall be monitored for a minimum of three (3) months and include two (2) documented, mandatory follow-up meetings with the member/employee's immediate supervisor. The first at the end of one (1) month and the second at the end of three (3) months. Members/employees recommended for PAS intervention shall be monitored for a minimum of 12 months and include two (2) documented, mandatory follow-up meetings with the member/employee's immediate supervisor and designated commander/manager: The first at three (3) months and the second at one (1) year. Member/employees subject to PAS intervention for minor, easily correctable performance deficiencies may be dismissed from the jurisdiction of PAS upon the written approval of the member/employee's responsible Deputy Chief, following a recommendation in writing from the member/employee's immediate supervisor. This may occur at the three (3)-month follow-up meeting or at any time thereafter, as justified by reviews of the member/employee's performance. When a member/employee is not discharged from PAS jurisdiction at the one (1)-year follow-up meeting, PAS jurisdiction shall be extended, in writing, for a specific period in three (3)-month increments at the discretion of the member/employee's responsible Deputy Chief. When PAS jurisdiction is extended beyond the minimum one (1)-year review period, additional review meetings involving the member/employee, the member/ employee's designated commander/manager and immediate supervisor, shall take place no less

frequently than every three (3) months.

9. *On a quarterly basis, Division/appropriate Area Commanders and managers shall review and analyze relevant data in PAS about subordinate commanders and/or managers and supervisors regarding their ability to adhere to policy and address at-risk behavior. All Division/appropriate Area Commanders and managers shall conduct quarterly meetings with their supervisory staff for the purpose of assessing and sharing information about the state of the unit and identifying potential or actual performance problems within the unit. These meetings shall be scheduled to follow-up on supervisors' assessments of their subordinates' for PAS intervention. These meetings shall consider all relevant PAS data, potential patterns of at-risk behavior, and recommended intervention strategies since the last meeting. Also considered shall be patterns involving use of force, sick leave, line-of-duty injuries, narcotics-related possessory offenses, and vehicle collisions that are out of the norm among either personnel in the unit or among the unit's subunits. Division/appropriate Area Commanders and managers shall ensure that minutes of the meetings are taken and retained for a period of five (5) years. Commanders/managers shall take appropriate action on identified patterns of at-risk behavior and/or misconduct.*
10. *Division/appropriate Area Commanders and managers shall meet at least annually with his/her Deputy Chief/Director and the IAD Commander to discuss the state of their commands and any exceptional performance, potential or actual performance problems or other potential patterns of at-risk behavior within the unit. Division/appropriate Area Commanders and managers shall be responsible for developing and documenting plans to ensure the managerial and supervisory accountability of their units, and for addressing any real or potential problems that may be apparent.*
11. *PAS information shall be taken into account for a commendation or award recommendation; promotion, transfer, and special assignment, and in connection with annual performance appraisals. For this specific purpose, the only disciplinary information from PAS that shall be considered are sustained and not sustained complaints completed within the time limits imposed by Government Code Section 3304.*
12. *Intervention strategies implemented as a result of a PAS Activity Review and Report shall be documented in a timely manner.*
13. *Relevant and appropriate PAS information shall be taken into account in connection with determinations of appropriate discipline for sustained misconduct allegations. For this specific purpose, the only disciplinary information from PAS that shall be considered are sustained and not sustained complaints completed within the time limits imposed by Government Code Section 3304.*
14. *The member/employee's designated commander/manager shall schedule a PAS Activity Review meeting to be held no later than 20 days following notification to the Deputy Chief/Director that the member/employee has met a PAS threshold and when intervention is recommended.*

15. *The PAS policy to be developed shall include a provision that a member/employee making unsatisfactory progress during PAS intervention may be transferred and/or loaned to another supervisor, another assignment or another Division, at the discretion of the Bureau Chief/Director if the transfer is within his/her Bureau. Inter-Bureau transfers shall be approved by the Chief of Police. If a member/employee is transferred because of unsatisfactory progress, that transfer shall be to a position with little or no public contact when there is a nexus between the at-risk behavior and the "no public contact" restriction. Sustained complaints from incidents subsequent to a member/employee's referral to PAS shall continue to result in corrective measures; however, such corrective measures shall not necessarily result in a member/employee's exclusion from, or continued inclusion in, PAS. The member/employee's exclusion or continued inclusion in PAS shall be at the discretion of the Chief of Police or his/her designee and shall be documented.*
16. *In parallel with the PAS program described above, the Department may wish to continue the Early Intervention Review Panel.*
17. *On a semi-annual basis, beginning within 90 days from the effective date of this Agreement, the Chief of Police, the PAS Activity Review Panel, PAS Oversight Committee, and the IAD Commander shall meet with the Monitor to review the operation and progress of the PAS. At these meetings, OPD administrators shall summarize, for the Monitor, the number of members/employees who have been identified for review, pursuant to the PAS policy, and the number of members/employees who have been identified for PAS intervention. The Department administrators shall also provide data summarizing the various intervention strategies that have been utilized as a result of all PAS Activity Review and Reports. The major objectives of each of these semi-annual meetings shall be consideration of whether the PAS policy is adequate with regard to detecting patterns of misconduct or poor performance issues as expeditiously as possible and if PAS reviews are achieving their goals.*
18. *Nothing in this Agreement, and more specifically, no provision of PAS, shall be construed as waiving, abrogating or in any way modifying the Department's rights with regard to discipline of its members/employees. The Department may choose, at its discretion, to initiate the administrative discipline process, to initiate PAS review or to use both processes concurrently or consecutively.*

(Negotiated Settlement Agreement VII. B.)

Discussion:

This requirement addresses the effectiveness of the use of PAS to manage risk in the Department. Much of the discussion below addresses the process with regard to identifying and assessing individual officers based on risk-related behavior and intervening as appropriate. The system also supports a broader approach to managing risk in which the Department continuously assesses activity and seeks to incorporate those assessments more generally into its activities. The Department is attempting to adopt perspective, as is demonstrated through its monthly Risk Management Meetings.

The Department has also recently revised its Risk Management Process, as noted above, to include PAS Unit internal reviews as the critical step in the review process. The Department is also in the process of developing a new data system for use in the Risk Management Process. OPD's commitment in this area, and the City's, reflect recognition of the importance of the Risk Management System for management of the department and for assisting officers whose careers could be damaged by risk-related behavior. The Department has even extended its approach to risk management to emphasize employee assistance issues that had not previously been associated with the risk management process.

OPD revised and issued Departmental General Order D-17, Personnel Assessment Program in November 2013. Based on the existing policy, we again find OPD in continued Phase 1 compliance with this Task.

As in previous reports, we have continued our examination of the stages of the PAS process consistent with this Task. We examined the threshold analyses that were performed for the period of April 1, through June 30, 2014. This included a review of peer-based threshold analyses completed by the PAS Administration Unit and the identification of officers meeting the single-event threshold.

In accordance with this Task requirement, we reviewed PAS processes for the system's use in placement of officers on special assignment, transfer of officers, and commendations. An important function of PAS is to regularly provide supervisors with relevant information on officers. To consider that function, we again reviewed reports of regular quarterly PAS command reviews of officers by supervisors. We again found appropriate use of the system and no significant issues.

The PAS process also calls for follow-up reports of officers under supervision or monitoring, and we reviewed reports of 21 officers not discharged from the process by the end of one year. These document supervisory reviews of officers who have been selected for some form of action as a result of PAS reviews.

For the reporting period ending June 30, 2014, OPD concluded a total of 39 PAS reviews. There were 10 in the previous reporting period. The numbers of reviews had fallen in the transition to the process involving initial internal reviews by PAS staff. This transition is now complete and the number of review has returned to that occurring prior to midyear 2013. The procedural change was an effort to reduce the number of false positive finding where reviews revealed no significant problems. Reviews are included in the table below only after they are signed off through the level of the PAS Review Panel. Examination of the reviews shows them to be thorough. The new system of internal PAS unit reviews has thus far continues to result in high quality and complete documentation. The table also shows that 29 officers exceeded thresholds for review during this quarter and that a reduction has occurred in the number (19) of reviews listed as pending at the end of the quarter.

The table below tracks the review process and shows that supervisors recommended that no action be taken in 33, or 85% of the 39 reviews for the current reporting period. That is up from 60% the previous quarter, although there were only 10 reviews completed then. That was a result of the transition to the process in which initial reviews are now being completed within the PAS unit. The table also shows that Commanders and the Deputy Chief disagreed with three lower-level recommendations and supported monitoring or supervisions. The PAS Review Panel reversed one case by requiring monitoring.

The overall situation regarding level of reviews and related action continues as it was described in the previous two quarters: The system shows high levels of no action required but also the willingness and capacity to reverse those decisions up the chain of command. The new procedures have reduced the work required of supervisors by the large number of false positive cases but have not necessarily reduced the number of officers misidentified in the initial reviews.

The reporting period ended with 14 officers in intervention and 17 in monitoring. This means that approximately 5% of all officers are on some risk management related status. When the percentage uses patrol officers as the base, it increases to over 15% of officers. We will continue to monitor these levels and to scrutinize the process to assure that appropriate standards are maintained.

The value of the data in the chart below is in tracking data over time, and using it to increase the rigors of the review process as it serves the goal of risk reduction.

Summary of PAS Reviews and Recommendations 4/12-6/15

	PAS Reviews Completed	Supervisor Rec- no action	%	Recognition	%	Supervisor Rec - Monitoring	%	Supervisor Rec- Intervention	%	Commander rec Concurs w Supervisor	%	Dep. Chief Concurs w Commander	%	PAS Panel Concurs w DC	%	Pending	Number of personnel that exceeded a threshold
2012																	
April	25	17	68%	0	0%	5	20%	3	12%	25	100%	25	100%	25	100%	22	41
May	27	17	63%	0	0%	2	7%	0	0%	26	96%	25	92%	27	100%	14	58
June	43	41	95%	0	0%	2	5%	0	0%	41	95%	42	98%	43	100%	15	17
July	66	61	92%	1	5%	3	5%	2	30%	65	98%	65	98%	64	97%	0	18
August	32	29	90%	1	0%	2	6%	0	0%	27	84%	26	81%	27	84%	8	35
September	15	10	67%	1	0.1	3	20%	1	7%	15	100%	11	73%	13	87%	1	16
October	12	10	83%	0	0%	2	17%	0	0%	11	92%	11	92%	12	100%	0	26
November	16	11	69%	1	1%	2	13%	3	19%	15	94%	10	63%	12	75%	0	47
December	22	16	73%	0	0%	6	27%	0	0%	21	95%	19	86%	22	100%	0	14
Total	258	212		4		27		9		246		234		245		60	272
Average	***28.7***	***23.6***	***78%***	***0.4***	***1%***	***3.0***	***0***	***1.0***	***8%***	***27.3***	***95%***	***26.0***	***87%***	***27.2***	***94%***	***6.7***	***30.2***
2013																	
January	27	19	70%	1	4%	7	26%	0	0%	27	100%	27	100%	24	89%	5	14
February	13	13	100%	0	0%	0	0%	0	0%	9	69%	8	62%	10	77%	5	7
March	10	10	100%	0	0%	1	10%	0	0%	10	100%	10	100%	6	60%	6	11
April	10	10	100%	0	0%	0	0%	0	0%	10	100%	10	100%	9	90%	2	4
May	14	8	57%	2	14%	2	14%	2	14%	14	100%	13	93%	12	86%	8	18
June	11	10	91%	0	0%	1	9%	0	0%	11	100%	10	91%	8	73%	1	4
July	4	2	50%	0	0%	1	25%	1	25%	4	100%	4	100%	4	100%	2	12
August	9	6	67%	0	0%	3	33%	0	0%	7	78%	8	89%	7	78%	1	12
September	8	7	88%	0	0%	0	0%	1	13%	8	100%	8	100%	7	88%	0	0
October	2	2	100%	0	0%	0	0%	0	0%	2	100%	2	100%	2	100%	0	0
November	2	2	100%	0	0%	0	0%	0	0%	2	100%	2	100%	1	50%	5	11
December	7	6	86%	0	0%	1	14%	0	0%	7	100%	7	100%	7	100%	4	15
Total	117	94		3	1%	16		4		111		109		97		39	108
Average	***9.8***	***7.8***	***83%***	***0.3***	***1%***	***1.3***	***11%***	***0.3***	***4%***	***9.3***	***96%***	***9.1***	***95%***	***8.1***	***82%***	***3.3***	***9.0***
2014																	
January	3	2	67%	0	0%	1	33%	0	0%	3	100%	3	100%	2	67%	5	18
February	0	0		0		0		0		0		0		0		13	1
March	7	4	57%	0	0%	2	29%	1	14%	7	100%	7	100%	7	100%	8	11
April	20	18	90%	0	0%	1	5%	1	5%	19	95%	19	95%	18	90%	0	14
May	9	6	67%	0	0%	3	0%	0	0%	9	100%	8	89%	8	89%	0	1
June	10	9	90%	0	0%	1	0%	0	0%	9	90%	9	90%	10	100%	19	14
Total	49	39	74%	0	0%	8	13%	2	4%	47	97%	46	95%	45	89%	45	59
Running Average	***8.2***	***6.5***	***62%***	***0.0***	***0%***	***1.3***	***31%***	***0.3***	***7%***	***7.8***	***100%***	***7.7***	***100%***	***7.5***	***83%***	***7.5***	***9.8***

For our quarterly reports, we also review the PAS histories of officers who had a Level 1 use of force. For this quarter, as was true last quarter, no officers fell into these categories.

The development work on IPAS2 is continuing with the consulting firm managing the process in an efficient and effective manner. The system vendor has indicated that a 10-month turnaround time on the project should be expected, beginning after the scope of work is agreed upon and the contract finalized. That process moved forward to the City government and City Council last quarter and remains there. Given the importance of this project, we will continue to review progress on the new system.

During the last quarter, significant policy changes were implemented, new data processes were implemented department wide, and work toward a new risk management database was being done. Further development of the new database now awaits Council action. As for the use of the system, the policy changes are in place and the system is operating as planned. But as previously noted, the outcome of all of this effort is not yet entirely clear. This time period, however, does provide an opportunity for further work on the proper utilization and maximization of benefits from the system. A focus on officers who continue to exceed thresholds, and attention to the effectiveness of monitoring and supervision, would be valuable directions to take. They would provide additional opportunities for the department to refine its problem solving abilities when it comes to identifying and addressing risk.

The Department has done extensive work on policy revision and its implementation with regard to risk management. It has also embarked on an extensive effort to upgrade its related database and applications. That is a long-term project that, in and of itself, will not guarantee compliance. Nor does its lack of completion mean that full compliance cannot be achieved in the meantime.

As we have noted, compliance in this area does not depend only on instituting specific procedures. This Task is focused on the effective management of risk. Now, with the policy initiatives in place and the technical work proceeding, the Department is in a position to focus its attention on the effectiveness of this process. There are positive signs, including the monthly risk management meetings that take place. Greater attention can also be paid to other issues such as risk repeaters and officers whose behavior is not altered by intervention. Training or officers and supervisors may also warrant additional concern.

It is worth noting that this time may represent a significant turning point from which the developmental and procedural issues can be secondary to concern over the ability to identify officers who may need redirection, to make sound decisions throughout this process, and to be effective in the management of risk for officers and for the Department.

<u>Compliance Status:</u>
Phase 1: In compliance
Phase 2: Partial compliance

Next Steps:
Our concern for the next quarter will be consistent with direction noted above. We will be interested in the Department's efforts beyond the procedure and structures for risk management. We will focus on the Departments efforts to address early identification of officers exhibiting risk behaviors, those who continue to have problems despite efforts to address them, and the broader use of risk assessment and intervention across the Department.

Task 42: Field Training Program

Requirements:
Within 323 days of the effective date of this Agreement, OPD shall develop and implement a plan to enhance its Field Training Program. This plan shall address the criteria and method for selecting FTOs, the training provided to FTOs to perform their duty, 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 plan must ensure proper reporting, review and approval of probationary officers' reports.

Field Training Program Coordinator
The Chief of Police shall assign a full-time sergeant for the first year who shall develop and implement the new policies and procedures described in this section. The Chief of Police shall determine, upon successful completion of the development and implementation of these policies, if it is necessary to continue the position at the rank of sergeant, but in any event, the position shall continue as a full-time position.

Trainee Rotation
During their field training, trainee officers shall rotate to a new FTO and a new geographic area of the City at predetermined intervals. Prior to rotation, trainee officers shall be interviewed by the Field Training Program Coordinator or his/her designee and given an opportunity to raise any questions or concerns they may have about the quality of training provided to them.

FTO Participation Incentives
OPD shall increase the incentives for participation in the FTO program so that the Department will have a larger pool of qualified, experienced candidates from which to choose.

FTO Candidate Nomination and Requirements
FTO candidates shall be nominated by field supervisors and commanders, but shall be approved for assignments to this duty, and for retention in it, by the Chief of Police. All FTO candidates must have completed three (3) years of Departmental service before selection, unless specifically authorized by the Chief of Police. FTO candidates shall be required to demonstrate their commitment to community policing, and their problem- solving and leadership abilities. Ethics, professionalism, relationships with the community, quality of citizen contacts and commitment to OPD philosophy shall be primary criteria in the selection of FTOs. Excessive numbers of sustained and not sustained complaints completed within the time limits imposed by Government

Code Section 3304, or excessive numbers of use of force incidents shall bar a candidate from selection as an FTO for no less than two (2) years.

Decertification
The presumptive result of sustained disciplinary action, completed within the time limits imposed by Government Code Section 3304, against an FTO or the FTO Program Coordinator for excessive force, unlawful arrest, false testimony, racial, ethnic, sexual-orientation or gender-based discrimination or slurs, or other serious examples of police misconduct, shall be removal from the FTO program. The Deputy Chief of the member's chain of command may recommend to the Chief of Police to grant an exception to this presumption after conducting a hearing on the facts of the matter. The Chief of Police shall document the approval/disapproval in writing.

FTO Assignment
Assignment to an FTO position shall be contingent upon successful completion of a training course designed for this position and shall be approved by OPD and the State of California Peace Officers' Standards and Training.

FTO Evaluation
At the end of a complete FTO cycle, trainee officers leaving the FTO program shall anonymously evaluate each of their FTOs. OPD shall develop a form for such evaluations which emphasize effectiveness at training and effectiveness at supervision. The evaluation form shall also assess the degree to which the FTO program reflected policies, procedures, values and other information taught in the recruit academy. The FTO evaluation forms shall be reviewed by the Field Training Program Coordinator and the individual FTO's commander and supervisor. The Field Training Program Coordinator shall provide evaluation information to the FTOs as a group, concerning program effectiveness. Each FTO shall also be provided with evaluation information regarding their individual performance. The individual evaluation forms shall not be made available to individual FTOs in the interest of maintaining anonymity of trainee officers who have completed the forms.

Daily Evaluation Audit
The Field Training Program Coordinator, or his/her designee, shall conduct random audits of the FTO program to ensure that FTOs complete daily evaluations of trainee officers and that the selection standards for FTOs are maintained.

Trainee Officer Assignment
When a trainee officer's FTO is absent, the trainee officer shall not be assigned to field duties with an "acting" FTO. They shall be placed with another certified FTO, or shall be assigned to non-field duties, pending the availability of a certified FTO.

Field Commander and FTO Supervisor Training
OPD shall provide field commanders and supervisors with training on the FTO program, including the field-training curriculum, the role of the FTO, supervision of FTOs and probationary employees, the evaluation process and the individual duties and responsibilities within the FTO program.

Focus Groups
The Field Training Program Coordinator and Academy staff shall conduct focus groups with randomly selected trainee officers midway through the field-training cycle, upon completion of field training, and six (6) months after completion of the field training program, to determine the extent to which the Academy instructors and curriculum prepared the new officers for their duties.

Consistency of Training
The results of these focus group sessions shall be reviewed at a meeting to include the Training Division Commander, the FTO Program Coordinator, the BFO Deputy Chief, and the BOS Deputy Chief. If it is determined that there is a substantial discrepancy between what is taught in the Academy and what is taught in the FTO program, there shall be a determination as to which is correct, and either the training Academy or the FTO program shall make the necessary changes so that the desired training information is consistent. In the event that the discrepancies appear to be the result of one or more individual FTOs, rather than the FTO program as a whole, the review group shall determine whether the discrepancies are serious enough to warrant removal of that officer or officers from the FTO program. The results of the meeting of this review group shall be documented and this information shall be provided to the Monitor. (Negotiated Settlement Agreement VIII. A.-L.)

Discussion:
OPD published Departmental General Order B-8, *Field Training Program*, which incorporates the requirements of Task 42, on March 2, 2009. This order was revised, effective June 2, 2014, to incorporate the following changes in the program:

1. Heretofore, officers with a sustained Class I violation were ineligible to be nominated or participate in the FTO testing process for a minimum of two years. Per the revised policy, officers with a Class I violation are ineligible to serve as an FTO for 12 months; and such cases shall be considered important in evaluating eligibility for two years following the completion of the investigation.
2. The revised policy added the requirement that the BFO Deputy Chief's review of Field Training Officer candidates include all sustained IAD findings in the previous two-year period; they are also required to make a written recommendation of eligibility to the Chief of Police.
3. Although the revised policy still requires that upon completion of the Basic Academy or Lateral Officer Transition course, trainee officers shall be assigned to the Patrol Division, the Chief has the authority to designate officers assigned to specific field-based units outside of Patrol or Foot Patrol to serve as FTOs and receive FTO incentive pay.

As the Department has trained at least 95% of relevant personnel on this policy, we find OPD in continued Phase 1 compliance with this Task.

OPD has been in Phase 2 compliance with this Task for the last five reporting periods.

During our most recent review, we interviewed the sergeant who serves as Field Training Coordinator, the lieutenant who is the unit's commander and the two senior FTOs who assist him and reviewed related memoranda, evaluation forms, and other documentation.

As of our last site visit, there were 70 FTOs available for work assignments in the program – 74 approved FTOs, including four who were unavailable for assignment as FTOs due to their current work assignment. At the time of this review, OPD had 79 FTOs, with 68 available for assignment. An FTO school is scheduled for September 2014. Ten nominations for new FTOs have been made and the FTO Unit is trying to obtain additional nominations before the training occurs.

At the time of this review, there were 42 trainee officers in the FTO Program. Ten members of the Basic Class 168 were extended when the rest of the class graduated from the program. One of these trainee officers completed the FTO successfully leaving nine still in the program. In addition, 33 members of Class 169 were in the FTO Program and expected to graduate from it on October 24, 2014. The next Basic Class (# 170) will graduate from the Basic Academy on October 31, 2014, and enter the FTO Program.

Task 42.1 requires that the Field Training Program Coordinator is a full-time position (compliance standard: Yes/No). A full-time sergeant is currently assigned to supervise the program. There are two police officers assigned to assist the FTO Coordinator. OPD is in compliance with this subtask.

Task 42.2.1 requires that trainee officers rotate to a new Field Training Officer (FTO) and a new geographic area of the City at predetermined intervals (compliance standard: 90%). Trainees are rotated every four weeks to a new assignment and new FTO.

Task 42.3.1 requires that incentives for participation as an FTO be increased (compliance standard: Yes/No). Officers who serve as FTOs are paid incentive pay for their service. In addition, the program includes several incentives (e.g., chevrons, administrative days, and priority for selection as training) as incentives for participation. No changes to the incentives for participation in the FTO Program have occurred during the current reporting period. OPD is in compliance with this subtask.

Task 42.4.1 requires that field supervisors and commanders nominate FTO candidates (compliance standard: 90%), and the Chief of Police determines FTO assignments and retention (compliance standard: Yes/No); **Task 42.4.2** requires that FTO candidates complete three years of service before selection, unless authorized by the Chief of Police (compliance standard:

Yes/No); **Task 42.4.3** requires that FTO candidates are required to demonstrate commitment to community policing and problem solving and leadership abilities (compliance standard: 95%); **Task 42.4.4** requires that ethics, professionalism, relationships with the community, quality of citizen contacts and commitment to OPD philosophy are primary criteria in the selection of FTOs (compliance standard: 95%); and **Task 42.4.5** requires that candidates with excessive numbers of citizen complaints, sustained investigations or excessive numbers of use of force incidents are barred from selection as an FTO for no less than two years (compliance standard: 95%). Supervisors and commanders recommend candidates, who must have work and performance records as required by this section. FTOs are screened for commitment to community policing and candidates with excessive numbers of complaints and/or sustained instances of uses of force are not selected. The selection of all FTOs to be certified (newly selected FTOs) and those to be recertified (FTO previously selected and decertified when new officers were not being hired) followed the requirements outlined in the NSA. As noted above, the screening of the 20 new candidates was completed. OPD is in compliance with these subtasks.

Task 42.5 requires that FTOs be decertified following sustained disciplinary action for serious misconduct specified (compliance standard: Yes/No). During the current reporting period, no officers were decertified for sustained violations. Two officers were decertified; one left the Department, and another was promoted to sergeant. The FTO Program Coordinator reviews IAD sustained findings on a monthly basis. OPD is in compliance with this subtask.

Task 42.6 requires that assignment to a FTO position is contingent upon successful completion of a training course for the position (compliance standard: Yes/No). FTOs are not assigned until they have successfully completed program training. OPD is in compliance with this subtask.

Task 42.7.1 requires that at the end of a complete FTO cycle, trainee officers anonymously evaluate each of their FTOs (compliance standard: 95%); **Task 42.7.2** requires that FTO evaluation forms are reviewed by the Program Coordinator and the FTO's commander and supervisor (compliance standard: 95%); **Task 42.7.3** requires that the Field Training Program Coordinator provides evaluation information to the FTOs as a group, concerning program effectiveness (compliance standard: Yes/No); **Task 42.7.4** requires that each FTO is provided with evaluation information regarding his/her individual performance (compliance standard: Yes/No); and **Task 42.7.5** requires that individual evaluation forms are not made available to individual FTOs in the interest of maintaining anonymity of trainee officers who have completed the forms (compliance standard: Yes/No). Trainees are evaluated by their FTOs on a daily basis beginning with their second week of field assignment. The patrol sergeant prepares a weekly progress report; and at the end of each four-week cycle, the FTO prepares an end-of-phase report. Trainee officers anonymously evaluate their FTOs at the end of each phase. Trainees are provided evaluations of their performance throughout the program. FTOs do not receive individual evaluation forms but do receive feedback regarding their performance. The evaluation forms are reviewed by the FTP Coordinator, commander, and supervisor; and filed in the FTO Coordinator's office. OPD is in compliance with these subtasks.

Task 42.8 requires that the Field Training Program Coordinator, or his/her designee, conduct random audits of the FTO program to ensure that FTOs complete daily evaluations of trainee officers (compliance standard: Yes/No). FTOs complete a daily evaluation of the trainees; and the FTO Program Coordinator receives, reviews, audits, and files all evaluation forms. In addition, the program maintains a color-coded spreadsheet to ensure that documentation is received, reviewed, and filed. OPD is in compliance with this subtask.

Task 42.9 requires that when a trainee officer's FTO is absent, the trainee officer is not assigned to field duties with an "acting" FTO, but is placed with another certified FTO, or assigned to non-field duties, pending the availability of a certified FTO (compliance standard: 95%). If a trainee's FTO is unavailable, the trainee is assigned to another FTO. If no FTO is available, the trainee is assigned to a sergeant or non-patrol assignment. No incident in which a trainee was assigned to a non-FTO has occurred for the past year. OPD is in compliance with this subtask.

Task 42.10 requires that Field Commanders and FTO Supervisors be provided training (compliance standard: 95%). All sergeants and commanders to whom FTOs would be assigned were trained by the program in both group and individual sessions before they were assigned FTO duties. The FTP met with the Deputy Chief and area commanders on April 3, 2014, and provided an overview of the FTO Program. OPD is in compliance with this subtask.

Task42.11 requires that focus groups are conducted by the Field Training Program Coordinator and Academy staff with randomly selected trainee officers midway through the field-training cycle, upon completion of field training, and six months after completion of the field training program (compliance standard: Yes/No). The coordinator conducts focus groups with randomly selected trainees, as required by the NSA. The focus group is designed to elicit issues encountered in the program and ensure that inconsistencies in training are identified and rectified. During the current reporting period, on June 14, 2014, the FTO Unit conducted the first focus group for the trainees in the 168th Academy and the second focus group for the Transitional Academy on June 4, 2014.

Task 42.12 requires that the results of the focus group sessions be reviewed at a meeting to include the Training Section Commander, the FTO Program Coordinator, the BFO Deputy Chief, and the BOS Deputy Chief (compliance standard: Yes/No). The required meeting for the discussion of the results of the two focus groups held during the first quarter was held on June 24, 2014, and attended by the required persons. The results were documented in a memorandum for the Chief of Police.

The FTO Program Coordinator explores the consistency of field training with that of the Academy at several points during the program. He interviews every trainee every four weeks before they are rotated to new assignments and new FTOs. He also participates in biweekly meetings with the Training Commander in which the FTO training is discussed to identify training issues. At the end of the FTO training cycle, a final evaluation report of the trainee's performance is prepared; and trainees rate the FTOs and the program. To ensure that training and the FTO Program are consistent, biweekly meetings attended by the Training Commander, the FTO Coordinator, and his lieutenant are held.

As we observed in our last seven reports, OPD has fulfilled the requirements of Task 42. Increasing the number of approved and trained FTOs who are available to work alongside a larger number of trainees is important to the continued success of the program.

OPD is in Phase 2 compliance with Task 42.

Compliance Status:
Phase 1: In compliance
Phase 2: In compliance

Task 43: Academy and In-Service Training

Requirements:

A. *Academy Training Plan*

Within 540 days of the effective date of this Agreement, OPD shall develop and implement a plan to enhance its Academy and in-service training to ensure that OPD members, dispatchers, and civilian evidence technicians are adequately trained for their positions, and aware of and able to implement the most contemporary developments in police training. This plan shall include a review of OPD's training curriculum, with additional emphasis on ethics and professionalism, critical thinking and problem solving, conflict resolution, and relationships with the community. The plan shall also address the criteria and method for selecting OPD training instructors, the training provided to instructors, procedures for evaluating the content and quality of training provided to OPD personnel and procedures for maintaining training records for OPD personnel. In arriving at the plan regarding staffing, training content and methodology, OPD shall consult with at least four (4) other, large law-enforcement agencies within the United States which have excellent reputations for professionalism. In particular, OPD shall consult with these agencies about qualifications and other criteria to be used in selecting staff for training positions. OPD shall also review the approach of these other law enforcement agencies in training both new staff and experienced staff on ethics and professionalism, critical thinking and problem solving, conflict resolution, and relationships with the community.

B. *Professionalism and Ethics*

OPD shall expand professionalism and ethics as a training topic within the recruit

academy, in-service training, and field training. Wherever possible, OPD shall include and address issues of professionalism and ethics using curricula that employ realistic scenario-based training exercises.

C. *Supervisory and Command Training*
OPD shall provide all sergeants and commanders with mandatory 40-hour in-service supervisory and leadership training. Officers shall attend training prior to promotion to the rank of sergeant. Lieutenants shall attend training within six (6) months of promotion. Such training shall include supervisory and command accountability, and ethics and professionalism, with emphasis on supervisory and management functions and situations, and shall include both scenario-based training and case studies.

D. *In-Service Training*
OPD shall provide all members with forty (40) hours of in-service training every eighteen (18) months.

1. *Sergeants shall receive at least 20 hours of training designed for supervisors every 18 months.*
2. *Members at the rank of lieutenant and above shall receive at least 20 hours of training designed for commanders every 18 months.*

E. *Training Staff Record Review*
Appointment to the Academy staff or other staff training position shall also require a review of the record of the individual being considered, to ensure that the individual does not have a record of any Class I offense, as defined in Section III, paragraph H (1), within the prior two (2) years, and that the individual is supportive of the philosophy and values of OPD.[14]
(Negotiated Settlement Agreement IX. A.-E.)

Discussion:
OPD published General Order B-20, *Departmental Training Program* (April 6, 2005), which incorporates the requirements of Task 43. As the Department has trained at least 95% of relevant personnel on this policy, OPD is in continued Phase 1 compliance with this Task.

Only one provision of Task 43 (43.1.1) is being actively monitored under the MOU. This subtask requires OPD to ensure that OPD members, dispatchers, and civilian evidence technicians are adequately trained for their positions. During the last reporting period, we found that 100% of the members and employees in our random sample received the required in-service training. We expressed concern, however, for the training of the Police Evidence Technicians, and noted that OPD had recently taken steps to develop a plan to ensure its PETs receive ongoing job training, including enrolling PETs in POST-certified courses on crime scene investigation and evidence recovery, and DNA evidence; developing a PET field training program manual; and exploring the possibility of offering training by Crime Lab personnel.

Task 43.1.1 requires that OPD's training plan ensure that OPD members, dispatchers, and civilian evidence technicians are adequately trained for their positions (compliance standard: Yes/No). For this reporting period, inasmuch as OPD has been in compliance since our first

[14]The underlined requirement is the only provision of Task 43 that is being actively monitored under the MOU.

report (dated April 22, 2010) with providing adequate training to its members and dispatchers for over two years, we reduced the numbers of records we sampled to 30. Our sample included 21 officers, five sergeants, one PET, and three dispatchers to determine if the members and employees received adequate training for their positions.

The Department produced a record for each member and employee in our sample. For each, we reviewed the training s/he received during previous years, and calculated the number of hours recorded in his/her record. For the sworn officers in our sample, we credited the California Peace Officer Standards and Training (POST)-certified Continued Professional Training (CPT) as counting toward the requirement. CPT is, according to California state requirements, to be delivered to every officer every two years; OPD uses an 18-month cycle.

Overall, all 30 (100%) of the 30 members and dispatchers in our sample who were available to train received appropriate training to their jobs. The following chart reflects the results of our review.

	Records Reviewed	**Adequate Training Received**	**%**
Officers	21	21	100%
Sergeants	5	5	100%
Dispatchers	3	3	100%
Evidence Technicians	1	1	100%
Total	30	30	100%

Training of Police Evidence Technicians (PETs) is the responsibility of the BFO where PETs are assigned. The PET Coordinator was appointed in January 2013. During our last review, we reviewed all of the current PETs' training records, and found that all (100%) had received adequate training. We observed that it was particularly significant that four recently hired PETs had received training in evidence collection and recognition during the first month they were on the job. The training of these four new PETs has continued to progress. In the past six months, the new PETs have attended DNA Training (three days), Evidence Packaging (two days), Basic Crimes Scene Investigation (one week), and the Police Services Technician (two weeks) training.

While the Department had made progress in training for its PETs, it has not yet developed a documented plan for their training. We will follow OPD's progress in establishing a policy for training its PETs.

OPD is in Phase 2 compliance with Task 43.1.1.

Compliance Status:
Phase 1: In compliance
Phase 2: In compliance

Task 45: Consistency of Discipline Policy

Requirements:
On or before October 6, 2003, OPD shall revise and update its disciplinary policy to ensure that discipline is imposed in a fair and consistent manner.

1. *The policy shall describe the circumstances in which disciplinary action is appropriate and those in which Division-level corrective action is appropriate.*
2. *The policy shall establish a centralized system for documenting and tracking all forms of discipline and corrective action, whether imposed centrally or at the Division level.*
3. *All internal investigations which result in a sustained finding shall be submitted to the Discipline Officer for a disciplinary recommendation. The Discipline Officer shall convene a meeting with the Deputy Chief or designee in the affected chain-of-command for a confidential discussion of the misconduct, including the mitigating and aggravating factors and the member/employee's overall performance.*
4. *The COP may direct the Discipline Officer to prepare a Discipline Recommendation without convening a Discipline Conference.*

(Negotiated Settlement Agreement X. B.)

Discussion:
Five Departmental policies incorporate the requirements of Task 45: Departmental General Order M-03, *Complaints Against Department Personnel and Procedures* (published December 6, 2005 and revised most recently on August 22, 2013); Special Order 8552, *Update of Departmental Training Bulletin V-T.1, Internal Investigation Procedure Manual* (published February 1, 2007); Training Bulletin V-T.1 and V-T.2, *Internal Investigation Procedure Manual* (published June 1, 2006); Internal Affairs Policy and Procedure Manual (published December 6, 2005); and Training Bulletin V-T, *Departmental Discipline Policy* (published September 3, 2010). As the Department has trained at least 95% of relevant personnel on these policies, we find OPD in continued Phase 1 compliance with this Task.

During the last four reporting periods, we found OPD in compliance with Task 45.

Task 45.1 requires that OPD maintain a centralized system for documenting and tracking all OPD forms of discipline and corrective action, whether imposed centrally or at the Division level (compliance standard: Yes/No). To assess Phase 2 compliance with this subtask, we queried the IAD database to identify all of the cases with at least one sustained finding that were approved

between April 1, through June 30, 2014. This query yielded 40 cases, containing 50 sustained findings. All (100%) of these cases and findings contained all of the necessary information available on the printout generated by IAD for our review. OPD is in compliance with the requirement that it maintain an adequate system for documenting and tracking discipline and corrective action.

Task 45.4 requires that discipline be imposed in a manner that is fair and consistent (compliance standard: 95%). To this end, the Department developed a Discipline Matrix which was adopted on September 2, 2010 and in effect until a new Discipline Matrix was approved on March 14, 2014. This new matrix will apply to violations after that date.

We reviewed all the cases with sustained findings that were decided during the period of April 1, through June 30, 2014. We also reviewed three cases that were provided to us during the last reporting period in which the discipline conference was actually held in the second quarter of 2014. Thus, we reviewed a total of 43 cases containing 53 sustained findings.

One finding involved an officer who left OPD before discipline was imposed. IAD advised him that should he return, the Department would impose discipline. Of the remaining 52 findings, all fell within the discipline matrix in effect at the time of the action for which discipline was imposed.

During the period of April 1, through June 30, 2014, Skelly hearings were held for 12 IAD cases involving 12 employees and 25 sustained findings in which discipline of a one-day suspension or greater was recommended. In nine cases, discipline was upheld; in three cases, the discipline was reduced but fell within the Discipline Matrix.

Two disciplinary cases, however, were troubling. One case involved a captain who struck a person twice after he had received a Taser shock and was lying on the ground. In addition, in clear violation of OPD policies for reviewing such videos, the captain obtained a copy of the PDRD video of the incident that had been generated by another officer. The discipline initially recommended was demotion to rank of lieutenant. The Skelly hearing was handled by a retired police chief who recommended that the captain receive counseling but no other discipline. The Chief considered the Skelly hearing result but ordered a 10-day suspension. The City Administrator overruled the chief and approved only counseling. The result of this case was that a senior command officer – who should be expected to be a leader in proper use of force – received less discipline than his subordinates would expect if they did the same thing. As a senior commander, he should be expected to perform at a higher level than his subordinates.

A second case involves an officer who tossed a flash-bang grenade into a crowd of people trying to help a citizen who was lying in the street after being shot in the head and injured by a beanbag round during an Occupy Oakland demonstration. The group around the fallen man was not threatening the police. Therefore, tossing the grenade into their midst had no legitimate police purpose – and could only have been a malicious act intended to frighten or scare the people trying to help the man. The officer was appropriately terminated by OPD and City but an

arbitration hearing resulted in an order that the officer be reinstated. The system clearly failed to produce a proper result and it cannot be said that discipline is consistently imposed.

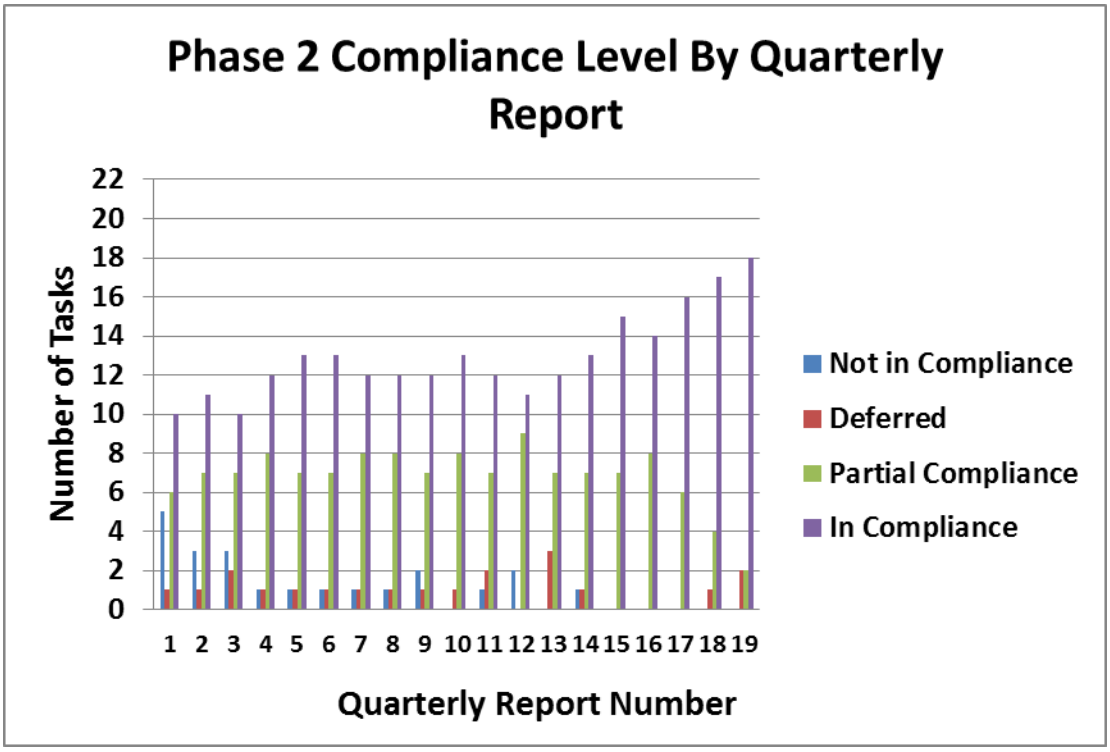
Until these two cases emerged from the OPD discipline process, OPD had made progress in its reform of its disciplinary process. Now in one case, an inexplicable result favors a senior officer where a subordinate would likely face a more severe penalty and in another case a failed arbitration process undermines consistent discipline. We note that both cases were appropriately handled within the Department. The City of Oakland, however, failed in both. In one, it failed to adequately defend its termination in the arbitration; and in the other, the City Administrator over-ruled the chief without stating a sufficient justification for his action. In light of these two serious deficiencies, and the Court's Order of August 14, 2014, discussed above, we are placing OPD in deferred compliance status with Task 45.

Compliance Status:
Phase 1: In compliance
Phase 2: Deferred

Section Three

Conclusion

This is our nineteenth quarterly report. The status of compliance with the 22 active requirements of the Negotiated Settlement Agreement is shown for all of our quarterly reports in the graph below. It shows an improvement during this reporting period by one Task; the Department is now at its highest level of compliance since the beginning of our tenure. In all, 18, or 82%, of the Tasks are in Phase 2 compliance; and two, or 9%, of the Tasks are in partial compliance. We also placed two (9%) Tasks in deferred compliance status.



Appendix A

Cumulative Key Indicator Data

PAS ADMIN UNIT STATISTICAL COMPARISON

OAKLAND POLICE DEPARTMENT - KEY INDICATOR BY MONTH 2012 - 2014

	12-Jul	12-Aug	12-Sep	12-Oct	12-Nov	12-Dec	13-Jan	13-Feb	13-Mar	13-Apr	13-May	13-Jun	13-July	13-Aug	13-Sept	13-Oct	13-Nov	13-Dec	14-Jan	14-Feb	14-Mar	14-Apr	14-May	14-Jun	Graph
Percent of Arrests Associated with a Use of Force (Force Type 1,2,3,4 - per reporting officer)**	0.80	1.26	0.99	0.98	0.79	0.53	1.38	0.84	1.57	0.91	1.25	1.07	0.98	0.45	0.59	1.30	0.75	0.95	0.55	0.48	0.16	0.85	0.26	0.59	
A Use of Force (force 1,2,3,4 - per reporting officer)**	24.66	23.13	18.33	26.44	17.90	20.75	23.68	17.93	16.67	13.38	13.91	16.52	17.57	11.25	18.33	13.60	9.08	8.73	11.76	6.33	4.54	9.22	6.44	5.54	
A Police Pursuit (per reporting officer)	3.83	2.10	0.90	3.41	1.67	0.53	2.53	5.05	0.47	1.82	2.24	1.15	3.63	4.61	1.06	1.94	1.03	0.28	1.49	1.82	0.08	0.31	0.52	0.30	
An IA Complaint (per subject officer sworn only)	12.93	10.85	8.89	11.61	8.21	7.49	8.75	6.74	3.68	6.28	8.39	7.73	6.48	4.61	4.94	5.64	3.46	3.13	3.37	2.93	2.66	5.27	2.54	3.25	
An In-Custody Injury Arrest Report (per sworn (excludes civilians)	0.96	0.39	0.45	0.39	0.79	0.11	0.46	0.48	0.19	0.25	0.40	0.44		0.11	0.24	1.02	0.75	1.14	0.00	0.32	0.00	0.23	0.07	0.44	
	168.79	177.61	192.72	244.9	226.6	188.1	300.7	208.4	172.1	155.1	252.5	243.1	261.1	241.62	358.24	246.99	213.01	237.38	161.29	139.90	137.74	122.40	85.49	122.80	
Number of Arrests per (Blank if o ases)	12-Jul	12-Aug	12-Sep	12-Oct	12-Nov	12-Dec	13-Jan	13-Feb	13-Mar	13-Apr	13-May	13-Jun	13-July	13-Aug	13-Sept	13-Oct	13-Nov	13-Dec	14-Jan	14-Feb	14-Mar	14-Apr	14-May	14-Jun	
Officer Involved Shooting (includes shootings involving arrests which include a use of force Type 1,21, 24, 27 and 26-31)*	1253.00		1113.00	1023			870	831		616	1231		1019									645		1355	
Vehicle Collision (excludes civilians)	313.25	198.17	0.00	205.00	508.50		108.75	277.00	1068.00	302.75	250.20	281.50	510	298		216.2	356			255	211	258			
Civil Suit (excludes civilians)	6.27	170	1113	513	1017		208	831	1068	1211	1233	1126	1019	899	850	1081	1068	1054	1276	1263	1277	215	769	1537	
All Arrest (totals)	1253	1189	1113	1023	1017	935	870	831	1068	1211	1233	1126	1019	899	850	1081	1068	1054	1276	1263	1277	1290	1537	1355	
Witness events to court																									

Appendix B

Selected Inactive Task Assessments

During this reporting period, we reviewed four audits recently conducted by an external consultant retained by OIG – for Tasks 1, 7, 21, and 27.

Task 1, IAD Staffing and Resources

Task 1 requires the following:

- **Task 1.1:** IAD assignments are made in accordance with the IAD manual (compliance standard: 85%)
- **Task 1.2:** IAD rotations are in accordance with the IAD manual (compliance standard: 85%)

  Specifically, this subtask requires that any rotation to IAD is exempt from the transfer policy (compliance standard: Yes/No); IAD is a career development opportunity within OPD (compliance standard: Yes/No); IAD considers rotation of personnel on an annual basis when preparing performance appraisals and this consideration is documented (compliance standard: 85%); and IAD staff may request voluntary transfers and the IAD Commander makes every effort to accommodate such requests as soon as possible in light of the operational needs of the Division and the Department (compliance standard: Yes/No).
- **Task 1.3:** Training and qualifications of members and other personnel in IAD are consistent with the IAD manual (compliance standard: 90%)
- **Task 1.4:** Confidential information is maintained in accordance with the IAD manual (compliance standard: Yes/No).

To conduct this audit, the external consultant reviewed files for members and employees currently assigned to IAD, and administered two surveys – one for IAD commanders, and one for other IAD personnel – to determine if IAD met the provisions in the IAD manual referred to in the audit protocol.

The audit found that OPD is not in compliance with Task 1. It noted, among other issues, that several IAD personnel files were incomplete, IAD case files were not all stored properly, and the Department did not sufficiently review the report-writing and investigative skills of prospective IAD employees. During our next site visit, we will discuss this audit further with OPD officials to follow up on what the Department is doing to address these and the other non-compliant findings in the report. We will also review this Task in a future reporting period.

Task 7, Methods for Receiving Citizen Complaints

As noted in the body of our report, only one provision of Task 7 (Task 7.3) is being actively monitored under the MOU. OPD has been in Phase 2 compliance with Task 7.3 since the second

reporting period. The external consultant's audit covered all inactive subtasks of Task 7.

The inactive provisions of Task 7 require the following:

- **Task 7.1:** OPD establishes a recordable, toll-free complaint hotline. The hotline is staffed by OPD personnel and advises that the call is being recorded (compliance standard: Yes/No)
- **Task 7.2:** Guidelines for filing a citizen's complaint are prominently posted and informational brochures are made available in key Departmental and municipal locations (compliance standard: 85%)
- **Task 7.4:** OPD personnel have available complaint forms and informational brochures on the complaint process in their vehicles at all times while on duty (compliance standard: 85%)
- **Task 7.5:** OPD members/employees distribute complaint forms and informational brochures when a citizen wishes to make a complaint, and upon request (compliance standard: 85%)
- **Task 7.6:** IAD is located in a dedicated facility removed from the Police Administration Building (compliance standard: Yes/No)
- **Task 7.7:** Complaint forms and informational brochures are translated consistent with City policy (compliance standard: Yes/No)
- **Task 7.8:** Complaint forms are processed in accordance with controlling state law (compliance standard: Yes/No).

The auditors found OPD to be in compliance with all subtasks except Task 7.1. The report noted that some Communications Division personnel did not answer the calls appropriately or did not advise that the calls were being recorded. It also noted that not all hotline calls were answered at the required seventh ring.

In response, OPD addressed these issues by re-routing the hotline telephone line through the Communications Division supervisor's office. Command staff also met with the division's supervisors to discuss the appropriate after-hour complaint hotline procedures.

During our next site visit, we will review these changes and their impact on compliance with the inactive Task 7.1. We will also review this Task in a future reporting period.

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

Task 21 requires the following:

- **Task 21.1:** Every OPD commander/manager meets at least twice per year with each of his/her directly subordinate members, employees and supervisors, to coach them regarding their strengths and weaknesses, and documents these meetings (compliance standard: 90%)

- **Task 21.2:** Supervisors of the following units: Patrol, Crime Reduction Teams (CRT), Internal Affairs Division (IAD), Intelligence Division, Parole & Corrections Team (PAC), Special Duty Units (SDU), Traffic Operations Section, Special Operations Group (SOG), Fugitive Unit, Problem Solving Officers (PSO), and Campus Life and School Safety (CLASS), meet individually with members and employees at least twice per month for informal performance reviews and maintain records of these meetings (Members and employees assigned to administrative duties within these units and civilian crossing guards are exempt from this requirement) (compliance standard: 85%).

The audit found the Department in compliance with Task 21.1, and not in compliance with Task 21.2. According to the report, OPD informed the outside consultant that there are issues with the ways in which personnel assignments are categorized that "can cause confusion within the Department."

It is not clear from the report whether this issue is merely technical, or if it has broader implications beyond the scope of this subtask. As a result, during our next site visit, we will discuss this audit further with OPD officials to learn about what the Department is doing to address the problems related to the "conflict in entity categorizations." We will also review this Task in a future reporting period.

Task 27, Oleoresin Capsicum Log and Checkout Procedures

Task 27 requires the following:

- **Task 27.1:** Oleoresin Capsicum (OC) spray canisters checked out and used by OPD members and employees are logged (compliance standard: 95%)
- **Task 27.2:** This log is computerized and electronically accessible and accurate reports are regularly prepared and distributed (compliance standard: Yes/No).

The audit covered all small and large OC canisters logged out from January through December 2013. During this time period, there were 110 small OC canisters and 27 large OC canisters logged out.

The audit found that the logs contained all of the required information – including the officer's name and serial number, the old and new OC canister serial numbers, and the reason for replacement. In addition to the logs completed by OPD personnel, supervisors can monitor the use of OC and OC checkouts using the Personnel Assessment System (PAS).

The auditors found OPD to be in compliance with Task 27. We will review this Task in a future reporting period.

Appendix C

Acronyms

The following is a listing of acronyms frequently used in our quarterly reports:

ACSO	Alameda County Sheriff's Office
AWS	Automated Warrant System
BART	Bay Area Rapid Transit
BFO	Bureau of Field Operations
BOI	Bureau of Investigation
BOS	Bureau of Services
CAD	Computer Assisted Dispatch
CHP	California Highway Patrol
CID	Criminal Investigation Division
CORPUS	Criminal Oriented Records Production Unified System
CPRB	Citizens' Police Review Board
CPT	Continued Professional Training
CRIMS	Consolidated Records Information Management System
DGO	Departmental General Order
DIL	Daily Incident Log
DLI	Division-level investigation
EFRB	Executive Force Review Board
FRB	Force Review Board
FTO	Field Training Officer
FTP	Field Training Program
FTU	Field Training Unit
IAD	Internal Affairs Division
IB	Information Bulletin
IBC	Informational Business Card
ICR	Informal Complaint Resolution
IPAS	Input for Personnel Assessment System
LEWI	Law Enforcement Warrants Inquiry System
MOR	Manual of Rules
NSA	Negotiated Settlement Agreement
OCA	Office of the City Attorney
OIG	Office of Inspector General
OPD	Oakland Police Department
PAS	Personnel Assessment System
PDRD	Portable Digital Recording Device
POST	Peace Officer Standards and Training
RMM	Risk Management Memorandum
RWM	Report Writing Manual
SDF	Stop Data Form
SME	Subject matter expert
SO	Special Order
TB	Training Bulletin
UOF	Use of force

OAKLAND POLICE DEPARTMENT
Office of Chief of Police

Stop Data Annual Report
July 1, 2013 to June 30, 2014

C I T Y O F O A K L A N D

Memorandum

TO: Office of Chief of Police
ATTN: Chief Sean Whent
FROM: Assistant Chief Paul J. Figueroa
DATE: 15 Sep 14

RE: **Stop Data Annual Report**

The Oakland Police Department (OPD) is committed to ensuring that all stops, searches, and seizures are constitutional and performed within Departmental policy. Oakland Police Departmental General Order M-19 explicitly prohibits racial profiling and other bias-based policing. In order to fulfill our obligation to provide the Oakland community with public safety services in a fair and equitable manner, staff collects Stop Data information. To that end, OPD requires officers to complete detailed Field Interview and Stop Data Reports (FI/SDRs) documenting and listing the reasons for actions taken during an encounter. The OPD Stop Data program increases transparency and allows the Department to assess effectiveness and identify potentially biased behaviors.

The following report contains Stop Data information collected for a twelve-month reporting period from July 1, 2013 to June 30, 2014. It provides an overview of data collected and is the Department's second statistical report since improved data collection procedures were implemented in early 2013. This report presents the following Stop Data categories:

- Race and Gender
- Stop Reasons by Race
- Search Percentages by Race
- Search Recovery Percentages by Race (Including and Excluding Incident to Arrest Searches)
- Search Types by Race
- Stop Results by Race

The Department recognizes the complexities, challenges, and responsibilities associated with the presentation of Stop Data statistics. Stop activity can be influenced by variables such as beat demographics, crime trends, deployment patterns, Department staffing, traffic levels, and transit patterns in the City. This report is not an attempt at an academic or research level analysis of the data, nor is it intended to establish any benchmarks. Rather, it has three goals:

- To present Stop Data statistics for the period (July 1, 2013 to June 30, 2014).
- To create transparency regarding stops, including the racial/ethnic identity of those stopped by officers.
- To build a solid foundation for ongoing analysis and discussion.

In the Independent Monitor's Eighteenth Quarterly Report (released July 29, 2014), the

Monitor found that 96% of stops audited had a corresponding FI/SDR. The Monitor also found the Department in compliance with Negotiated Settlement Agreement (NSA) requirements for the documentation and justification for each stop. Numerous checks and review processes are in place to protect the accuracy and quality of Stop Data reports. The FI/SDR is an electronic data collection form that requires the completion of all Stop Data fields mandated by OPD policy prior to FI/SDR finalization. All FI/SDRs are reviewed and approved by a supervisor. Additionally, staff conducts audits of FI/SDRs to verify that stops are justified and relative Stop Data fields marked are consistent with information contained in each FI/SDR narrative, such as the stop reason and the type of contraband recovered.

Stop Race and Gender

During this review period, staff collected 27,991 FI/SDRs. African Americans composed the largest percentage of those stopped at 59%, followed by Hispanics at 17% and Whites at 14%. Those classified as Other and Asians comprised the lowest percentage of those stopped at 3% and 7%, respectively. Seventy-five percent of stops involved men and 25% involved women.

Table 1 - Stop Race

Race	Stops	%
Afr American	16,542	59%
Asian	1,905	7%
Hispanic	4,839	17%
White	3,801	14%
Other	904	3%
Grand Total	27,991	100%

Table 2 - Stop Gender

Gender	Count	%
Male	20,870	75%
Female	7,112	25%
Unknown	9	0%
Grand Total	27,991	100%

Stop Reason by Race

Traffic Violations were the legal basis for 67% of all stops, followed by Probable Cause (19%) and Reasonable Suspicion (8%) (see Table 3). Subsequently, Consensual Encounters (4%), and stops conducted of individuals known to be on Probation or Parole (2%), accounted for the lowest percentages. Compared to other races, African Americans had the highest percentage of stops based on Probable Cause (23%) or Reasonable Suspicion (10%), and the lowest percentage of stops for Traffic Violations at 60% (9,888 out of 16,542 stops). The other four race categories were stopped for Traffic Violations 76-78% of the time.

Table 3 - Stop Reason by Race

Race	Consensual Encounter		Reasonable Suspicion		Probable Cause		Probation/ Parole		Traffic Violation		Grand Total
	#	%	#	%	#	%	#	%	#	%	
Afr American	778	5%	1,636	10%	3,794	23%	446	3%	9,888	60%	16,542
Asian	51	3%	94	5%	254	13%	25	1%	1,481	78%	1,905
Hispanic	155	3%	289	6%	669	14%	69	1%	3,657	76%	4,839
White	113	3%	164	4%	570	15%	29	1%	2,925	77%	3,801
Other	28	3%	37	4%	126	14%	9	1%	704	78%	904
Grand Total	1,125	4%	2,220	8%	5,413	19%	578	2%	18,655	67%	27,991

Searches & Recovery Percentages by Race

African Americans and Hispanics were searched most frequently at 39% and 25%, respectively (see Table 4). Whites, those classified as Other and Asians were searched 13% to 15% of the time.

Table 4 - Search Percentage By Race

Race	Searched	Not Searched	Grand Total	Search %
Afr American	6,461	10,081	16,542	39%
Asian	288	1,617	1,905	15%
Hispanic	1,226	3,613	4,839	25%
White	486	3,315	3,801	13%
Other	126	778	904	14%
Grand Total	8,587	19,404	27,991	31%

Those classified as Other had the highest recovery rate at 32%, with very few searches overall (see Table 5). African Americans and Asians had the second highest search recovery rate at 28%. Hispanics and Whites had recovery rates of 26% to 27%. The overall recovery rate for all searches was 28%.

Table 5 - Search Recovery Percentage By Race

Race	Yes	None	Grand Total	Recovery %
Afr American	1,839	4,622	6,461	28%
Asian	81	207	288	28%
Hispanic	317	909	1,226	26%
White	130	356	486	27%
Other	40	86	126	32%
Grand Total	2,407	6,180	8,587	28%

Searches made incident to arrest are non-discretionary warrantless searches made after a person is lawfully arrested and taken into custody. When these mandatory searches are excluded from the overall search recovery totals, those classified as Other still had the highest search recovery rate at 37%. All other race categories had recovery rates of 23% to 24%. Although recovery percentages are consistent among population groups, we continue to

conduct ongoing and regular reviews of this category because the Department recognizes the impact of searches on community members.

Table 6 - Search Recovery Percentages (Excluding Incident To Arrest Searches)

Race	Yes	None	Grand Total	Recovery %
Afr American	1,053	3,327	4,380	24%
Asian	44	145	189	23%
Hispanic	207	659	866	24%
White	64	213	277	23%
Other	27	46	73	37%
Grand Total	1,395	4,390	5,785	24%

Search Types by Race

Searches conducted incident to arrest made up the highest percentage of searches at 33% (see Table 7). Forty three percent of searches of Whites were made incident to arrest. Probation and parole searches made up 32% of all searches. African Americans were searched for probation or parole 35% of the time. All the other race categories had probation or parole searches conducted 24% to 25% of the time.

Table 7 - Search Types By Race

Race	Incident to Arrest		Prob./Parole		Weapons		P/C		Consent		Inventory		Grand Total
	#	%	#	%	#	%	#	%	#	%	#	%	
Afr American	2,081	32%	2,243	35%	1,043	16%	846	13%	170	3%	78	1%	6,461
Asian	99	34%	68	24%	71	25%	34	12%	13	5%	3	1%	288
Hispanic	360	29%	295	24%	268	22%	215	18%	59	5%	29	2%	1,226
White	209	43%	119	24%	81	17%	49	10%	22	5%	6	1%	486
Other	53	42%	32	25%	21	17%	17	13%	1	1%	2	2%	126
Grand Total	2,802	33%	2,757	32%	1,484	17%	1,161	14%	265	3%	118	1%	8,587

Stop Results by Race

Compared to other races, African Americans had the highest percentage of Felony Arrests and Field Investigation Reports at 12% and 36%, respectively; and the lowest overall percentage of Citations at 34% (see Table 8). Hispanics and those classified as Other, were cited the most at 52% and 53%, respectively. Asians and Whites had the highest percentage of warnings at 14% and 17%, respectively. Hispanics, African Americans, and those classified as Other, received warnings 11% to 12% of the time.

Table 8 - Stop Results By Race

Race	Felony Arrest		Misd Arrest		Citation		FI Report		Report Taken-No Action		Warning		Grand Total
	#	%	#	%	#	%	#	%	#	%	#	%	
Afr American	1,990	12%	771	5%	5,679	34%	5,948	36%	100	1%	2,054	12%	16,542
Asian	90	5%	47	2%	924	49%	566	30%	6	0%	272	14%	1,905
Hispanic	295	6%	174	4%	2,493	52%	1,327	27%	10	0%	540	11%	4,839
White	136	4%	124	3%	1,755	46%	1,127	30%	16	0%	643	17%	3,801
Other	31	3%	33	4%	479	53%	248	27%	4	0%	109	12%	904
Grand Total	2,542	9%	1,149	4%	11,330	40%	9,216	33%	136	0%	3,618	13%	27,991

Conclusion

Stop Data information is used at monthly Risk Management Meetings to identify statistical disparities between the five police Areas and with squads assigned within each police Area. Commanders are responsible for conducting audits and reporting back when disparities are seen. This method has resulted in excellent discussions regarding staff practices. As the amount of Stop Data information collected grows, the Department will be able to draw stronger comparisons, draw possible conclusions, and make recommendations to further improve our practices.

In June 2014, Stanford University Professor Jennifer Eberhardt was contracted by the Oakland Police Department to administer a Stop Data analysis project, designed to identify and address tensions between the Oakland Police Department and the Oakland Community. The project will last at least a year.

Professor Eberhardt's analysis will be conducted city-wide and for each of the five police Areas. The Professor's analysis will follow industry standards using a variety of different benchmarks and variables including, but not limited to, racial demographics and crime rates. The analysis will consider, measure and compare the following factors:

- Differences in stop rates, relative to the race of the persons stopped.
- Differences in search rates and types of searches relative to the race of the persons searched.
- Differences in recovery rates relative to the race of the persons searched.
- Stop results relative the race of the persons stopped.

The Professor will analyze decision-making leading to the initiation of stops and actions during stops, as reported on Stop Data forms, other reports and audio/video recordings. Additionally, the expert analysis will consider variables such as officer race, experience and squad diversity.

On July 10, 2014, staff met with community members to gather input and perspectives about policing issues and concerns prevalent in Oakland. The initial preliminary Stop Data

Analysis Report, released on February 5, 2014, was reviewed and discussed. Staff received valuable feedback from the community members regarding aspects of the data collection process and the anticipated end result of our efforts. Attendees included members of the Citizens Police Review Board, the American Civil Liberties Union (ACLU), Youth Uprising, People United for a Better Oakland (PUEBLO), Men of Valor and Acts Gospel Church. At the conclusion of the meeting, attendees agreed to participate in an ongoing Stop Data Community Advisory Board.

Additionally, we continue to work with the Federal Monitoring Team, who provide technical assistance and suggested guidance. As a government organization entrusted with vital responsibilities, our goal is to use this information and promote subsequent discussions to increase transparency. We must ensure that our practices protect the rights of all groups, reflect ethical policing strategies, and increase public safety.

Paul J. Figueroa
Assistant Chief of Police
Oakland Police Department

The Case for Procedural Justice: Fairness as a Crime Prevention Tool

Today's criminal justice leaders have a number of promising and evidence-based practices to draw upon when implementing new public safety efforts. CompStat and hot spot policing have revolutionized the way data is used in crime prevention. Public health approaches to community violence have helped to reduce shootings and homicides. And community policing and other community collaborations have reshaped how law enforcement organizations interact with the neighborhoods they serve.

Among these reforms is a frequently practiced but often overlooked approach that has increasingly been identified by researchers as an evidence-based and cost-effective way to reduce crime: procedural justice. Procedural justice (sometimes called procedural fairness) describes the idea that how individuals regard the justice system is tied more to the perceived fairness of the *process* and how they were treated rather than to the perceived fairness of the *outcome*. In other words, even someone who receives a traffic ticket or "loses" his case in court will rate the system favorably if he feels that the outcome is arrived at fairly.

Leading researchers on this topic, including Professor Tom Tyler of Yale Law School, have identified several critical dimensions of procedural fairness:

(1) *voice* (the perception that your side of the story has been heard); (2) *respect* (perception that system players treat you with dignity and respect); (3) *neutrality* (perception that the decision-making process is unbiased and trustworthy); (4) *understanding* (comprehension of the process and how decisions are made); and (5) *helpfulness* (perception that system players are interested in your personal situation to the extent that the law allows).[1]

Underlying procedural justice is the idea that the criminal justice system must constantly be demonstrating its legitimacy to the public it serves. If the public ceases to view its justice system as legitimate, dire consequences ensue. Put simply, people are more likely to comply with the law and cooperate with law enforcement efforts when they feel the system and its actors are legitimate. For example, a recent study examined the impact of police officers' use of a procedural justice script during randomized breath test checkpoints—with language geared toward conveying key elements such as decision-making neutrality, voice, and respect.[2] Would drivers' perceptions of fairness and compliance with law enforcement directives improve? The script explained the officer's motives for

conducting the stop, gave the driver an opportunity to suggest other crime prevention tactics, and conveyed respect by addressing the drivers at eye level and thanking them for their time. In fact, drivers who participated in the study were more likely than the control group to report satisfaction with the interaction and to be compliant with police orders. Indeed, these findings are comparable to those seen in a range of other criminal justice settings, from courts to corrections to re-entry.

Notions of fairness and respect are relatively uncontroversial aims for the criminal justice system, but implementing practices that support these ends can be challenging. The Center for Court Innovation—in partnership with the U.S. Department of Justice's Bureau of Justice Assistance and the National Judicial College—has spent the past two years developing and piloting a curriculum to help judges and other court players to translate the precepts of procedural justice into daily practice. The initiative has relied upon the expertise of judges, court administrators, legal theorists, and communications experts to develop and test improved communication strategies and create practical "how to" recommendations for court staff. To date, project activities have included the convening of a national working group, the development and piloting of a one-day training, issuing a national solicitation for additional training sites, and the development of an online learning system based on the curriculum.

The unfortunate reality is that court proceedings—like other stages in the criminal justice process—can be confounding and dehumanizing experiences. Courtroom actors do not deliberately attempt to cause confusion or undermine confidence in the system, of course—they are simply trying to communicate complex, technical information as quickly as possible. There are numerous real-world obstacles to effective communication, including overwhelming caseloads and increasing cultural and linguistic diversity among court participants.[3] Similar challenges exist during routine traffic stops, probation intake sessions, parole board hearings—the list goes on and on.

Procedural justice provides a platform to begin addressing some of these shortcomings. In courts, among other things, this takes the form of rethinking how courtroom rules are posted, explained, and enforced, or how court clerk or court officers provide information while court is in session.

There are countless analogs from the court environment that are applicable to other justice system players, including law enforcement. Below are a few strategies for implementation that

can be applied by police departments to enhance procedural justice:

- *Humanize the experience:* Appearing approachable and accessible is a key component of procedural justice. When interviewing suspects or witnesses, make eye contact and use body language to convey respect. Thank citizens for their cooperation with the process as a means of yielding increased cooperation in the future.
- *Explain what you're doing and why:* For many individuals, a routine traffic stop or other interaction with law enforcement can be a traumatic event. The legal jargon and procedures (familiar to practitioners in the field) can be confusing and intimidating to the average person. Whenever possible, use simple terms to explain your actions, the legal and/or practical reasons for doing so, and any consequences they may have for the person. For example, when issuing a summons, clearly explain the process for appearing in court to resolve the matter—including providing directions to the courthouse, if and how a lawyer will be provided, and whether there are options to resolve the matter by mail or online. These strategies can help promote compliance.
- *Create opportunities for individuals to be heard:* Giving people an opportunity to speak and have their concerns heard can add a few extra minutes to the average interaction, but it is time well spent. Research shows that having your voice heard increases perceptions of fairness, even when the person is told that his views will not influence the ultimate decision or outcome. Consider how to maximize the citizens' voice in contexts where it may be limited, such as traffic and street stops or walk-in inquiries.
- *Consider environmental factors:* Criminal justice facilities—like many government buildings—can be difficult to navigate for those unfamiliar with their halls. As an exercise, try to examine your facility with fresh eyes from the perspective of a new user. In high-traffic areas, ensure that building rules and instructions for getting assistance are clearly posted, easy to read, and provided in commonly spoken languages other than English, if necessary.
- *Use research to show the value of procedural justice:* As with any new approach, there will be skeptics, but the research that supports the concept is compelling. Providing colleagues with the research on the impact of procedural fairness can offer a concrete and focused foundation for trainings and other implementation efforts, helping to counteract knee-jerk skepticism.

Law enforcement professionals are typically the first point of contact for people processed through the justice system. Procedural justice strategies like the ones listed above—when delivered early in the process—can help shape an individual's perception of the system and improve compliance. With

budget cuts and the resulting pressure on the justice system to do more with less, procedural justice offers an evidence-based approach that can help law enforcement agencies—as well as the system as a whole—enhance legitimacy and reduce crime: the proverbial win-win.

Emily Gold
Deputy Director of Planning and Development at the Center for Court Innovation

In collaboration with Melissa Bradley
COPS Office

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[1] T. R. Tyler, *Why People Obey the Law*. (New Haven, CT: Yale University Press, 1990). *See also*M.S. Frazer, *The Impact of the Community Court Model on Defendant Perceptions of Fairness: A Case Study at the Red Hook Community Justice Center.* (New York: Center for Court Innovation, 2006).

[2] L. Mazerolle, S. Bennett, E. Antrobus, and E. Eggins, "Procedural justice, routine encounters and citizen perceptions of police: main findings from the Queensland Community Engagement Trial (QCET)," *Journal of Experimental Criminology* 8 (2012): 343 –367.

[3] T. R. Tyler, Why People Obey the Law. (New Haven, CT: Yale University Press, 1990). See also M.S. Frazer, The Impact of the Community Court Model on Defendant Perceptions of Fairness: A Case Study at the Red Hook Community Justice Center. (New York: Center for Court Innovation, 2006).

http://cops.usdoj.gov/html/dispatch/09-2013/fairness_as_a_crime_prevention_tool.asp

Procedural Justice — *Expanded Course Outline*

LEARNING NEED

Police officers know that their fundamental duty is to serve, safeguard and protect. Procedural Justice is an evidence-based and cost-effective way to reduce crime and increase police legitimacy. This course is designed to create a broader awareness of procedural justice in order to increase citizen compliance, cooperation and support, improve police legitimacy, and improve citizen and officer safety.

INTRODUCTION

1. INSTRUCTOR AND STUDENT INTRODUCTIONS

a. Introductions
b. What students expect to get from the training

2. PROCEDURAL JUSTICE AS A WAY OF POLICING

a. Network of cities
b. Personal benefit
c. Professional benefit

3. COURSE CONTENT

a. Module 1: Procedural justice and police legitimacy
b. Module 2: Relationship
c. Module 3: Four principles
d. Module 4: Historical and generational effects
e. Module 5: Ways to implement

4. COURSE OBJECTIVES

a. Increase police legitimacy
b. Reap benefits of procedurally just policing
c. Improve police-community relationships
d. Understand historical and generational effects
e. Understand ways to implement

5. WHAT THIS CLASS IS NOT

a. Redefining policy
b. Ethics
c. Political Correctness
d. Verbal judo or "dusting off"

6. WHAT THIS CLASS IS

a. Thinking differently
b. Understanding "best practices" and academic support
c. Reflecting on experience/practices
d. Procedural just encounters lead to police legitimacy
e. Protecting our valued profession

7. EVIDENCED-BASED PRACTICES

a. Dr. Tom Tyler research
b. Dr. Tracy Meares research
c. Research findings

8. LEARNING OBJECTIVES

a. Understand concepts
b. Consider human dynamic and perception
c Practice safer policing
d. Identify behaviors not representing concepts
e. Apply concepts in a practical way

MODULE 1: INTERACTIVE NATURE OF PROCEDURAL JUSTICE, LEGITIMACY AND POLICING GOALS

OVERVIEW: Module 1 defines police legitimacy and procedural justice and provides video examples of procedural justice. It introduces the "Four Tenets of Procedural Justice". This module offers an opportunity to discuss how procedural justice benefits staff and supports the Department's goals for policing.

Teaching Objectives:

Upon completion of this module, clear connections will be made between:

a. individual officers' goals,
b. the code of ethics, and

c. ways in which procedural justice can support the implementation of these two concepts.

Learning Objectives:

Upon completion of this module, students will be able to:

a. define procedural justice,
b. define police legitimacy, and
c. understand how procedural justice gets you to police legitimacy.

Outline

1. DEFINE AND CLARIFY

a. What it is
b. Why it works
c. How it works
d. What we can expect in return

2. FOUR PRINCIPLES

a. Voice
b. Neutrality
c. Respectful Treatment
d. Trustworthiness

3 OFFICER BENEFITS OF PROCEDURAL JUSTICE

a. Safety
b. Lower stress
c. Fewer complaints
d. Public Safety

4. GOALS OF POLICING

a. Social order
b. Crime prevention
c. Safety, support
d. Serve and protect
e. Public trust
f. Protect constitutional rights

MODULE 2: EXPECTATIONS AND LEGITIMACY

OVERVIEW: Module 2 presents a more in-depth look at "legitimacy" and its relationship with cynicism. It offers an opportunity to discuss police and community expectations (of each other) and examine actions that build trust.

Teaching Objectives:

Upon completion of this module, the following concepts will be clear:

I. the role cynicism plays in procedural justice,
II. the importance of public support for policing efforts,
III. how law enforcement-community relations can impact public support, and
IV. how citizen and law enforcement expectations can conflict and cause harm to positive to positive relations.

Learning Objectives:

Upon completion of this module, students will be able to:

I. Compare and contrast citizen and law enforcement expectations
II. Understand the role cynicism plays in procedural justice and police legitimacy
III. Discuss the need for public support

Outline:

1. CYNICISM

a. How we view things
b. How we are affected
c. Categorizing stressors
d. Emotional point of view
e. Spearhead of officer safety

2. STRESSORS

a. What we don't talk about
b. How it plays out at work
c. How it plays out outside of work

3. US VS. THEM

a. The 3-6 %

b. Golden Rule
c. Platinum Rule
d. Expectations
e. Voluntary compliance

4. LEGITIMACY

a. What it is
b. Critical to policing
c.. Acceptance, trust and confidence
d. Moral, appropriate and fair actions
e. Achieving legitimacy

MODULE 3: PROCEDURAL JUSTICE – WHAT IS JUSTICE?

Overview: Module 3 is an in-depth look at "procedural justice". It examines each of the four tenets and the effect they have on decision-making, the policing process, and how treatment affects outcomes. This module also offers an opportunity for students to discuss personal experiences with procedural justice.

Teaching Objectives:

Upon completion of this module, the following concepts will be clear:

I. procedural justice,
II. how strategically applying procedural justice principals in interactions with citizens can impact officer safety and mitigate the stresses and challenges of police work, and
III. how procedural justice affects outcomes.

Learning Objectives:

Upon completion of this module, students will be able to:

I. Explain how utilizing procedural justice can mitigate the challenges/ stresses of police work
II. Demonstrate retention of knowledge pertaining to procedural justice principles
III. Understand that process is equally as important (if not more important) as the outcome

Outline:

1. PROCESS MATTERS

a. Citizen assessments

b. Process vs. outcome
c. How communities view legitimacy

2. VOICE

a. Perception
b. Listen and understand
c. Value
d. How we communicate
e. Outcomes

3. NEUTRALITY

a. Fair and unbiased treatment
b. Labeling
c. Officer safety
d. See, Do, Get model

4. RESPECT

a. Earning respect
b. Voluntary compliance
c. Leaving them with their dignity

5. TRUSTWORTHINESS

a. Throughout the process
b. Listen, consider, and explain
c. Benefits of trust

6. RESEARCH

a. California street stops
b. Quality of treatment
c. Voluntary compliance
d. Building relationships

MODULE 4: HISTORICAL AND GENERATIONAL EFFECTS OF POLICING

Overview: Module 4 examines the historical, generational and environmental effects of policing. It offers an opportunity for discussion about perceptions and experiences and overcoming our past. By the end of this module,

students are expected to understand the concepts of "deposits" and "withdrawals" and relate them to "procedural justice".

Teaching Objective:

Upon completion of this module, the following concepts will be clear:

a. Historical, generational and environmental effects of policing,
b. How perceptions and expectations effect policing, and
c. Deposits and withdrawals.

Learning Objective:

Upon completion of this module, students will understand:

a. Why relationships are strained and that police/law enforcement has, and still is, used as a tool of corrupt governments to implement unjust laws in countries throughout the world,
b. How communities in OAKLAND are products of that history and that reality,
c. Why we need to understand this and how this impacts our common goal of a safer community and better relationships, and
d. Deposits and withdrawals and what we can do to make more deposits.

1. HOW DID WE GET HERE?

a. Power and control
b. Effect of corrupt governments world-wide
c. History of racism and cultural bias
d. Oakland's violent past

2. COMMUNITY BANK ACCOUNT

a. Deposits and withdrawals
b. Making every encounter count
c. Bankrupt Communities – Too many withdrawal
d. Future generations

3. NEUTRALITY

a. Fair and unbiased treatment
b. Labeling
c. Officer safety

MODULE 5: WHERE DO WE GO FROM HERE?

Overview: Module 5 offers the instructor an opportunity to review the major points of the training, discuss how the students will apply the concepts to everyday policing and answer questions.

Teaching Objective:

Review and discuss

Learning Objective:

At the end of this module, students will be able to:

a. Discuss the major points, concepts and principles of the training without reference to training material,
b. Discuss how procedural justice benefits the community and the officer, and
c. Understand how to apply these concepts in a practical way in every day policing.

1. TAKEAWAYS

a. More effective officer, team member, family member
b. Reduced stress
c. Community cooperation and support
d. Voluntary compliance

2. REVIEW

a. Four principles of procedural justice
b. Dangers of cynicism and bias
c. Deposits and withdrawals
d. Why it matters
e. Where it matters
f. Benefits to community, officer, and department
g. Procedural justice leads to legitimacy

3. PROCEDURAL JUSTICE IN ACTION: CEASEFIRE OAKLAND

a. Respectful, unbiased direct communication with highest risk individuals
b. Offering services and follow-up to promote alternative choices
c. Working in partnership with community leaders/members
d. Relying on 4 principles (of procedural justice) with excellent results

Total Instructional Hours: 8

Test

Test is administered. During the course, students are engaged in classroom exercises and group discussion and are given a quiz at the end of each module in preparation for the course exam.

Course Evaluation

At the end of the class, students are requested to complete a short evaluation of the course/instructor.

Certificate

Students who participate for the entire class receive a certificate of completion.