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# Oakland Police Department

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## Negotiated Settlement Agreement

### Third Semi-Annual Report

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## TABLE OF CONTENTS

Executive Summary .....	vii
Introduction.....	1
Background.....	2
Purpose of the Agreement.....	2
Focus of the Agreement.....	2
Stakeholders.....	2
Role of the Office of Inspector General .....	2
Administrative Support Efforts.....	3
Accomplishments.....	4
The Department’s Accomplishments.....	4
PIMS Project.....	4
Systems and Practices to Verify Training.....	4
Policy Review Process.....	4
Strip Searches (self-identification) .....	4
Creation of Technical Guides and Policies.....	5
Management Level Liaison (MLL) .....	5
Technical Support to Training.....	5
Steering the Discipline Matrix Task Force .....	5
Development of Discipline Matrix and Associated Training Bulletin .....	5
Technical Assistance on the Use of Force Policies .....	5
Development of Department General Order M-3 .....	6
Policy Development Meetings.....	6
Internal Affairs Division Technical Support.....	6
Challenges.....	7
Department’s Internal Investigation and Review Process .....	7

Firearms Discharge Review .....	7
Strip Searches in the Field .....	7
Inability to Report Status of Training .....	7
Risk Management Measures .....	8
Labor/Management Concerns .....	8
Audit Training .....	8
Conclusion .....	10
A Commitment to Reform .....	10
Follow-up .....	11
Compliance Summary Update .....	12
Compliance Unit Overview .....	12
Compliance Implementation Background .....	12
Compliance Progress Summary .....	13
Task Status Defined .....	13
Status of Policy Compliance .....	14
Current Tasks Due .....	14
Status of Tasks Currently Due .....	16
Progressing with Concern .....	16
Progressing without Concern .....	16
Not in Compliance .....	17
Not in Full Compliance .....	17
In Full Compliance .....	18
Task Tracking .....	18
Training Compliance .....	18
Audits and Reviews .....	20
Audit Unit Overview .....	20

Summary of Audits Conducted.....	20
Training Audit Summary .....	21
Oleoresin Capsicum Log and Checkout Procedures (OC) Audit Summary .....	22
Management Level Liaison (MLL) Audit Summary.....	22
Managerial Risk Assessment.....	22
Appendices.....	24
Appendix A: Task Implementation / A Detailed Analysis of Activity for Tasks 1 - 52 ....	26
Task 01: IAD Staffing and Resources .....	26
Task 02: Timeliness Standards and Compliance with IAD Investigations.....	28
Task 03: IAD Integrity Tests .....	31
Task 04: Complaint Control System for IAD .....	32
Task 05: Complaint Procedures for IAD .....	34
Task 06: Refusal to Accept or Refer Citizen Complaint .....	37
Task 07: Methods for Receiving Citizen Complaints.....	38
Task 08: Classifications of Citizen Complaints.....	40
Task 09: Contact of Citizen Complainant.....	41
Task 10: Procedure Manual for Investigations of Citizen Complaints.....	42
Task 11: Summary of Citizen Complaints Provided to OPD Personnel .....	43
Task 12: Disclosure of Possible Investigator Bias.....	44
Task 13: Documentation of Pitchess Responses.....	45
Task 14: Investigation of Allegations of <i>Manual of Rules</i> Violations Resulting from Lawsuits and Legal Claims .....	46
Task 15: Reviewing Findings and Disciplinary Recommendations .....	47
Task 16: Supporting IAD Process – Supervisor/Managerial Accountability .....	48
Task 17: Supervisory Span of Control and Unity of Command.....	49
Task 18: Approval of Field-Arrest by Supervisor .....	50
Task 19: Unity of Command.....	52

Task 20: Span of Control for Supervisors.....	53
Task 21: Members', Employees' and Supervisors' Performance Review .....	55
Task 22: OPD/DA Liaison Commander .....	56
Task 23: Command Staff Rotation .....	58
Task 24: Use of Force Reporting Policy.....	60
Task 25: Use of Force Investigation and Report Responsibilities .....	62
Task 26: Use of Force Review Board (UFRB).....	64
Task 27: Oleoresin Capsicum Log and Checkout Procedures.....	66
Task 28: Use of Force — Investigation of Criminal Misconduct.....	69
Task 29: IAD Investigation Priority .....	70
Task 30: Firearms-Discharge Board of Review.....	71
Task 31: Officer-Involved Shooting Investigation .....	73
Task 32: Use of Camcorders.....	74
Task 33: Misconduct.....	75
Task 34: Vehicle Stops, Field Investigation and Detentions .....	77
Task 35: Use of Force Reports – Witness Identification .....	79
Task 36: Procedures for Transporting Detainees and Citizens.....	80
Task 37: Internal Investigations – Retaliation Against Witnesses.....	81
Task 38: Citizens Signing Police Forms.....	82
Task 39: Personnel Arrested, Sued and/or Served with Civil or Administrative Process .....	83
Task 40: Personnel Information Management System (PIMS).....	84
Task 41: Use of Personnel Information Management System (PIMS).....	85
Task 42: Field Training Program.....	86
Task 43: Academy Training Plan .....	88
Task 44: Performance Appraisal Policy .....	89
Task 45: Consistency-of-Discipline Policy .....	90
Task 46: Promotional Consideration .....	92

Task 47: Community Policing Plan .....	93
Task 48: Departmental Management and Annual Management Report.....	94
Task 49: Monitor Selection and Compensation.....	95
Task 50: Compliance Unit Liaison Policy .....	96
Task 51: Compliance Audits and Integrity Tests.....	99
Task 52: Housekeeping Provisions.....	101
Appendix B: Managerial Risk Assessment Report Results – Findings and Recommendations .....	103
Appendix C: Task Reference Chart .....	110
Appendix D: Glossary of Terms and Acronyms .....	113



## EXECUTIVE SUMMARY

### Introduction

This is the Department's *Third Semi-Annual Report* to the United States District Court. This report summarizes the Department's activities and efforts to implement provisions of the Negotiated Settlement Agreement (Agreement). This report covers the period from January 1, 2004 through June 30, 2004. Significant progress or milestones achieved during this reporting period are covered in this report. Additionally, other progress achieved prior to the publication of this report is also identified.

This *Third Semi-Annual Report* comprises a depiction of the Department's compliance status and implementation efforts. The Department continues to focus on implementation through its compliance, observations, audits and reporting efforts. This reporting period has seen continued extensive work toward policy development and publication. While policy development continues, the OIG continues to have concerns with regard to policy training. Audits and reviews conducted by the OIG revealed that overall training on newly published policies are close, but fall somewhat short of substantial compliance with the Agreement's requirements.

### Administrative Support Efforts

Administrative support efforts continue and include the following:

- continuing monthly meetings with stakeholders;
- completion of Task plans in the form of Milestone Tracking Sheets, by all task managers for each assigned Agreement Task;
- developing new policies and processes to expedite publication of and training on Agreement related policy;
- conducting four audits and reviews of completed policy areas, as well as policy areas under development;
- providing weekly compliance updates both orally and in writing to the Chief of Police regarding status of Agreement Tasks;
- facilitating internal policy and stakeholder meetings;
- leading and providing oversight to various working groups to further develop policies; and
- providing policy reviews for compliance with the Agreement.

### The Department's Accomplishments Include:

- Significant improvement in the areas of management and implementation of the Personnel Information Management System (PIMS);
- Identifying and creating systems and practices to verify training;
- Improvement in the policy review process;
- Continuation of strong efforts in the area of internal compliance oversight;
- Self-identification of improper police practice (pattern of possibly improper "strip searches");
- Creation and publication of Departmental technical guides and policies to end biased-based policing;
- Resourcefulness and thoroughness demonstrated by the Management Level Liaison (MLL);
- Provision of technical support (non-audit based) to the Training Division;

- Development of the Discipline Matrix and its associated Training Bulletin;
- Facilitating the Discipline Matrix Task Force;
- Facilitating technical assistance on the Use of Force policies;
- Development of the Departmental General Order M-3 - *Complaints Against Department Personnel*;
- Organize and facilitate policy development meeting; and
- Providing Internal Affairs Division (IAD) Manual technical support.

### Department Challenges

- The Department's internal investigation and review process experienced delays at nearly every step, with few mechanisms in place to prevent such delays;
- Firearms Discharge Board of Review is deficient;
- Problematic practice of strip searches in the field; and
- Inability to accurately report the status of training on Agreement requirements.

### Compliance Summary Update

The table below depicts the current status and progress summary of Task compliance:

#### **COMPLIANCE PROGRESS SUMMARY**

<b>TASK STATUS</b>	<b>NUMBER OF TASKS*</b>
Tasks Due as of June 30, 2004	30 of 52*
Progressing With Concern	14
Progressing Without Concern	5
Not in Compliance	11
Not in Full Compliance (in policy or training compliance)	15
In Full Compliance	5

\*Note that the number of Tasks totals 50 rather than 52. This is because Tasks 17 and 52 are not included in the tracking; Task 17 is a summary Task with no associated actions, and Task 52 is housekeeping.

Eleven Tasks due were not in policy, training, or implementation compliance as of June 30, 2004. The 11 Tasks not in compliance are primarily associated with one policy, Departmental General Order (DGO) M-3. This policy has 10 Tasks associated with it. Departmental General Order M-3 (M-3) has been drafted and submitted for review to stakeholders for their comments this reporting period.

The provisions of five Tasks have been implemented and are in full compliance, and 15 Tasks have been partially completed. The training on many of these Tasks is behind. Of the Tasks with compliance dates upcoming, 14 are progressing with concern, and five Tasks are progressing without concern. Additional Task details and implementation activity are provided in Appendix A of this report.

## **Status of Policy Compliance**

### **Current Tasks Due**

The Agreement Tasks are identified on page 18 of this report, became due or past due within this reporting period; however, some of these Tasks have extensions on their due dates. A total of 30 out of 52 Agreement Tasks are currently due. The reported status of each Task in this report is current as of June 30, 2004. In general, most Tasks are not in compliance.

### **Audits and Reviews**

The Audit Unit initiated four audits, completed three, and conducted a Managerial Risk Assessment. The Unit is currently on schedule for conducting their Agreement-mandatory audits. The four audits initiated by the OIG addressed training on Agreement-related policies, logging and tracking Oleoresin Capsicum (OC), the Management Level Liaison position, and Mobile Data Terminal Traffic.

## **Introduction**

The Negotiated Settlement Agreement (hereinafter referred to as Agreement) entered into between the City and Plaintiffs in the Delphine Allen, et al. v. City of Oakland, et al., consolidated case number C00-4599 TEH (JL) otherwise known as the “Riders” cases, Section XIII. A. 1., states:

*The City and OPD shall file regular status reports with the Court delineating the steps taken by OPD to comply with the provisions of this Agreement. Commencing within 120 days from the effective date of this Agreement, these reports shall be filed twice annually, at six-month intervals, until this Agreement is terminated.*

In accordance with the provisions of the Agreement, the Oakland Police Department’s (Department) Office of Inspector General (OIG) has prepared this *Third Semi-Annual Report*. This public report will be filed with the Court and will document compliance implementation activities undertaken by the Department during the third six-month period of the Agreement.

Significant progress or milestones which have been achieved since June 30, 2004, and prior to the publication of this report, have also been noted.

## BACKGROUND

### Purpose of the Agreement

The purpose of the Agreement is to promote police integrity and prevent conduct that deprives persons of the rights, privileges and immunities secured or protected by the Constitution or laws of the United States. The overall objectives of the Agreement are to provide for the expeditious implementation of the best available practices and procedures for police management in the areas of supervision, training and accountability mechanisms, and to enhance the ability of the Department to protect the lives, rights, dignity and property of the community it serves.

### Focus of the Agreement

#### THE AGREEMENT PLACES EMPHASIS ON THE FOLLOWING EIGHT CORE AREAS:

Internal Affairs Investigations	Use Of Force Reporting
Discipline	Personnel Information Management Systems (PIMS)
Field Supervision	Training
Management Oversight	Auditing And Review System

### Stakeholders

The people of Oakland are stakeholders in the Agreement. There are numerous other stakeholders including, the Court, the Independent Monitoring Team (IMT), and the Oakland Police Officer's Association (OPOA). Finally, as the Agreement is between the City and the Plaintiffs, the following City entities are also key stakeholders:

- Office of the Mayor
- City Council
- Office of the City Administrator, formerly Office of the City Manager
- Office of the City Attorney (OCA)
- The Police Department

### Role of the Office of Inspector General

The OIG assesses the effectiveness and efficiency of the Departmental operations within the parameters of the Agreement and recommends improvements in policy and procedure to enhance process and correct deficiencies. The office recommends cost savings through the economy of operations and the alternative use of resources. The OIG investigates and recommends management action to correct fraud, waste, abuse and mismanagement. Moreover, the OIG facilitates the collection and processing of data and documents; provides the IMT access to Department personnel as needed; and ensures that documents and records are maintained as in accordance with the Agreement. Finally, the OIG prepares a semi-annual report depicting the Department's activities towards compliance with the provisions of the Agreement.

### **Administrative Support Efforts**

These efforts continue and include the following activities:

- continuing monthly meetings with stakeholders;
- increasing the OIG staff to 11 persons;
- completion of Task plans in the form of Milestone Tracking Sheets, by all task managers for each assigned Agreement Task;
- developing new policies and processes to expedite publication of and training on Agreement related policy;
- conducting four audits and reviews of completed policy areas, as well as policy areas under development;
- providing weekly compliance updates both orally and in writing to the Chief of Police regarding status of Agreement Tasks;
- facilitating internal policy and stakeholder meetings;
- leading and providing oversight to various working groups to further develop policies; and
- providing policy reviews for compliance with the Agreement.

## ACCOMPLISHMENTS

During this reporting period, the Department achieved a number of accomplishments. Those accomplishments are identified and summarized below.

### Department Accomplishments

#### **The Personnel Information Management System (PIMS) Project Experienced Significant Improvement in the Areas of Management and Implementation**

During this current reporting period, considerable progress has been made in regards to the PIMS project. The Tasks' statuses associated with the PIMS project are now progressing without concern. The details of these endeavors are found in *Appendix A* of this report under Tasks 40 and 41. The Department's accomplishments noted in this section have also been echoed by the IMT.

#### **Identifying and Creating Systems and Practices to Verify Training**

The Department continues to identify and create systems and practices to verify training. In a proactive effort, the OIG worked together with the Training Division to identify deficiencies and create solutions, to lessen training verification problems. A new training roster was designed, which aided efforts to guarantee that all members and employees receive the required training, and that training is properly documented. Long- and short-term training remedies were established and implemented to some degree. Training coordinators were given specific criteria and procedures for tracking their unit's and division's training progress.

#### **Improvement in the Policy Review Process**

The Department experienced continued improvement in the area of its policy review process. This improved process facilitated the generation of 15 compliant policies – of which 13 have been published by the Department. This significant progress is attributed to the continued use of the new policy review process (discussed later in this report.) As noted in the IMT's *Third Quarterly Report*, these publication efforts represent, "...a significant step towards compliance..." The IMT also noted that, "...a greater number of compliant policies were published during this reporting period than during the entire previous year of the Agreement's existence."

#### **Self-identification of Improper Police Practice (Pattern of Possibly Improper "Strip Searches")**

The Department took the initiative to self-identify and address an increase in "strip searches" reported by the Oakland community. Proactive efforts included the quick and timely development of a policy that prohibits these searches. The appropriate personnel were also trained on this policy. It should be noted that this policy is not an Agreement required deliverable.

#### **Creation and Publication of Departmental Technical Guides and Policies to end Biased-Based Policing**

Within this reporting period, the Department published *Prohibitions Regarding Racial Profiling and Other Bias-Based Policing*, along with the impending publication of *Promoting Cooperative Strategies to Reduce Racial Profiling* - a comprehensive technical guide. All of the previous

documents were cited by the IMT as important contributions to the Agreement's compliance and to nation-wide efforts to reduce unjustified racial profiling.

### **Resourcefulness and Thoroughness Demonstrated by the Management Level Liaison (MLL)**

This reporting period, the Department's MLL presented a "solid showing", as echoed by the IMT. Through his initiative and diligence in tracking cases, he established an atmosphere in which the District Attorney's Office and the Office of the Public Defender are very responsive toward the Department. These offices have worked collaboratively to synchronize their efforts to track problem cases at record levels.

### **Provision of Technical Support to the Training Division**

The Audit Unit provided software/technical support to the Training Division to assist them with queries and sorts of training data. Troubleshooting was provided to determine if the TMS database itself was problematic. Spot checks were performed against training rosters and TMS data to ensure that people had actually been trained. These were some of the methods used to test the integrity of TMS database data.

### **Facilitating Meetings and Steering the Discipline Matrix Task Force**

A consistency of discipline working group (task force) was organized to develop the Discipline Matrix and its Training bulletin. The group was chaired and directed by the Compliance Commander of the OIG. The Compliance Commander was also responsible for the delivery of associated work products for this Task. The deliverable included a White Paper.

### **Development of the Discipline Matrix and Associated Training Bulletin**

The task force met regularly over a period of several months. They conducted stakeholder meetings to solicit their comments, opinions and recommendations for consideration in determining ranges and penalties for the Discipline Matrix. Based on the primary input, research and data collection from the consistency of discipline's working group, OIG staff created drafts of the Discipline Matrix and associated Training Bulletin.

### **Technical Assistance on the Use of Force Policies**

The OIG set up and facilitated use of force meetings to discuss the related Task's policy documents. The objective of these meetings was to elicit comments from the Department's use of force experts, and extract viable information on substantive issues for policy incorporation. These on-going meetings also include the IAD, the Office of the City Attorney and the Bureau of Investigations Chief.

### **Development of the DGO M-3, *Complaints Against Department Personnel Policies***

The Compliance Commander (previously the IAD Commander) has been the primary author of these policies. DGO M-3 transitioned with him from the IAD when he came to the OIG at the beginning of this reporting period. The Commander has conducted stakeholder meetings to solicit their concerns, considerations and recommendations for inclusion in the DGO M-3 policies. Additionally, other relevant meetings have been held in the interim with other stakeholders to further develop the policies.

**Organize and Facilitate Policy Development Meetings**

The OIG organized and facilitated meetings between the IMT and Subject Matter Experts (SMEs). These meetings were conducted to discuss the comments the IMT submitted upon completion of its policy review. The meetings aided in assisting the SMEs with understanding and incorporating the IMT's comments into policies they were developing.

**Internal Affairs Division (IAD) Manual Technical Support**

The OIG is aiding in the support and development of the IAD Manual's draft. OIG's support in this area is on-going.

## CHALLENGES

During this reporting period, the Department also identified several challenges, which are summarized below.

### **The Department's Areas of Concern**

#### **The Department's Internal Investigation and Review Process Experienced Delays**

The Department's internal investigation process has few corrective measures in place to prevent untimely internal investigations. The process experienced delays at nearly every step, with few mechanisms in place to prevent them. The Department has revised its internal investigations policy with an eye toward strict timeline requirements and responsibilities for each phase of the investigation and review process. Moreover, the Department created a stand-alone policy to govern the use of informal resolutions. The informal resolution policy establishes criteria for supervisors and commanders to determine eligibility and sets forth procedures for its proper utilization. It is expected that the policy revisions will result in a more timely, fair and responsible complaint system.

#### **Firearms Discharge Board of Review is Deficient**

The Department's Firearms Discharge Board of Review suffers from serious deficiencies regarding board hearing timelines, the quality of investigations and the tracking and implementation of follow up recommendations. The Department is in the process of implementing corrective measures to reduce these deficiencies.

#### **Problematic Practice of Strip Searches in the Field**

The Department identified a long-standing and problematic practice of conducting strip searches in the field. Although many of the strip search violations were technical in nature, this does not diminish the Constitutional impact and organizational liability associated with such a practice. After this practice was identified, the Department immediately assessed and revised its policy to prevent future occurrences. The District Attorney's Office also assisted with policy development. Moreover, training was provided to field units during patrol lineups to ensure that officers were clear on all legal limitations and policy requirements.

#### **Inability to Accurately Report the Status of Training on Agreement Requirements**

The Department must improve the timeliness of policy training, documentation and coordination of training efforts. While continued deficiencies varied in scope with broad ranges, training did continue, and in some cases was completed but not properly documented. The OIG proposed a list of long and short-term training remedies, which included: the Training Division generating a non-compliance list so commanders and managers can conduct a manual validation; conducting mass trainings; improving data-entry and overall coordination of training efforts and holding commanders and managers accountable when their employees or officers are not trained. To date, 9 of the 16 recommendations have been implemented.

Although the Department has made significant advancements in the area of training, there are still some challenges which remain. For example, the verification of signatures on training rosters continues to be problematic. Using a judgment sample, the Audit Unit researched selected TMS entries to verify course roster signatures. The audit found that 40 percent of the selected names did not have signature documentation. This indicates that the Department is not adequately documenting reported training.

It was apparent through our audit, that a significant amount of Agreement-related policy training has been completed by the Department. Unfortunately, this effort has been overshadowed by the inadequacy of the Department's system for managing and tracking its training records. Erroneous compliance rosters coupled with insufficient training documentation impedes any effort to substantiate substantial compliance with the Agreement.

### **Risk Management Measures**

The *First Semi-Annual Report* delineated the implementation of several risk management programs to improve officer safety, increase the quality of service to the community, minimize financial losses to the City, and improve the integrity of the Department. These programs are updated below and remain in place unless otherwise noted. The Compliance Unit continues to monitor and identify potential risks.

### **Labor / Management Concerns**

The OPOA and the OCA continue to discuss and resolve issues related to Agreement policies. All labor/management concerns that were raised in 2003 and during the last reporting period have been resolved. As of the publication of this report, the OIG is not aware of any unresolved issues other than the policy area identified below.

<b>TASK NO.</b>	<b>TASK TITLE</b>	<b>RELATED POLICE DEPARTMENT PUBLICATION</b>
45	Consistency of Discipline Policy	<ul style="list-style-type: none"><li>• SO 8053 – <i>Consistency of Discipline workgroup</i></li><li>• Discipline Matrix</li><li>• Discipline Matrix Training Bulletin</li><li>• DGO's M-3, and M-3.1</li></ul>

### **Audit Training**

During the last semi-annual report period, the Department contracted with Sefton Boyars, a retired Region 9 Inspector General to provide performance audit training. The training used Government Auditing Standards as its foundation, with examples and exercises focused on the objectives of the Department with respect to implementation and review of the Agreement provisions. Bureau commanders and additional representatives were included in the training to promote an understanding of the audit process that will impact them in the near future, and to facilitate the execution of the Agreement audits by forming cooperative and effective working relationships with the units that will be audited. The first four of seven courses were conducted during the last reporting period. The last three courses were conducted during this reporting period, with final classes concluding February 26, 2004. This provided the Audit Staff with a total of 56 hours of professional auditor's training.

The Audit Staff also met with the City of Oakland's City Auditor regarding practical strategies, documentation, and record keeping for audits and acquired templates for the OIG audit documentation. Additionally, the Audit Staff met with Doug Rennie of the U.S. Department of Health and Human Services' Office of Inspector General to discuss practical aspects of sampling and statistical analysis for audits and acquired statistical software for determining audit samples.

The Audit Unit's Police Program and Performance Auditor completed 18 hours of professional audit training at the Annual Super Strategies Audit Best-Practices Conference, conducted by the MIS Training Institute.

The Audit Unit drafted a lesson plan for teaching the two-hour class on the Agreement during Advanced Officer School training for all sergeants.

## **Conclusion**

### **A Commitment to Reform**

Over the past six months, the Department has been engaged in an extensive amount of activities toward Agreement compliance. Our efforts include: the completion and approval of 15 policies; the completion of three audits; a management assessment review; and the submission of Department General Order M-3, *Complaints Against Departmental Personnel or Procedures* and the Department's Discipline Matrix demonstrate the Department's commitment toward organizational reform in general and Agreement compliance in particular.

This period was not without its challenges and setbacks. The most significant shortcoming being our inability to train personnel on the 15 approved policies and track such training to assess compliance. Adding to this failure is the fact that similar failures existed in the previous six-month period. The OIG worked collaboratively with the Training Division and made a series of recommendations to address these shortcomings. Many of the recommendations were adopted; however, some were not, and the Training Division continued to rely on the Training Management System (TMS), which remains inaccurate<sup>1</sup>.

Inordinate resources were used on continued attempts to retrieve what should have been considered "corrupted" data instead of developing interim and/or short-term solutions to assess compliance. The Department was unable to provide a compliance and noncompliance list over the past nine months, which has resulted in redundant training, confusion and frustration for all involved. Furthermore, the Training Commander was temporarily reassigned to the Patrol Division during this critical period, leaving an "acting lieutenant" in charge who had not been fully involved in the process prior to his appointment.

As of the end of this reporting period, the shortcomings with TMS remain. The Training Division has met with the architect of the software program. As of the publication of this report, the Training Division is confident accurate compliance and noncompliance reports can be generated in a timely manner. The Training Division believes the Department is in training compliance on most of the published policies. The OIG will monitor this area closely to ensure the Department does not sustain noncompliance.

The training challenges faced during this period reveal more than just computer and software problems, and they are not limited to the Training Division. They highlight problems of communication within the Department and the need for all levels of management to embrace and support the Agreement. For example, within this period, five separate messages spanning over a three-month period, were sent by the OIG, Training Commander and Chief of Police directing division commanders and managers to track and report training in their respective divisions. The level of initial noncompliance with this request was troubling as was the lack of accountability for those who failed to comply.

If the Department is to achieve compliance – in not only training but also policy implementation – full support from every level of the organization is necessary. Notwithstanding, the management assessment did reveal what we believe is a changing Departmental culture in

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<sup>1</sup> As of the publication of this report, data within the TMS database has been restructured, "cleaned" and checked against training rosters.

support of achieving Agreement compliance. The OIG remains confident that this change will continue and the Department will improve upon its effort to achieve substantial compliance.

**Follow-up**

In the last semi-annual report, the OIG made a series of recommendations it thought necessary for the Department to achieve compliance with the Agreement. Below is a list identifying what actions, if any, have been taken with regard to those recommendations, and what impact, if any, has resulted. The Department was able to implement four out of the six recommendations this period. One of the recommendations was removed from consideration and the other was not accomplished this period. The OIG will continue to implement these recommendations and evaluate their impact on Agreement compliance.

RECOMMENDATION	ACTION(S) TAKEN	NEXT STEPS
Conduct a supervisory and command retreat to review the Agreement.	A command retreat was conducted. The chief did meet with a designated group of sergeants to assess challenges associated with the Agreement, and assess overall Department opinions. In addition, the OIG currently providing Agreement related training at the sergeants' annual in-service training.	Continue providing training to sergeants.
Require the commander of any division and/or watch that fails an audit to provide a written report.	This was approved by the Chief. Department General Order N-12 requires commanders to submit a report. As part of the exit conference of an audit, managers will be informed of this requirement.	On-going
Assign compliance training coordinators to each division.	Each division has identified training coordinators, and they are in the process of identifying audit coordinators. For some divisions this may be the same person. For others it may not.	Schedule a meeting with all coordinators and identify specific duties.
Continue weekly meetings between the Chief and the OIG to provide updates on compliance efforts.	On-going. The meetings have provided an invaluable venue to update the chief.	On-going
Incorporate Agreement compliance efforts into the monthly CrimeStop meeting.	This has not yet occurred.	Incorporate next period.
Formation of a Compliance Monitoring Team (CMT) to assist task managers and division commander.	After considerable evaluation, the OIG decided not to proceed forward with this recommendation. It was determined that compliance coordinators are sufficient to address the same concerns.	N/A

## COMPLIANCE SUMMARY UPDATE

(Formerly *Implementation Progress Section* in previous semi-annual reports)

### Compliance Unit Overview

The Compliance Unit continues to provide compliance oversight and review policies for Agreement compliance. As identified in the Agreement, the Compliance Unit serves as the liaison between OPD, the IMT and the plaintiffs' attorneys, and assists with the Department's compliance with the Agreement. The Compliance Unit maintains project implementation tracking on 52 separate Tasks assigned to the three Bureaus and the Internal Affairs Division. The Compliance Unit coordinates cross-organization implementation issues and functions as a resource for Agreement interpretation questions.

In March 2003, the Department initiated monthly meetings to facilitate implementation progress and communication with the specified stakeholders in advance of the "Monitor's" selection and arrival. The Agreement calls for the "Monitor" to "conduct monthly meetings that shall include representatives of OPD, the Office of the City Attorney, the City Administrator's Office, the Oakland Police Officers' Association, and plaintiffs' counsel. The Compliance Unit continues to conduct the Monthly "Riders" Meetings, on behalf of the "Monitor," which focus on the following topical areas:

- Agreement language changes, and clarifications;
- Labor management issues;
- Policy, training and implementation progress and timelines;
- Publication drafts; and
- Presentation/Overview of audits and reviews conducted by OIG.

The Compliance Unit prepares agendas and meeting minutes which are distributed to all participants to serve as a record of the meetings and discussions held among stakeholders. The meetings have produced agreements to changes and clarifications in Agreement language, modifications to implementation timelines for several Tasks, and a modified review process for publication drafts. Stipulations have been prepared to formalize these agreements with the Court.

### Compliance Implementation Background

As reported in the *Second Semi-Annual Report*, Agreement-related policy activity increased, however, the existing policy review process had become ineffective. During the first six months of the Agreement, policy was distributed and discussed at the monthly meetings. As the number of policies being presented for review increased, the Monthly "Riders" Meeting time became insufficient to review and discuss each policy. As a result, several policies were not reviewed, revised, and published in a timely manner in order to meet their specified compliance dates. Since the time of the *First Semi-Annual Report*, the Department has and continues to practice strategies to facilitate timely policy review, revision, and publication. These strategies include:

- Draft policy is submitted for review to the plaintiffs' attorneys, IMT, and OPOA via e-mail as soon as it is ready for review, rather than waiting for the Monthly Meeting;
- Comments from the IMT, plaintiffs' attorneys, and OPOA are returned to the OIG within 15 working days of receipt of the draft policy, rather than waiting for the Monthly "Riders" Meeting;

- Stakeholders may request that a draft policy be agendaized for discussion at a monthly meeting. This puts a “stay” on the review time so the policy can be discussed, and then finalized. This also avoids discussion of points that do not need to be heard by the monthly meeting group (e.g., minor changes in language, specific content-related questions);
- Final draft policy is submitted to the IMT for a three-day compliance review. The OIG provides the IMT with a red-lined version of the policy, indicating the changes from the first draft reviewed by all parties, and the changes made up until the compliance review;
- All task managers complete and submit Milestone Tracking Sheets delineating the timeline for completion of each assigned Task; and
- Task managers continue to submit Agreement Six-Week Progress Reports.

The above strategies continue to aid the Department in better facilitation of policy review, revision and publication.

### **Compliance Progress Summary**

For implementation delegation and tracking purposes, Agreement reform provisions were separated into 52 Tasks. In order to achieve full compliance, three stages of compliance must be satisfied: 1. policy, 2. training, and 3. implementation. Specific Task implementation activities and its stage of compliance are outlined in the Appendices, Task Implementation Section of this report. The implementation progress is summarized and illustrated in Table 1 below.

Definitions for Task Status are listed below. Each Task has a compliance date for policy development, training and implementation.

### **Task Status Defined**

As previously described in this report, the provisions of the Agreement were consolidated into 52 Tasks and assigned to task managers. Definitions for Task Status are listed below. Each Task has a Compliance Date for policy development and implementation. An overall assessment of each Task’s status is also provided as follows:

- Tasks with compliance dates that have not yet occurred are considered to be Progressing with Concern or Progressing without Concern.
  - Tasks that are noted as **Progressing with Concern** are considered behind schedule, per the task plan submitted by the task manager and/or subject matter expert.
  - Tasks that are noted as **Progressing without Concern** are considered on schedule or ahead of schedule, per the submitted task plan.
- Tasks with compliance dates that have passed are considered to be Not in Compliance, Not in Full Compliance, or In Full Compliance.
  - Tasks that are noted as **Not in Compliance** are those that are overdue and have not achieved compliance on the related policy, training, or implementation.
- Tasks that are noted as **Not in Full Compliance** are those that, in the assessment of the OIG and/or the IMT, have achieved compliance on the relevant policy, training, and/or implementation. This includes Tasks that are purported by the Department to be in full compliance, but have not yet been verified as such by an audit or review by the OIG.

- Tasks that are noted as **In Full Compliance** are those that, in the assessment of the OIG and/or the IMT, have achieved compliance on all relevant policy and all related training, and have been implemented by the Department, as determined by an audit or review by the OIG.

**Table 1**

**COMPLIANCE PROGRESS SUMMARY**

<b>TASK STATUS</b>	<b>NUMBER OF TASKS*</b>
Tasks Due as of June 30, 2004	30 of 52*
Progressing With Concern	14
Progressing Without Concern	5
Not in Compliance	11
Not in Full Compliance (in policy or training compliance)	15
In Full Compliance	5

\*Note that the number of Tasks totals 50 rather than 52. This is because Tasks 17 and 52 are not included in the tracking; Task 17 is a summary Task with no associated actions, and Task 52 is housekeeping.

Eleven Tasks due were not in policy, training, or implementation compliance as of June 30, 2004. The 11 Tasks not in compliance are primarily associated with one policy, Departmental General Order (DGO) M-3. This policy has 10 Tasks associated with it. Departmental General Order M-3 (M-3) has been drafted and submitted for review to stakeholders for their comments this reporting period.

The provisions of five Tasks have been implemented and are in full compliance, and 15 Tasks have been partially completed. The training on many of these Tasks is behind. Of the Tasks with compliance dates upcoming, 14 are progressing with concern, and five Tasks are progressing without concern. Additional Task details and implementation activity are provided in Appendix A of this report.

**Status of Policy Compliance**

**Current Tasks Due**

The Agreement Tasks identified below became due or past due within this reporting period; however, some of these Tasks have extensions on their due dates. The status of each Task is reported here as of June 30, 2004. In general, most Tasks are not in compliance. A total of 30 out of 52 Agreement Tasks are currently due and are listed on the following page.

**Table 2**  
**STATUS OF TASKS CURRENTLY DUE**

TASK NAME	TASK NUMBER	DUE DATE	PUBLISHED DATE
Complaints Against Departmental Personnel	Tasks 2, 4, 5.1, 6, 7, 8, 12, 14, 15, 16	June 15, 2004	Not Published
Approval of Field Arrest by Supervisor	Task 18	January 20, 2004	May 13, 2004
Unity of Command	Task 19	January 20, 2004	April 12, 2004
Span of Control for Supervisors	Task 20	August 14, 2003	April 19, 2004 / April 14, 2004
OPD/DA Liaison Commander (MLL)	Task 22	April 15, 2003	December 16, 2003
Command Staff Rotation	Task 23	January 20, 2004	April 13, 2004
OC Log & Check-out Procedures	Task 27	July 20, 2004	October 1, 2003
Officer-Involved Shooting	Task 31	July 20, 2004	Not Published
Misconduct	Task 33	August 25, 2003	December 24, 2003 / April 13, 2004
Stop Data Forms -Vehicle Stops, Field Investigations...	Task 34	August 25, 2003	May 04, 2004
Use of Force Reports – Witness ID	Task 35	August 25, 2003	April 1, 2004
Procedures for Transporting Detainees and Citizens	Task 36	August 25, 2003	November 14, 2003
Internal Investigations – Retaliation Against Witnesses	Task 37	August 25, 2003	November 14, 2003
Citizens Signing Police Forms	Task 38	August 25, 2003	October 22, 2003
Personnel Arrested, Sued and/or Served with Civil...	Task 39	August 25, 2003	April 13, 2004
Field Training Program	Task 42	April 16, 2004	Not Published
B-6 : Performance Appraisal	Tasks 21, 44	July 07, 2004	April 27, 2004
Consistency of Discipline	Task 45	June 15, 2004	Not Published
Promotional Consideration	Task 46	December 1, 2003	“stayed <sup>2</sup> ”
Community Policing Plan	Task 47	August 01, 2003	April 15, 2004

\* Task 5 is split between DGO M-3, The IAD Manual and the Jail P&P 5.01. The Jail P&P was published on 13 May 04.

<sup>2</sup> Task 46’s status is “stayed,” per mutual agreement of the stakeholders. Task completion is contingent upon completion of the DGO M-3 policy.

## **Status of Tasks**

An overall assessment of each Task's status is provided as follows:

### **1. Progressing with Concern**

The following 14 Tasks have compliance dates that have not yet occurred, and are behind schedule, per the task manager's work plan:

- Task 01: IAD Staffing and Resources
- Task 03: IAD Integrity Tests
- Task 09: Contact of Citizen Complainant
- Task 10: Procedure Manual for Investigations of Citizen Complaints
- Task 11: Summary of Citizen Complaints Provided to OPD Personnel
- Task 13: Documentation of Pitches Responses
- Task 24: Use of Force Reporting Policy
- Task 25: Use of Force Investigation and Report Responsibilities
- Task 26: Use of Force Review Board (UFRB)
- Task 28: IAD Investigation Priority; Use of Force – Investigation of Criminal Misconduct
- Task 29: IAD Investigation Priority
- Task 30: Firearms-Discharge Board of Review
- Task 31: Officer-Involved Shooting Investigation
- Task 35: Use of Force Reports – Witness Identification

### **2. Progressing without Concern**

The following five Tasks have compliance dates that have not yet occurred, and are considered on or ahead of schedule per the task manager's progress plan:

- Task 40: Personnel Information Management System (PIMS)
- Task 41: Use of Personnel Information Management System (PIMS)
- Task 43: Academy Training Plan
- Task 46: Promotional Consideration
- Task 51: Compliance Audits and Integrity Test

### **3. Not in Compliance**

The following 11 Tasks are beyond their respective compliance dates, and did not have policy, training, or implementation in compliance as of June 30, 2004:

- Task 02: Timeliness Standards and Compliance with IAD Investigations
- Task 04: Complaint Control System for IAD
- Task 06: Refusal to Accept or Refer Citizen Complaint
- Task 07: Methods for Receiving Citizen Complaints
- Task 08: Classifications of Citizen Complaints
- Task 12: Disclosure of Possible Investigator Bias
- Task 14: Investigation of Allegations of *Manual of Rules* Violations Resulting from Lawsuits and Legal Claims
- Task 15: Reviewing Findings and Disciplinary Recommendations
- Task 16: Supporting IAD Process – Supervisor/Managerial Accountability
- Task 42: Field Training Program
- Task 45: Consistency-of-Discipline Policy

### **4. Not in Full Compliance**

The following 15 Tasks have compliance dates that have come due and have policy, training, and/or implementation that the Office of Inspector General has determined to be in compliance:

- Task 05: Complaint Procedures for IAD
- Task 18: Approval of Field-Arrest by Supervisor
- Task 19: Unity of Command
- Task 20: Span of Control for Supervisors
- Task 21: Members', Employees' and Supervisors' Performance Review
- Task 27: Oleoresin Capsicum Log and Checkout Procedures
- Task 33: Misconduct
- Task 34: Vehicle Stops, Field Investigation and Detentions
- Task 36: Procedures for Transporting Detainees and Citizens
- Task 37: Internal Investigations – Retaliation Against Witnesses
- Task 38: Citizens Signing Police Forms
- Task 39: Personnel Arrested, Sued and/or Served with Civil or Administrative Process
- Task 44: Performance Appraisal Policy
- Task 47: Community Policing Plan
- Task 48: Departmental Management and Annual Management Report

## **5. In Full Compliance**

The following five Tasks have compliance dates that have come due and have been determined by the OIG to be in compliance in all required areas, including policy, training, and implementation:

- Task 22: OPD/DA Liaison Commander
- Task 23: Command Staff Rotation
- Task 32: Use of Camcorders
- Task 49: Monitor Selection and Compensation
- Task 50: Compliance Unit Liaison Policy

Details of Task activity for this reporting period are found in the Appendix A, Task Implementation Section of this report. This section depicts the implementation activity of all Tasks previously listed.

It is still the Department's goal to complete Tasks required within the timeframes specified in the Agreement or an approved compliance-date-extension.

The Bureaus and Internal Affairs Division task managers all submitted Task Milestone Tracking Worksheets (also identified as Task plans in this report) to the OIG reflecting their plans for managing their assigned Agreement Tasks. Essentially, these worksheets are project management plan outlines with specific dates (milestones) for each relevant sub-task needed to develop policies for and to implement the provision of each Agreement Task. The expected completion dates they provide are being used as milestones against which the progress of Tasks are measured and reported on.

### **Task Tracking**

The Compliance Unit documents overall Department implementation efforts and reports weekly to the Chief of Police on the status of Agreement Tasks and training activities.

Six-Week Progress Reports on each Task are prepared by the respective task manager every six weeks to document progress and deliverables, detail development or implementation problems, request assistance for resources needed to complete the Task, etc. The reports include the following: the status of the Task; progress towards completion of the Task over the last six-week period; expected progress over the next six-week period; and budgetary or organizational challenges affecting Task completion.

Each six-week progress reports is approved by the appropriate Deputy Chief or IAD commander and forwarded to the Compliance Unit. The Compliance Unit incorporates these six-week reports into the weekly Compliance Summary Updates and this *Third Semi-Annual Report*.

### **Training Compliance**

Training Coordinators have been identified and continue to play an instrumental role in tracking and coordinating the training activities for their respective bureaus, division, units, etc. Their record keeping has proved invaluable to the identification of continued training efforts, during a period when the Training Division was unable to provide accurate reporting and records.

A Special Order was distributed to all commanders and managers to establish procedures regarding the delivery and documentation of Agreement training. These procedures required supervisors to monitor the training of their direct reports and ensure that individuals who are trained sign a training roster, and return completed rosters to the Training Division. The Training Division has reported that the timely return of rosters has been increasing. Based on the completed rosters, the Training Division identified members and employees who did not appear to have been trained and followed up to ensure that supervisors provided training to those individuals.

Although a considerable amount of training has occurred and is on-going, determining training compliance has been hindered by the inability to generate an electronic Department-wide report from the Training Management System (TMS) database that reconciles the signed rosters with the employee database. Until this problem is resolved, training compliance will be difficult to determine. The Training Division has recently reported their ability to generate timely and accurate compliance and non-compliance reports. As a result, accurate training compliance reports will be generated very soon.

## **AUDITS AND REVIEWS**

### **Audit Unit Overview**

In accordance with the Agreement, upon implementation of policies and procedures pursuant to the Agreement, the Department is to conduct annual audits of the following:

1. Arrest and offense reports, and follow-up investigation reports;
2. Use of force incident reports and use of force investigations;
3. Complaint processing and investigation;
4. Mobile Data Terminal traffic;
5. Personnel evaluations; and
6. Citizen accessibility to the complaint process and the availability of complaint forms.

While the above-listed areas are audits that are mandated by the Agreement, the Audit and Inspections Unit of the OIG is also committed to conducting audits, as directed of other key areas of the Agreement. This includes those issues or concerns that are central to the objectives of the Department and the Chief of Police. During this reporting period, the Audit Unit created an audit calendar for the time period covering the span of the Agreement. The Unit initiated four audits, completed three, and conducted a Managerial Risk Assessment. The Unit is currently on schedule for conducting their Agreement-mandatory audits. The four audits initiated by the OIG addressed training on Agreement-related policies, logging and tracking Oleoresin Capsicum (OC), the Management Level Liaison position, and Mobile Data Terminal Traffic.

### **Summary of Audits Conducted**

A review of Agreement policy training was attempted but abandoned, due to the unavailability of reliable data from which to draw conclusions about which of the Department's personnel had or had not been trained. During the course of the review it became apparent the Department's TMS database was unable to accurately report the amount of training that had been conducted, thus placing the Department in a non-compliant status.

An audit of the Department's OC Distribution and Control (Task 27) was the first official audit conducted by the Unit. The audit was conducted during the second quarter of this period. The final report was published on August 12, 2004. The audit revealed the Department was not in compliance with the Agreement's mandated requirements, and yielded a variety of findings and recommendations. These findings and recommendations are outlined in the Appendices, Task Implementation Section of this report under Task 27.

An audit of the Management Level Liaison (Task 22) began in the second quarter, and was completed in the third quarter. This report is currently awaiting publication. The audit revealed the Department was in compliance with the Agreement, and is progressing well in this area. Additional details of this audit are also located in the Appendices, Task Implementation Section of this report under Task 22.

The audit of Mobile Data Terminal traffic is currently in progress. The results of this audit will be reported in the next semi-annual report.

At the request of the Inspector General and Chief of Police, the OIG Audit and Inspections Unit also conducted a Managerial Risk assessment during the second quarter of 2004. The subject of this assessment was the Bureau of Field Operations (BFO). The assessment consisted of interviews of commanders, sergeants and officers of various Patrol Division watches. The interviews revealed that while the Department was not yet prepared for full implementation of the Agreement, significant efforts were being made to address its requirements. A number of findings were detailed, and recommendations made to address the challenges currently faced by the Department. Summaries of the *Managerial Risk Assessment* were presented in the Challenges section of this report. This assessment's detailed findings and recommendations are located in the Appendices Section of this report, in Appendix B.

Summaries of the audits and reviews completed are presented below. Audit and review findings and recommendations, which are task-specific, are located within their respective Task(s) Sections.

### **Training Audit Summary**

An audit of policy-related training was conducted during the second quarter of 2004, covering all training through May 7, 2004. In accordance with the Agreement, the Department is required to develop and publish policy which is Agreement-specific. The Department is required to train a minimum of 95 percent of all required personnel on each publication to achieve substantial compliance. The Department is required to maintain reliable training records as documentation of training compliance with the Agreement.

This audit examined the procedures and practices implemented by the Department to accomplish this task. The primary objective of the audit was to determine whether the Department is training its personnel on policy which has been deemed compliant with the Agreement. A review of current practices found that upon final completion of an Agreement-related publication, Division Commanders receive copies of newly developed policy and are responsible for ensuring that training is conducted within their division. Many divisions and units have appointed Training Coordinators who are responsible for training a specific segment of the division, unit, etc. and reporting back to the Division Commander who is ultimately responsible for reporting out.

Training is verified by rosters, which are signed by each student after he/she has received training on a particular publication. Division Commanders maintain copies of their rosters and forward the originals to the Training Section. Although each Division maintains copies of its own rosters, the Training Section Commander is primarily responsible for archiving the rosters.

Data entry of all Agreement-related policy is performed by Training Division staff. Due to budget and personnel constraints, the task has been the responsibility of a single employee. To date, more than 14,000 entries have been made into TMS. During the early phases of training, this proved to be an overwhelming task; however, since the Training Division has adjusted staff workloads, all data entry is current.

Compliance summary data gathered from the Department's computer tracking system, TMS, was reviewed to assess the current status of training within the Department. However, in the course of the review, we found that the program output was not trustworthy. In a test case, TMS reported a 67 percent compliance level on a particular policy where actual compliance,

demonstrated through the compilation of signed rosters was 93 percent. Discovery of this error in TMS invalidated the source data and rendered all of our compliance results inconclusive.

In a second part of our audit, we attempted to verify signatures on training rosters. Using a judgment sample, we researched selected TMS entries to verify course roster signatures. We found that 40 percent of the selected names did not have signature documentation. This indicates that the Department is not adequately documenting reported training.

It was apparent through our audit, that a significant amount of Agreement-related policy training has been completed by the Department. Unfortunately, this effort has been overshadowed by the inadequacy of the Department's system for managing and tracking its training records.

Erroneous compliance rosters coupled with insufficient training documentation impedes any effort to substantiate compliance with the Agreement.

### **Oleoresin Capsicum (OC) Log and Checkout Procedures Audit Summary**

On April 1, 2004, the OIG Audit and Inspections Unit initiated the first annual audit of the OC management for the calendar year of 2003. The purpose of the audit was to determine the effectiveness of the Department's OC checkout procedures with respect to the Agreement and compliance with internal policy.

In accordance with the Agreement and new Department policy, the Department is required to maintain a log of OC spray canisters which are checked out and used by any member or authorized employee. The Agreement further states the log shall be computerized and electronically accessible within one year of entry of this Agreement (January 22, 2004) and regular reports shall be prepared and distributed.

Although the Agreement addresses requirements for the control of OC, an audit of the OC log and checkout procedures is not specifically required. The decision to initiate the audit was made based on the importance of controls for OC distribution and the potential contribution of lack of controls to abuse of force. The primary objective of the audit was to determine if the Department has the proper internal controls in place to track OC usage. This audit covers policies regarding Mark VI canisters only, as these are the only canisters currently issued individually.

### **Management Level Liaison (MLL) Audit Summary**

In August 2004, OIG completed an audit of the MLL that covered the period April 2003 through April 2004. The audit revealed that the Public Defender has referred five cases to the MLL for investigation of performance or misconduct problems. As required by the Agreement, the MLL is tracking the cases and they are under investigation by the Internal Affairs Division. Although the audit established that the MLL is in compliance with the requirements of the Agreement, the OIG recommended a formal process for IAD to provide monthly reports to the MLL regarding the cases referred. The OIG believes that this change would strengthen communication among stakeholders.

## **Managerial Risk Assessment**

During the three-week period covering April 19, 2004 through May 9, 2004, the OIG's Audit and Inspections Unit conducted a managerial risk assessment of the Bureau of Field Operations (BFO). The purpose of the assessment was to gather general information on the overall status of the implementation of the Agreement. Information was collected on communication and perceptions of the Agreement, systems and controls that support or affect implementation, leadership support for the agreement, implementation of the provisions, and obstacles encountered and anticipated.

The BFO was selected as the subject of this assessment primarily for two reasons: 1. the Patrol Division is a primary focus of the Agreement; and 2. BFO members' work varied schedules and decentralized locations suggested that training and implementation may, logistically, be the most difficult in this Bureau. Nineteen interviews were conducted with members of BFO, including its deputy chief, captains, lieutenants, sergeants and officers of the three patrol watches.

Based on the interviews and observations, it does not appear that the internal controls necessary to successfully implement the Agreement's provisions are in place. The assessment discovered two significant obstacles preventing BFO from effectively responding to the requirements of the Agreement. First, there is a lack of coordination of systems and tools for training, implementation, performance management, tracking and documentation, and accountability at both the Department and Bureau level. Second, the members interviewed indicated they felt a lack of trust as well as perceived support from leadership.

Command and supervisory personnel in each of the three watches have developed some controls to facilitate implementation, but based on their self-assessments, the controls are not reliably ensuring substantial compliance in requirements such as policy training, statement signing, and racial profiling data collection.

Recommendations associated with the findings are a product of the information gathered during the assessment process, discussions among the OIG Audit Team, discussions with the Chief of Police, and discussion and consultation with the bureau commander. These recommendations and findings are outlined in Appendix B of this report.

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## **APPENDICES**

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**APPENDIX A**

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➤ **TASK IMPLEMENTATION**

**A DETAILED ANALYSIS OF ACTIVITY FOR TASKS 1 - 52**

## APPENDIX A: TASK IMPLEMENTATION

Implementation activities for each specific Task are detailed on the following pages. In some Tasks, lead-in language is provided and referenced for clarity. These lead-ins are paraphrased reiterations of the Agreement provisions, and in no way alter the requirements of the Agreement.

### **Task 01: IAD Staffing and Resources**

Settlement Agreement Section III. A; page 7, lines 3-8 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

**Compliance Date:** June 1, 2005

**Revised Compliance Date:** August 15, 2004

#### **Settlement Agreement Language:**

- “• By August 13, 2004, OPD must revise certain policies and procedures related to IAD investigations and create an IAD procedural manual for conducting complaint investigations. (This requirement applies to Tasks 1–16 and is reiterated in Task 10.)
- By August 13, 2004, OPD must train all personnel to ensure they have received, understand and comply with new and revised Departmental policies and procedures. (This requirement applies to Tasks 1–16 and is reiterated in Task 10.)
- By August 13, 2004, the IAD procedural manual must address: assignment and rotation of officers; training and qualifications of members and other personnel in IAD; appropriate background checks of IAD personnel; and confidentiality of IAD information.”

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**Status:** Progressing with Concern

#### **Deliverables:**

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

#### **Implementation Activities<sup>3</sup>**

The IAD Manual has been drafted by the Internal Affairs Division. The Chief of Police is currently reviewing drafts of the Manual. Additionally, the OIG’s Policy Production and Development (PP&D) Unit is currently reviewing and editing the Manual as well.

The IAD has undergone an additional increase in staff since the *Second Semi-Annual Report*; additions include a police records specialist (PRS), and an officer primarily assigned to aid in the

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<sup>3</sup> Implementation Activities for Task 1 are associated to the IAD Manual, and will also be the same for Tasks 2, 3, 5, 9, 10, 11, 13, 28, and 29 (also associated to the Manual). The IAD Manual has a number of associated tasks. For convenience, an Ibid referral reference will be used to redirect the reader, when referring again to the Manual’s associated tasks that have the same Task Implementation Activity.

processing and management of 3304<sup>4</sup> timeline cases. During this period, the officer assigned to 3304 cases was lost due to an injury. As a result, the current Administrative Staff Sergeant in IAD has taken over the duties previously associated with the 3304 officer.

During the March 18, 2004 Monthly Meeting, it was determined that both Departmental General Order (DGO) M-3 and the IAD Manual's composition would be restructured and their delivery dates modified. The stakeholders present agreed to the proposed conceptual changes. The plaintiff attorney's agreed to discuss the specifics of these modifications shortly after the March, 2004 meeting. This meeting was held on April 6, 2004, to formally propose to the plaintiffs' attorneys the concept of shortening DGO-M3 (M-3), and increasing the size of the IAD Manual. Additionally, the delivery dates of these policies would also be modified; the due date for M-3 would be extended out another 60 days and the Manual's due date would be moved up. M-3 would be revised to include the following sections: reporting, timelines, Class 1 and Class 2 complaints, receiving and responsibilities. The remaining sections of M-3 would go into the IAD Manual.

At the April 6, 2004 meeting, the parties agreed that having both a large M-3 policy and IAD Manual could prove overwhelming. The Department and the plaintiffs' attorneys agreed that shortening M-3 would make the document less difficult to produce and its training easier to conduct. Moreover, this change would probably result in higher retention rates among officers. It was further determined that only the command staff and supervisory personnel would be trained on the IAD Manual.

At the April 15, 2004 meeting, the stakeholders agreed that the new versions of M-3 (including M-3.1 and M-3.2) would have a new delivery date. The M-3 policies would be due for stakeholder review in 60 days on June 15, 2004. This agreement also included moving the IAD Manual's up by 120 days for stakeholder review on August 15, 2004. These new extended delivery due dates would be codified by a Stipulation Agreement prepared by the OCA.

### **Update Note**

In the last Report, an update note stated that because M-3 and the Discipline Matrix are linked, they would be trained on concurrently. This training was to take place by July 1, 2004. As a result of policy production and delivery delays, the training has not taken place. At this time, no new training dates have been established.

### **Supplemental**

During several intervals throughout the development of the IAD Manual, the Department conferred with a consultant to engage his assistance with developing the Manual. The Department was unable to secure the consultant's services. As a result, the Manual has been drafted internally.

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<sup>4</sup> The Public Safety Officers Procedural Bill of Rights Act is codified in California Government Code, Sections 3300-3311. Section 3304 (d) states any investigation of misconduct concerning a public safety officer must be completed within 1 year of discovery of the allegation of misconduct by a person authorized to investigate the matter or the public agency cannot discipline that officer. Further, within that year, the officer must be told of any proposed disciplinary action. Within this context, a public safety officer is a sworn police officer. A person authorized to investigate is a supervisor.

Section 3304 (f) states the final disciplinary decision and when it will be imposed must be communicated, in writing, to the officer within 30 days of the conclusion of all pre-disciplinary procedures. Within this context, a pre-disciplinary procedure is the office's right to respond to the charges against him/her. In OPD we have *Skelly* hearings to accomplish this purpose. Section 3304 (d)1-8 states there are 8 exceptions to the 1 year rule that if met will temporarily stop the clock and allow the investigation to extend beyond a year.

**Task 02: Timeliness Standards and Compliance with IAD Investigations**

Settlement Agreement Section III. B.; page 7, lines 9-17 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

**Compliance Date:** April 15, 2003

**Extension Granted:** June 1, 2004 (Policy due December 1, 2003)

**Subsequent Extension Granted:** April 15, 2004 (Policy due June 15, 2004)

**Settlement Agreement Language:**

“• By June 15, 2004, OPD must develop and, by July 1, 2004, implement timeliness standards for the completion of Internal Affairs investigations, administrative findings and recommended discipline.

• IAD command and the Department’s command staff must regularly monitor compliance with these timeliness standards.

• If IAD experiences an unusual proliferation of cases and/or workload, IAD staffing must be increased to maintain timeliness standards.”

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**Status:** Not in Compliance

**Deliverables:**

- Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*
- Departmental General Order M-3.1, *Informal Complaint Resolution Process*
- Departmental General Order M-3.2, *Citizen’s Police Review Board*

**Implementation Activities<sup>5</sup>**

The *Second Semi-Annual Report* reported that Departmental Special Order 8026, *Timeliness Standards for Internal Affairs Investigations*, was drafted but not completed within the required timeframe. However, since that last reporting period, this Special Order has been negated and its provisions have been incorporated into M-3.

The *Second Semi-Annual Report* also indicated that the previous compliance date for this Task was June 1, 2004, with the policy due on December 1, 2003. The provisions of this Task were included in the draft revision of M-3. The draft was distributed to the plaintiffs’ attorneys and the IMT after it went through the Department’s internal staffing process. Comments from the Department’s command staff indicated a need to significantly revise M-3. The comments were shared with the subject matter expert to consider for the redrafting of this policy. The revised M-3 was born out of the comments from the command staff and was re-submitted several days shy of its February, 2004 submittal deadline to stakeholders. The draft was distributed for review to the plaintiffs’ attorneys, the IMT, the Oakland Police Officers’ Association, the Citizen Police Review Board and other stakeholders. Upon conclusion of their review, it was determined that

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<sup>5</sup>Implementation Activities for Task 2 are associated to the DGO M-3 documents, and will also be the same for Tasks 2, 4, 5, 6, 7, 8, 12, 14, 15 and 16 (also associated to DGO M-3). The DGO M-3 policies have a number of Tasks associated with them. For convenience, an Ibid referral reference will be used to redirect the reader, when referring again to DGO M-3’s associated tasks that have the same Task Implementation Activity.

the stakeholders had significant issues with the policy's language, which required another M-3 re-write.

During this re-write period, the task manager incorporated the stakeholders' comments but determined that the size of M-3 would not easily translate into training that is clear and understandable. The document would be very detailed and complex, and coupled with the IAD Manual training, could prove overwhelming and result in low training retention rates. It was determined that the size of M-3 should be reduced to better facilitate member and employee understanding and retention, and to ease the delivery of training.

During this re-structuring, the subject matter expert determined that the time needed to finalize the M-3 documents would require another extension. Due to the problematic nature and history of the M-3 documents, a preliminary discussion was held at the March 18, 2004 meeting. The discussion centered on the Department's determination that M-3 and the IAD Manual's contents would be restructured and their delivery dates modified. This concept was first introduced to the plaintiffs' attorneys several days prior to the March monthly meeting. During that meeting, the Department and plaintiffs' attorneys agreed that a meeting should be promptly scheduled to discuss the modifications to M-3 and the IAD documents.

On April 6, 2004, the Department met with the plaintiffs' attorneys and the OCA to discuss shortening M-3, increasing the size of the IAD Manual and moving up its delivery date. M-3 would be revised to include the following sections: reporting, timelines, Class 1 and Class 2 complaints, receiving and responsibilities. The remaining sections of M-3 would be incorporated into the IAD Manual. New timelines for the M-3 policy (including M-3.1 and M-3.2), as well as the IAD Manual would be extended and moved up, respectively. During this meeting, it was determined that new timeline delivery dates would be discussed, agreed upon and finalized at the April 15, 2004 Monthly Meeting. These new dates would be formally codified by a Stipulation Agreement, to be prepared by the OCA. Only the policy delivery dates would be modified; no request for an extension of training dates was discussed.

At the April 15, 2004 Monthly Meeting, the stakeholders agreed that the new version of M-3 would be due for their review 60 days from the meeting's date on June 15, 2004. It was also agreed upon that the IAD Manual's delivery date for stakeholder review would be moved up and due in 120 days on August 13, 2004.

The Department and plaintiffs' attorneys also agreed that the M-3 policy would include the one-year statutory deadline for misconduct complaints, with detail on accountability, and who is responsible if policy deadlines are not met.

Since the April, 2004 Monthly Meeting, the M-3 policy (including M-3.1 and M-3.2) has been re-drafted. While the Department missed the stipulated delivery date of June 15, 2004, the policy was delivered to stakeholders several weeks later on July 9, 2004. In addition to M-3, the Department also delivered the Discipline Matrix and its Training Bulletin (part of Task 45 but has concurrent interworkings with the M-3 policy). As a result of this sizable delivery of documents, the standard 15-day review period was extended at the July Monthly Meeting. Since the issuance of this Report, the Department has received feedback from some of the stakeholders on the M-3 policy, the Discipline Matrix and the Training Bulletin.

Full implementation of this Task will not be complete until the revised policies are published and adequate training has been provided to all members and employees. Once this has occurred, the OIG's Audit Unit will review this Task to ascertain if all the provisions listed in this Task have been completed.

**Staffing**

Task 02, Section III.B.2. states, in part, *if IAD experiences an unusual proliferation of cases and/or workload, IAD staffing shall be increased to maintain timeliness standards.* The Chief has added additional staff to the IAD since the last semi-annual report was issued. The additional personnel include a PRS, and an officer to primarily process and manage 3304 timelines cases. These additions are in support of the above-cited section and evidence the Department's commitment to the Agreement.

During the last reporting period, the *Second Semi-Annual Report* outlined OIG recommendations derived from a review conducted by the Audit Unit, which was conducted for Task 02 provisions. Two of the recommendations have been implemented, and the other two are still under advisement. The OIG will continue to conduct audits and reviews on this Agreement provision and provide updates on the implementation of the Agreements requirements and the review recommendations.

**Task 03: IAD Integrity Tests**

Settlement Agreement Section III. C.; page 7, lines 18-22 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

**Compliance Date:** June 1, 2005

**Revised Compliance Date:** August 15, 2004

**Settlement Agreement Language:**

- “• By June 1, 2005, IAD must conduct integrity tests in situations where members/employees are the subject of repeated allegations of misconduct.
- By June 1, 2005, IAD must set frequency standards, among other parameters, for such integrity tests.”

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**Status:** Progressing with Concern

**Deliverables:**

- Internal Affairs Division Policy and Procedures Manual

**Implementation Activities<sup>6</sup>**

The IAD Manual has been drafted by the Internal Affairs Division and the Chief of Police is currently reviewing drafts of the IAD Manual. Additionally, the OIG’s Policy Production and Development (PP&D) Unit is reviewing and editing the Manual as well.

The provisions of this Task have been included in the Internal Affairs Division Policy and Procedures Manual.

Ibid, pages 27 - 28 to review associated IAD Manual Implementation Activities for this Task.

Full implementation of this Task will not be complete until the IAD Manual is published and adequate training has been provided to required members and employees. The OIG’s Audit Unit will review this Task to ascertain if all the provisions listed in this Task have been addressed and adequate training provided.

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<sup>6</sup> Implementation Activities for Task 3 are associated to the IAD Manual, and will also be the same for Tasks 1, 5.3 – 5.7, 9, 10, 11, 13, 28, and 29 (also associated to the Manual). The Internal Affairs Division Policy and Procedures Manual has a number of Tasks associated with it. For convenience, and reducing repetitive “Activity” text, an Ibid referral reference will be used to redirect the reader (to associated pages), when referring again to the Manual’s associated tasks, which have the same Task Implementation Activity.

**Task 04: Complaint Control System for IAD**

Settlement Agreement Section III. D.; page 7, line 23 – page 8, line 17 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

**Compliance Date:** May 27, 2003

**Extension Granted:** June 1, 2004 (Policy due December 1, 2003)

**Subsequent Extension Granted:** April 15, 2004 (Policy due June 15, 2004)

**Settlement Agreement Language:**

- “• By June 15, 2004, OPD must develop a policy regarding an informal complaint resolution process to be used by supervisors and IAD to resolve minor complaints not rising to the level of Class II misconduct. The Settlement Agreement sets forth certain criteria that must be included in this informal complaint resolution process.
- By October 1, 2004, OPD must implement this informal complaint resolution process.
- By June 15, 2004, OPD must develop a policy establishing a central control system for complaints and Departmental requests to open investigations. The Settlement Agreement sets forth certain criteria that must be included in this central control system.
- By October 1, 2004, OPD must implement this central control system.”

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**Status:** Not in Compliance

**Deliverables:**

- Section III. D. 2., for this Task requires a “*central control system for complaints and Departmental requests to open investigation*. Although the procedures have not been codified in writing for its use, IAD currently has an automated database for tracking investigations and disciplinary actions.
- Revised Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*
- Special Order 8071, *Tracking and Monitoring Internal Affairs Division Cases*

**Implementation Activities<sup>7</sup>**

Special Order 8071, Tracking/Monitoring IAD Cases, is still in the draft stage and was not published this reporting period. Ibid, pages 29 – 31 to review associated M-3 Implementation Activities for this Task.

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<sup>7</sup> Implementation Activities for Task 4 are associated to the DGO M-3 documents, and will also be the same for Tasks 2, 4, 5, 6, 7, 8, 12, 14, 15 and 16 (also associated to DGO M-3). The DGO M-3 policies have a number of Tasks associated with them. For convenience, an Ibid referral reference will be used to redirect the reader, when referring again to DGO M-3’s associated tasks that have the same Task Implementation Activity.

Full implementation of this Task will not be complete until the revised Departmental General Order M-3 is published and adequate training has been provided to all members and employees.

An implementation review by OIG recommended that a training plan be established for this Task. The retention of all training records pertaining to the Agreement will be necessary to demonstrate compliance.

**Task 05: Complaint Procedures for IAD**

Settlement Agreement Section III. E.; page 8, line 18 – page 11, line 7 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: BOS

M-3 POLICY

**Compliance Date:** August 19, 2003

**Extension Granted:** June 1, 2004 (Policy due December 1, 2003)

**Subsequent Extension Granted:** April 15, 2004 (Policy due June 15, 2004)

IAD MANUAL

**Compliance Date:** June 1, 2005

**Revised Compliance Date:** August 15, 2004

NOTE: It should also be noted that Task 5 is distinct in that it is a shared Task, and overlaps with both the M-3 policy and the IAD Manual documents. As a result, it also shares compliance dates with both policies. Sub-task 5.1 is associated with M-3. Sub-tasks 5.3 - 5.7 are associated with the IAD Manual. The Jail P&P policy is a “stand-alone” document and has no direct association to either M-3 or the IAD Manual, but the policy is under the M-3 umbrella.

**Settlement Agreement Language:**

- “• By June 15, 2004, OPD must develop a policy to provide immediate access to a supervisor to all citizens seeking to file a complaint. The Settlement Agreement sets forth certain criteria to be followed if there is delay greater than three hours in providing access to a supervisor or if the complainant refuses to travel to or wait for a supervisor.
- By June 15, 2004, OPD must develop a policy to provide Oakland City Jail inmates the opportunity to file a complaint against OPD officers/employees. The Settlement Agreement sets forth certain criteria that must be included in this policy.
- By June 15, 2004, OPD must develop policies setting standards for IAD investigations and dispositions of citizen complaints, including that: OPD must consider all relevant evidence; make credibility determinations where feasible; attempt to resolve inconsistencies in witness statements; employ the “preponderance of evidence” standard; and permanently retain all notes related to the investigation. This provision also defines the five investigative dispositions (unfounded; sustained; exonerated; not sustained; and filed) and requires that each allegation in a complaint be resolved with one of these dispositions.
- By October 1, 2004, OPD must implement the above referenced policies.”

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**Status:** Not in Full Compliance

**Deliverables:**

- Jail Division Policies and Procedures 05.01, *Inmate Complaint Reporting, Reporting Incidents*
- Jail Divisions Citizen’s Complaint Form

- IAD Manual
- Revised Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*

## **Implementation Activities<sup>8</sup>**

### **Jail Division Policy**

The Jail Division's Policy and Procedure 5.01 Policy, *Inmate Complaint Reporting, Reporting Incidents* (approved by the IMT) was published May 13, 2004. The training on this document is in progress, and documentation verification is pending. Although published, the policy encountered a distribution delay; the Jail Division's Citizen's Complaint forms which accompany the policy experienced a delay in their printing.

### **Jail Division's Citizen Complaint Forms**

These forms were necessary to implement the policy and are mandatory to achieve compliance. The equipment required to perform the printing of the accompanying Jail P&P policy forms is not available in our duplicating shop. As a result, the policy could not be distributed without the forms.

In early June of 2004, the OIG Compliance Unit provided recommendations to the Training Division for outsourcing the printing of these forms. Compliance identified two sources to get these forms printed: 1. Contacting the City of Oakland's duplication shop, located in the Public Works Agency on Edgewater Drive; and 2. Contacting the City of Oakland's duplication shop located in the 250 Frank Ogawa Building on the first floor. The Training Division reported that they contacted Kinko's for pricing to outsource their printing needs. While this may temporarily resolve the specific printing problem, a permanent resolution is being sought by the Training Division for likely future occurrences. At the close of this report's reporting period, the Citizen's Complaint forms were not printed.

Full implementation of this Task will not be complete until the IAD Manual is published and adequate training has been provided to required members and employees. The OIG's Audit Unit will review this Task to ascertain if all the provisions listed in this Task have been addressed and adequate training provided.

### **Update**

As of the publication of this report, the Citizen's Complaint Forms were printed, the Jail P&P policy was distributed and training had commenced. The printing problem stems from

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<sup>8</sup> Implementation Activities for Task 5 which are associated to the IAD Manual, and will also be the same for Tasks 1, 3, 5.3 – 5.7, 9, 10, 11, 13, 28, and 29 (also associated to the Manual). The Internal Affairs Division Policy and Procedures Manual have a number of Tasks associated with it. For convenience, and reducing repetitive "Activity" text, an Ibid referral reference will be used to redirect the reader (to associated pages), when referring again to the Manual's associated tasks, which have the same Task Implementation Activity.

Implementation Activities for Task 5 are also associated to the M-3 documents, and will also be the same for Tasks 2, 4, 5, 6, 7, 8, 12, 14, 15 and 16 (also associated to M-3). The DGO M-3 policies have a number of Tasks associated with them. For convenience, an Ibid referral reference will be used to redirect the reader, when referring again to M-3's associated tasks that have the same Task Implementation Activity.

obsolete duplicating equipment, which no longer functions and requires replacement. Due to budget constraints, initial requests for replacement parts were denied. The Training Division reported they were preparing a cost proposal to identify associated costs for replacing this equipment. At the close of this reporting period, this proposal had not been submitted.

**Internal Affairs Manual and M-3 Implementation Activity**

Ibid, pages 29 – 31 to review associated M-3 Implementation Activities for this Task. Ibid, pages 27 – 28 to review associated IAD Manual Implementation Activities for this Task.

Full implementation of this Task will not be completed until the revised M-3 policy is published and adequate training has been provided to all members and employees. Once the revised Departmental General Order is published, the Office of Inspector General's Audit Unit will review this Task to ascertain if all the provisions listed in this Task have been addressed and adequate training provided.

**Task 06: Refusal to Accept or Refer Citizen Complaint**

Settlement Agreement Section III. F.; page 11, lines 8-12 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

**Compliance Date:** June 1, 2005

**Subsequent Extension Granted:** April 15, 2004 (Policy due June 15, 2004)

**Settlement Agreement Language:**

“• By June 1, 2005, OPD must develop and implement a policy that refusing to accept a citizen complaint; failing to refer a citizen to IAD where appropriate; discouraging a person from filing a complaint; and/or knowingly providing false, inaccurate or incomplete information about IAD shall be grounds for discipline.”

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**Status:** Not in Compliance

**Deliverables:**

- *Manual of Rules* Section 398.76, *Refusal to Accept or Refer Citizen Complaint*
- Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*

**Implementation Activities**

The new *Manual of Rules* section was drafted, staffed, reviewed by the parties, and determined to meet the provisions of this Agreement Task. Pending the 2004 revision of the *Manual of Rules*, this section was published as part of Special Order 8092, *Update of Department Manual of Rules*, on November 14, 2003.

Training is underway and verification is pending. The Department has been unable to confirm the level of training compliance. The Department anticipates being able to determine the level of training compliance within the early part of the next reporting period.

Ibid, pages 29 – 31 to review associated M-3 Implementation Activities for this Task.

**Task 07: Methods for Receiving Citizen Complaints**

Settlement Agreement Section III. G.; page 11, line 13 – page 12, line 7 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

**Compliance Date:** July 1, 2004

**Revised Compliance Date:** June 1, 2004 (Policy due December 1, 2003)

**Subsequent Extension Granted:** April 15, 2004 (Policy due June 15, 2004)

**Settlement Agreement Language:**

- “• By June 15, 2004, OPD must, based on contemporary police standards and best practices, develop a policy strengthening its procedures for receiving citizen complaints. The Settlement Agreement sets forth certain criteria that must be included in this policy, including that OPD: establish a staffed complaint hotline; make complaint forms, brochures and guidelines easily and widely available, including in OPD vehicles; translate those forms; and accept anonymous complaints.
- By October 1, 2004, OPD must implement the above referenced policy.
- By June 1, 2004, IAD must be located in a dedicated facility removed from the Police Administration Building.”

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**Status:** Not in Compliance

**Deliverables:**

- Revised *Manual of Rules* Section 314.49, *Confidential Reporting of Police Misconduct*. Acceptance of anonymous complaints was created and is in effect.
- Relocation of the Internal Affairs Division to City Hall Plaza was completed.
- Revised Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*

**Implementation Activities**

The IAD reports that anonymous complaints continue to be accepted. The revised IAD complaint forms are currently being used to document and file citizen's complaints.

The Agreement provision to establish a recordable, toll-free complaint hotline has been completed. The toll free number is 866 214-8834, and has been active since March 2004. This line is not currently staffed, but when it rings or records, the IAD Commander is paged. The IAD Commander reports that since the line was established, it has been continuously recording. The recordings will be captured using Visual Messenger software to download and store recordings on a hard drive and CD for archiving purposes. As previously reported, the Internal Affairs Division had relocated their offices to City Hall Plaza, and continues to operate from that location.

Ibid, pages 29 – 31 to review associated M-3 Implementation Activities for this Task.

Full implementation of this Task will not be completed until the revised M-3 policy is published and adequate training has been provided to all members and employees. Once the revised Departmental General Order is published, the Office of Inspector General's Audit Unit will review this Task to ascertain if all the provisions listed in this Task have been addressed and adequate training provided.

**Task 08: Classifications of Citizen Complaints**

Settlement Agreement Section III. H.; page 12, line 8 – page 13, line 12 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

**Compliance Date:** April 15, 2003

**Extension Granted:** June 1, 2004 (Policy due December 1, 2003)

**Subsequent Extension Granted:** April 15, 2004 (Policy due June 15, 2004)

**Settlement Agreement Language:**

“• By June 15, 2004, OPD must, based on contemporary police standards and best practices, develop a policy establishing a classification system for citizen complaints. The Settlement Agreement calls for complaints to be divided into two categories (Class I and Class II) according to the severity of the offense.

• By October 1, 2004, OPD must implement this classification system.”

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**Status:** Not in Compliance

**Deliverables:**

- Revised Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*

**Implementation Activities**

This policy has been completed and the policy was delivered to stakeholders on July 9, 2004. As of the publication of this report, the Department has received comments from most of the stakeholders.

Ibid, pages 29 – 31 to review associated M-3 Implementation Activities for this Task.

Full implementation of this Task will not be completed until the revised M-3 policy is published and adequate training has been provided to all members and employees. Once the revised Departmental General Order is published, the Office of Inspector General’s Audit Unit will review this Task to ascertain if all the provisions listed in this Task have been addressed and adequate training provided.

**Task 09: Contact of Citizen Complainant**

Settlement Agreement Section III. I.; page 13, lines 13-16 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

**Compliance Date:** June 1, 2005

**Revised Compliance Date:** August 15, 2004

**Note:** This Task is now a part of the IAD Manual, and no longer associated with the M-3 Tasks. As a result, the compliance dates have changed as noted above.

**Settlement Agreement Language:**

“• By June 15, 2004, OPD must develop and, by October 1, 2004, implement, a policy requiring that IAD, or the investigator assigned to an investigation, contact citizens who have made complaints as soon as possible, in order to determine the nature, scope and severity of the complaint, as well as to identify potential witnesses and/or evidence as quickly as possible.”

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**Status:** Progressing with Concern

**Deliverables:**

- Internal Affairs Division Policy and Procedures Manual

**Implementation Activities**

The IAD Manual has been drafted. The Chief of Police is currently reviewing a draft of the Internal Affairs Division Policy and Procedures Manual, and OIG’s Policy Publications and Development Unit (PP&D) is reviewing and editing the Manual as well.

Ibid, pages 27 – 28 to review associated IAD Manual Implementation Activities for this Task.

Full implementation of this Task will not be complete until the IAD Manual is published and adequate training has been provided to required members and employees. The OIG’s Audit Unit will review this Task to ascertain if all the provisions listed in this Task have been addressed and adequate training provided.

**Task 10: Procedure Manual for Investigations of Citizen Complaints**

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

Assigned Unit: IAD

**Compliance Date:** June 1, 2005

**Revised Compliance Date:** August 15, 2004

**Settlement Agreement Language:**

**“III. INTERNAL AFFAIRS DIVISION (IAD)**

“• By August 13, 2004, OPD must revise certain policies and procedures related to IAD investigations and create an IAD procedural manual for conducting complaint investigations. (This requirement applies to Tasks 1–16.)

• By August 13, 2004, OPD must train all personnel to ensure that they have received, understand, and comply with new and revised Departmental policies and procedures. (This requirement applies to Tasks 1–16.)”

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**Status:** Progressing with Concern

**Deliverables:**

- Internal Affairs Division Policy and Procedures Manual

**Implementation Activities**

The IAD Manual has been drafted. The Chief of Police is currently reviewing a draft of the Internal Affairs Division Policy and Procedures Manual, and OIG’s Policy Publications and Development Unit (PP&D) is reviewing and editing the Manual as well.

Ibid, pages 27 – 28 to review associated implementation activities for this Task.

**Task 11: Summary of Citizen Complaints Provided to OPD Personnel**

Settlement Agreement Section III. J.; page 13, lines 17-26 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

**Compliance Date:** June 1, 2005

**Revised Compliance Date:** August 15, 2004

**Note:** This Task is now a part of the IAD Manual, and no longer associated with the M-3 Tasks.  
As a result, the compliance dates have changed as noted above.

**Settlement Agreement Language:**

- “• By June 15, 2004, OPD must, based on contemporary police standards and best practices, develop a policy requiring that complaint investigators:
  - provide the member/employee with a brief synopsis of any complaint alleged against them, but not allow the member/employee to read the complaint itself or to review citizen or other witness statements prior to the member/employee’s interview;
  - notify the immediate supervisor and commander of the subject of an investigation that a complaint against the subject has been filed; and
  - upon completion of the investigation and issuance of a final report, provide subject members/employees with access to the underlying data upon which an IAD report is based, including all tape-recorded interviews, transcripts and investigator’s notes.
- By October 1, 2004, OPD must implement this policy.”

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**Status:** Progressing with Concern

**Deliverables:**

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

**Implementation Activities**

The IAD Manual has been drafted. The Chief of Police is currently reviewing a draft of the Internal Affairs Division Policy and Procedures Manual, and OIG’s Policy Publications and Development Unit (PP&D) is reviewing and editing the Manual as well.

Ibid, pages 27 – 28 to review associated IAD Manual Implementation Activities for this Task.

Full implementation of this Task will not be complete until the IAD Manual is published and adequate training has been provided to all members and employees. The OIG’s Audit Unit will review this Task to ascertain if all the provisions listed in this Task have been addressed and adequate training has been provided.

**Task 12: Disclosure of Possible Investigator Bias**

Settlement Agreement Section III. K.; page 14, lines 1-11 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

**Compliance Date:** June 1, 2004

**Extension Granted:** June 1, 2004 (Policy due December 1, 2003)

**Subsequent Extension Granted:** April 15, 2004 (Policy due June 15, 2004)

**Settlement Agreement Language:**

“• By June 15, 2004, OPD must develop and, by October 1, 2004, implement, a policy requiring that investigators (IAD and field) disclose relationships that might lead to a perception of bias regarding the subject(s) of any investigation, including family relationships, outside business relationships, romantic relationships and close work or personal friendships. The Settlement Agreement sets forth certain criteria regarding when and how investigators and their supervisors must act on these disclosures.”

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**Status:** Not in Compliance

**Deliverables:**

- Revised Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*

**Implementation Activities**

Ibid, pages 29 – 31 to review associated M-3 Implementation Activities for this Task’s reporting period.

Full implementation of this Task will not be complete until the revised Departmental General Order is published and adequate training has been provided to all members and employees. Once the revised Departmental General Order is published, the Office of Inspector General’s Audit Unit will review this Task to ascertain if all the provisions have been addressed and adequate training has been provided.

**Task 13: Documentation of Pitchess Responses**

Settlement Agreement Section III. L.; page 14, lines 12-14 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

**Compliance Date:** June 1, 2005

**Revised Compliance Date:** August 15, 2004

**Settlement Agreement Language:**

“• By June 1, 2005, OPD must implement an additional check on Pitchess discovery motion responses.”

*L. Documentation of Pitchess Responses*

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**Status:** Progressing with Concern

**Deliverables:**

- Internal Affairs Division Policy and Procedures Manual

**Implementation Activities**

The IAD Manual has been drafted by the Internal Affairs Division. The Chief of Police is currently reviewing drafts of the Manual. Additionally, the OIG’s Policy Production and Development (PP&D) Unit is currently reviewing and editing the Manual.

Ibid, pages 27 – 28 to review associated IAD Manual Implementation Activities for this Task.

Full implementation of this Task will not be complete until the IAD Manual is published and adequate training has been provided to all members and employees. The Office of Inspector General’s Audit Unit will review this Task to ascertain if all the provisions have been addressed and adequate training provided.

**Task 14: Investigation of Allegations of *Manual of Rules* Violations Resulting from Lawsuits and Legal Claims**

Settlement Agreement Section III. M.; page 14, lines 15-24 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

**Compliance Date:** June 1, 2004

**Extension Granted:** June 1, 2004 (Policy due December 1, 2003)

**Subsequent Extension Granted:** April 15, 2004 (Policy due June 15, 2004)

**Settlement Agreement Language:**

“• By June 15, 2004, OPD must develop and, by October 1, 2004, implement, a policy requiring that it investigate allegations of *Manual of Rules* violations resulting from certain lawsuits and legal claims, treating them in the same manner as other citizens’ complaints. The Settlement Agreement sets forth certain criteria that must be included in this policy.”

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**Status:** Not in Compliance

**Deliverables:**

- Revised Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*

**Implementation Activities**

Ibid, pages 29 – 31 to review associated M-3 Implementation Activities for this Task.

Full implementation of this Task will not be complete until the revised Departmental General Order is published and adequate training has been provided to all members and employees. The Office of Inspector General’s Audit Unit will once again review this Task to ascertain if all the provisions have been addressed and adequate training provided.

**Task 15: Reviewing Findings and Disciplinary Recommendations**

Settlement Agreement Section III. N.; page 15, lines 1-4 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

**Compliance Date:** June 1, 2004

**Extension Granted:** June 1, 2004 (Policy due December 1, 2003)

**Subsequent Extension Granted:** April 15, 2004 (Policy due June 15, 2004)

“• By June 15, 2004, OPD must, based on contemporary police standards and best practices, develop a policy requiring that, except upon written authorization from the Chief of Police, the operational chain of command, from lieutenant up, review recommended findings and make disciplinary recommendations in sustained internal investigations.

• By October 1, 2004, OPD must implement this policy.”

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**Status:** Not in Compliance

**Deliverables:**

- Revised Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*

**Implementation Activities**

Ibid, pages 29 – 31 to review associated M-3 Implementation Activities for this Task.

Full implementation of this Task will not be complete until the revised Departmental General Order is published and adequate training has been provided to all members and employees. The Office of Inspector General’s Audit Unit will review this Task to ascertain if all the provisions have been addressed and adequate training provided.

**Task 16: Supporting IAD Process – Supervisor/Managerial Accountability**

Settlement Agreement Section III. O.; page 15, lines 5-11 (lead-in page 6, line 24 – page 7, line 2)

Assigned Unit: IAD

**Compliance Date:** June 1, 2004

**Extension Granted:** June 1, 2004 (Policy due December 1, 2003)

**Subsequent Extension Granted:** April 15, 2004 (Policy due June 15, 2004)

**Settlement Agreement Language:**

“• By June 15, 2004, OPD must, based on contemporary police standards and best practices, develop a policy that holds supervisors and commanders, as well as other managers in the chain of command, accountable for supporting the IAD process. Where an IAD investigation finds that a supervisor or manager should have reasonably determined that a member/employee committed a Class I offense, that supervisor or manager must be held accountable, through the Department’s administrative discipline process, for failure to supervise, failure to review and/or failure to intervene.

• By October 1, 2004, OPD must implement this policy.”

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**Status:** Not in Compliance

**Deliverables:**

- Revised Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*

**Implementation Activities**

Ibid, pages 29 – 31 to review associated M-3 Implementation Activities for this Task.

Full implementation of this Task will not be complete until the revised Departmental General Order is published and adequate training has been provided to all members and employees. The Office of Inspector General’s Audit Unit will review this Task to ascertain if all the provisions have been addressed and adequate training provided.

**Task 17: Supervisory Span of Control and Unity of Command**

Settlement Agreement Section IV.; page 15, lines 15-18

Assigned Unit: N/A

**Compliance Date:** January 20, 2004

**Settlement Agreement Language:**

“• By January 20, 2004, OPD must develop and implement, based on contemporary police standards and best practices, policies to address certain standards and provisions (set forth in section IV, paragraphs A–F) related to Supervisory Span of Control and Unity of Command.”

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**Status:** This Task is a summary Task, and covers the overall timelines for Tasks 18, 19, 21, and 23. There are no specific provisions covered by this Task.

**Deliverables:** Not Applicable

**Implementation Activities:** Not Applicable

**Task 18: Approval of Field-Arrest by Supervisor**

Settlement Agreement Section IV. A.; page 15, line 19 – page 16, line 5 (lead-in page 15, lines 16-18)

Assigned Unit: BFO

**Compliance Date:** January 20, 2004

**Settlement Agreement Language:**

“• By January 20, 2004, OPD must develop and implement a policy requiring the approval of field-arrests by a supervisor in most cases. This policy necessitates that OPD develop standards for field supervisors that encourage or mandate close and frequent supervisory contacts with subordinates. The Settlement Agreement sets forth certain criteria regarding supervisor review of field-arrests, including that, under ordinary circumstances, supervisors respond to the scenes of field arrests for felonies; narcotics-related possessory offenses; situations where there is an investigated use of force; and arrests for obstructing, resisting, or assaulting an officer.”

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**Status:** Not in Full Compliance

**Deliverables:**

- New Departmental General Order M-18, *Arrest Approval and Report Review in the Field*

**Implementation Activities**

In the *Second Semi-Annual Report*, Departmental General Order M-18, *Arrest Approval and Report Review in the Field*, had been reviewed, revised, and was being prepared for publication. A Field Detention Certificate and Order to Field Release Prisoner was also developed and approved in order to meet compliance.

Since December, 2003, there was a need to clarify Agreement language which pertains to this Task. The language defining “narcotics-related possessory offenses” (with an emphasis on the word “narcotics”) language was unclear to stakeholders and required further clarification. The plaintiffs’ attorneys and the Department had different interpretations of the use of this language on whether “narcotics-related possessory offenses” was intended to address drugs or only narcotics. The Department conveyed that all narcotic arrests were felonies, excluding marijuana possession. The plaintiffs’ attorneys felt that the existing Agreement’s language did not make this clear. This language is found in the Agreement, under IV. A, Supervisory Span of Control and Unity of Command, A. Approval of Field-Arrest by Supervisor (1.b).

It was determined at the March, 2004, Monthly Meeting that a meeting would be held at a later date between the plaintiffs’ attorneys and the Department to determine what “narcotics-related possessory offenses” meant in this context. The objective was to arrive at a mutual understanding, definition and use of this term. The Department met with the plaintiffs’ attorneys on April 6, 2004, and reached a mutual decision regarding the ambiguity around the interpretation of “narcotics-related possessory offenses.” The Department and plaintiffs’ attorneys agreed that all narcotics-related possessory offenses are felonies, which will require supervisor approval if an arrest is to be made. As a result, this Agreement language was changed, the new language was formally stipulated, and the Agreement was modified accordingly. The new language can be found in the most current version of The Settlement

Agreement, which contains the latest stipulations. DGO M-18, *Arrest Approval and Report Review in the Field*, was published on May 13, 2004. Training is underway, and verification of compliance is pending. The Department has been unable to confirm the level of training compliance. The Department anticipates being able to determine the level of training compliance within the early part of the next reporting period.

**Task 19: Unity of Command**

Settlement Agreement Section IV. B.; page 16, lines 6-10 (lead-in page 15, lines 16-18)

Assigned Unit: BFO

**Compliance Date:** January 20, 2004

**Settlement Agreement Language:**

“• By January 20, 2004, OPD must develop and implement a policy requiring that, with rare exceptions justified on a case-by-case basis, each OPD member or employee have a single, clearly identified supervisor or manager, working the same schedule and having the same days off as the individuals whom they supervise.”

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**Status:** Not in Full Compliance

**Deliverables:**

- New Departmental General Order A-3, *Department Organization*

**Implementation Activities**

**Policy**

DGO A-3 was drafted and staffed to the Chief of Police. The OIG requested clarification on the organizational chart of the first and third watches from those commanders before finalizing the draft policy. DGO A-3 was published on April 12, 2004.

**Training**

Training is underway, but the Department has been unable to confirm the level of training compliance; verification is pending. The Department anticipates being able to determine the level of training compliance within the early part of the next reporting period.

**Task 20: Span of Control for Supervisors**

Settlement Agreement Section IV. C.; page 16, line 11 – page 17, line 1 (lead-in page 15, lines 16-18)

Assigned Unit: BFO

**Compliance Date:** May 27, 2003

**Extension Granted:** August 14, 2003

**Settlement Agreement Language:**

“By August 14, 2003, OPD must, based on contemporary police standards and best practices, develop and implement a policy to ensure appropriate supervision of its Area Command Field Teams. The Settlement Agreement sets forth certain provisions that must be included in the policy. Most notably, the Settlement Agreement requires that, under normal conditions, OPD assign one primary sergeant to each Area Command Field Team. Additionally, a supervisor’s span of control cannot exceed eight members.”

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**Status:** Not in Full Compliance

**Deliverables:**

- Assignment of one primary sergeant to each Area Command Field Team (under normal conditions)
- A supervisory ratio not exceeding eight members to one Area Command Field Team primary sergeant (with certain exceptions)
- Bureau of Field Operations (BFO) Policy and Procedure 03-02, *Supervisory Span of Control*
- Bureau of Investigations (BOI) Policy and Procedures 04-02, *Supervisory Span of Control*

**Implementation Activities**

The *Second Semi-Annual Report* stated that new BFO Policy and Procedure had been reviewed, revised, and was in final form. Among other procedures, the policy for the Supervisory Span of Control defines long and short-term vacancies and provides procedures for filling the primary supervisor’s absence by transfer, loan and/or acting positions. The provisions of this policy are currently being implemented by the Department.

**Policy**

The Second Semi-Annual Report stated that BFO Policy and Procedures 03-02, *Supervisory Span of Control*, was completed and published on January 15, 2004. A subsequent revised policy, BFO Policy and Procedures 03-02 was published on April 19, 2004. Further, the Department published BOI Policy and Procedures 04-02 on April 14, 2004 to govern the span of control of the Fugitive Unit. The Department reports that the draw which went into effect on January 10, 2004 now puts the Department in compliance with regard to the required span of control ratio.

**Training**

Training was scheduled to begin January 27, 2003, but was delayed due to the late and revised publication of this policy. Training is currently underway, and compliance verification is pending.

**Management Assessment**

One of the topics of discussion covered under this assessment was Span of Control. Detailed statements, findings and recommendations regarding Task 20, Span of Control for Supervisors are identified in Appendix B of this section.

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

Settlement Agreement Section IV. D.; page 17, lines 2-19 (lead-in page 15, lines 16-18)

Assigned Unit: BOS

**Compliance Date:** January 20, 2004

**Settlement Agreement Language:**

- “• By May 5, 2004, OPD must, based on contemporary police standards and best practices, develop and implement a member, employee and supervisor performance review policy. The Settlement Agreement sets forth certain criteria that must be included in this policy.
- By July 7, 2004, OPD must hold its supervisors and commanders/managers responsible for identifying patterns of improper behavior of their subordinates. Failure to identify patterns and instances of misconduct when the supervisors or commanders/managers knew or reasonably should have known of the misconduct shall constitute grounds for discipline.
- By July 7, 2004, Bureau of Field Operations sergeants and lieutenants must scrutinize arrests and uses of force that have been historically associated with police misconduct.”

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**Status:** Not in Full Compliance

**Deliverables:**

- Revised Departmental General Order B-6, *Performance Appraisal*

**Implementation Activities**

A new DGO B-6, *Performance Appraisal*, was drafted, staffed, and reviewed by all parties. The Agreement requires supervisors and commanders who administer personnel evaluations to meet regularly in individual sessions with personnel; maintain documentation of their reviews; and to provide ongoing feedback on performance. DGO B-6 incorporates these Agreement provisions.

The DGO was published on April 27, 2004, and distributed to all personnel. During the last several months, all supervisors and managers were required to complete performance appraisals for their subordinates. The IMT conducted a compliance review of the completed appraisals and will be releasing a report at the end of the fourth quarter. The IMT has warned the Department that the appraisals were not completed in compliance with the requirements of the Agreement or DGO B-6. Additionally, the IMT will report whether supervisors and commanders were held accountable for non-compliance. Training on this publication has been on-going, and its compliance verification status is pending.

**Task 22: OPD/DA Liaison Commander**

Settlement Agreement Section IV. E.; page 17, line 20 – page 18, line 1 (lead-in page 15, lines 16-18)

Assigned Unit: BOI

**Compliance Date:** April 15, 2003

**Settlement Agreement Language:**

- “• By April 15, 2003, OPD must, based on contemporary police standards and best practices, develop and implement a Management-Level Liaison (MLL) to the courts, the District Attorney’s Office and the Public Defender’s Office. This unit or person is to ensure that cases that are lost or dropped due to performance problems or misconduct, or indicia thereof, are tracked.
- The MLL is required to meet and cooperate with the Monitor. The District Attorney and Public Defender offices may attend these meetings.”

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**Status:** In Full Compliance

**Deliverables:**

Revised Departmental General Order A-18, *Management-Level Liaison*

**Implementation Activities**

Departmental General Order A-18, *Management-Level Liaison*, was published December 16, 2003.

In August, 2004, the OIG completed an audit of the Management-Level Liaison (MLL) that covered the period April, 2003 through April, 2004. The audit revealed that the Public Defender has referred five cases to the MLL for investigation of performance or misconduct problems. As required by the Agreement, the MLL is tracking these cases and they are under investigation by the IAD. Although the audit established that the MLL is in compliance with the requirements of the Agreement, the OIG recommended a formal process for the IAD to provide monthly reports to the MLL regarding the cases referred. The OIG believes that this change would strengthen communication among stakeholders.

**Audit Findings and Recommendations**

The audit for this Task was summarized in an earlier section of this report, entitled *Audit and Reviews*. The detailed findings and recommendations from that audit are as follows:

**Finding #1**

There are no prescribed procedures for communicating the results of the cases referred by the stakeholders that are investigated by the IAD.

DGO M-3 indicates that cases must be referred by the MLL to the IAD to be processed. Policy also requires the IAD to report the results of their investigations to the Chief of Police and the appropriate chain of command. Yet, there are no provisions for communicating back to the MLL the status of cases referred to IAD by the MLL. Consequently, the MLL is not able communicate to the stakeholders the status of the cases that are investigated by the IAD.

**Recommendation**

Revise the process for communicating the results of the IAD investigations for cases referred from the courts. Require the IAD to provide internal memoranda each month to report to the MLL if the cases are under investigation or if the alleged misconduct or performance concerns are sustained or unfounded. In this way, the MLL can communicate with the stakeholders on the status of their referrals. This change will ensure a complete process for the flow of information among the IAD, the MLL and the stakeholders.

**Finding #2: Monthly reports written by the MLL are not cumulative**

The MLL writes month-to-month reports that cover the cases within a specific month. Since the reports are not cumulative, the status of prior cases is not provided in current reports, and cannot be easily tracked.

**Recommendation**

The monthly status reports of the MLL should be revised so that cumulative information from prior months is incorporated along with new cases and the status of all cases is documented in a concise format.

**Task 23: Command Staff Rotation**

Settlement Agreement Section IV. F.; page 18, lines 2-8 (lead-in page 15, lines 16-18)

Assigned Unit: OCOF

**Compliance Date:** January 20, 2004

**Settlement Agreement Language:**

“By January 20, 2004, OPD must, based on contemporary police standards and best practices, develop and implement a regular rotation of Departmental command staff, consistent with the Department’s immediate needs and best interests.”

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**Status:** In Full Compliance

**Deliverables:**

- Chief of Police Memorandum, *Command Officer Assignment and Rotation Policy*

**Implementation Activities**

Chief of Police Memorandum, *Command Officer Assignment and Rotation Policy*, was published April 13, 2003, and distributed to all personnel. The Memorandum was evaluated against the Agreement language for Task 23.

The Memorandum reads as follows:

“The purpose of this memorandum is to codify existing policy and practice regarding the assignment and rotation of Department command officers.

I shall continue to be committed to the regular rotation of Department command staff as consistent with best practices in law enforcement agency management, based upon the Department’s immediate needs and best interests. When assigning and/or rotating Department command officers, I will consider, among other factors, the following:

- Special skills needed for an assignment;
- Career development; and
- Increasing Department efficiency and effectiveness.”

The OIG implementation review concluded that all of the provisions required in the Agreement are listed in the Memorandum. The Memorandum was distributed to all staff and this Task is in full compliance. Although the Department did not meet its Target Date, the Memorandum’s publication date was well ahead of the Agreement’s Compliance Date.

### **Command Staff Rotation**

During this reporting period, the following command staff has changed positions:

Lt. B. Fairow, from SOS to I AD  
Lt. A Rachal, from IAD to OIG  
Lt. H. Jordan, from CLASS to PATROL  
Lt. R. Orozco, To CLASS (Promotion)  
Lt. E. Tracey, To PATROL (Promotion)  
Capt. H. Jordan, To BOS/ADMIN (Promotion)

\*Rotations of lieutenants within the patrol division are not counted as rotations.

**Task 24: Use of Force Reporting Policy**

Settlement Agreement Section V. A.; page 18, line 13 – page 19, line 12 (lead-in page 18, lines 11-12)

Assigned Unit: BFO

**Compliance Date:** July 20, 2004

**Settlement Agreement Language:**

“• By July 20, 2004, OPD must develop and implement a policy for reporting use of force that requires:

- all members/employees to notify their supervisor as soon as practicable following any investigated use of force or allegation of excessive use of force;
- all members/employees at the scene to report all investigated uses of force on the appropriate form in every investigated use of force incident, unless otherwise directed by the investigating supervisor;
- OPD personnel to document any use of force and/or the drawing and intentional pointing of a firearm at another person;
- a supervisor to respond to the scene upon notification of an investigated use of force or an allegation of excessive use of force, unless community unrest or other conditions makes this impracticable;
- OPD to notify the Alameda County District Attorney’s Office, the City Attorney’s Office and Departmental investigators in certain use of force incidents; and
- OPD to enter data regarding use of force into OPD’s Personnel Information Management System (PIMS).”

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**Status:** Progressing with Concern

**Deliverables:**

- Revised Departmental General Order K-3, *The Use of Force*
- Revised Departmental General Order K-4, *Reporting the Use of Force*
- Revised Departmental General Order K-4.1, *Investigating the Use of Force*
- Training Bulletin III-H, *Use of Less-lethal Force*
- Revised Report Writing Manual inserts

**Implementation Activities**

In March, 2004, the OIG’s Compliance Unit scheduled a series of meetings with Departmental use of force experts, the Bureau of Investigations Chief, representatives of the Office of the City Attorney, and the Internal Affairs Division. The meetings discussed the substantive areas of the General Orders K-3, K-4, K-4.1 and Training Bulletin III-H to elicit viable recommendations

toward finalizing the policies in an expeditious manner. A substantial number of comments were received, which identified policy areas that required revision and/or restructuring.

As a strategy to achieve timely policy compliance, accommodations were made to increase the time that use of force experts could directly assist the subject matter expert in completing all outstanding revisions. The revised drafts were reviewed by the OIG and returned to the task manager with comments suggesting further revision.

In June, 2004, the draft policies were reviewed by a select group of Departmental commanders to provide a “fresh look” at the documents. The group identified additional areas of policy that needed modification and clarification.

As part of the July, 2004 Monthly “Riders” meeting, the subject matter expert provided an update on the status of the use of force policies. The subject matter expert indicated that more time would be needed to complete the documents. It was agreed that in two weeks, the subject matter expert would submit a request for a due date extension. The extension request would identify the remaining steps to be accomplished and an estimated timeline for their completion.

During the last semi-annual reporting period, the OIG reviewed the Department’s use of force reporting and investigation systems. The use of force review resulted in several recommendations, which included conducting performance audits to ensure Boards of Review files are not misplaced or missing; implementing timeline restrictions in which to convene Boards of Review; and implementing a system to ensure Board recommendations are complied with in a timely manner. It was reported that some of the recommendations had been implemented as noted, or were otherwise under advisement.

In their *Third Quarterly Report*, the IMT observed and conducted a document review of the Department’s Firearms Discharge Board of Review. The IMT reported the Review Board suffered from several deficiencies, including: untimely review, a lack of tracking of shooting reviews, insufficient involvement by relevant Departmental components, and gaps in the shooting investigations. The IMT made a number of recommendations that are currently being implemented or are under advisement.

The OIG will continue to conduct audits and reviews on this Agreement provision and provide updates on the implementation of the Agreement requirements and the review recommendations.

**Task 25: Use of Force Investigation and Report Responsibilities**

Settlement Agreement Section V. B.; page 19, line 13 – page 21, line 16 (lead-in page 18, lines 11-12)

Assigned Unit: BFO

**Compliance Date:** July 20, 2004

**Settlement Agreement Language:**

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

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**Status:** Progressing with Concern

**Deliverables:**

- Revised Departmental General Order K-3, *The Use of Force*
- Revised Departmental General Order K-4, *Reporting the Use of Force*
- Revised Departmental General Order K-4.1, *Investigating the Use of Force*
- Training Bulletin III-H, *Use of Less-lethal Force*
- New or revised Report Writing Manual insert

**Implementation Activities**

In March, 2004, the OIG’s Compliance Unit scheduled a series of meetings with Departmental use of force experts, the Bureau of Investigations Chief, representatives of the Office of the City Attorney, and the IAD. The meetings discussed the substantive areas of the General Orders K-3, K-4, K-4.1 and Training Bulletin III-H to elicit viable recommendations toward finalizing the policies in an expeditious manner. A substantial number of comments were received, which identified policy areas that required revision and/or restructuring.

As a strategy to achieve timely policy compliance, accommodations were made to increase the time that use of force experts could directly assist the subject matter expert in completing all outstanding revisions. The revised drafts were reviewed by the OIG and returned to the task manager with comments suggesting further revision.

In June, 2004, the draft policies were reviewed by a select group of Departmental commanders to provide a “fresh look” at the documents. The group identified additional areas of policy that needed modification and clarification.

As part of the July, 2004 Monthly “Riders” meeting, the subject matter expert provided an update on the status of the use of force policies. The subject matter expert indicated that more time would be needed to complete the documents. It was agreed that in two weeks, the subject matter expert would submit a request for a due date extension. The extension request would identify the remaining steps to be accomplished and an estimated timeline for their completion.

During the last semi-annual reporting period, the OIG reviewed the Department’s use of force reporting and investigation systems. The use of force review resulted in several recommendations, which included conducting performance audits to ensure Boards of Review files are not misplaced or missing; implementing timeline restrictions in which to convene

Boards of Review; and implementing a system to ensure Board recommendations are complied with in a timely manner. It was reported that some of the recommendations had been implemented as noted, or were otherwise under advisement.

In their *Third Quarterly Report*, the IMT observed and conducted a document review of the Department's Firearms Discharge Board of Review. The IMT reported the Review Board suffered from several deficiencies, including: untimely review, a lack of tracking of shooting reviews, insufficient involvement by relevant Departmental components, and gaps in the shooting investigations. The IMT made a number of recommendations that are currently being implemented or are under advisement.

The OIG will continue to conduct audits and reviews on this Agreement provision and provide updates on the implementation of the Agreement requirements and the review recommendations.

**Task 26: Use of Force Review Board (UFRB)**

Settlement Agreement Section V. C.; page 21, line 17 – page 22, line 11 (lead-in page 18, lines 11-12)

Assigned Unit: BFO

**Compliance Date:** July 20, 2004

**Settlement Agreement Language:**

“• By July 20, 2004, OPD must develop and implement a policy to enhance the Use of Force Review Board. The Settlement Agreement sets forth certain criteria that must be included in this policy.”

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**Status:** Progressing with Concern

**Deliverables:**

- Revised Departmental General Order K-4, *Reporting the Use of Force*
- Revised Departmental General Order K-4.1, *Investigating the Use of Force*
- Training Bulletin III-H, *Use of Less Lethal Force*
- New or revised Report Writing Manual insert

**Implementation Activities**

In March, 2004, the OIG’s Compliance Unit scheduled a series of meetings with Departmental use of force experts, the Bureau of Investigations Chief, representatives of the Office of the City Attorney, and the IAD. The meetings discussed the substantive areas of the General Orders K-4, K-4.1 and Training Bulletin III-H to elicit viable recommendations toward finalizing the policies in an expeditious manner. A substantial number of comments were received, which identified policy areas that required revision and/or restructuring.

As a strategy to achieve timely policy compliance, accommodations were made to increase the time that use of force experts could directly assist the subject matter expert in completing all outstanding revisions. The revised drafts were reviewed by the OIG and returned to the task manager with comments suggesting further revision.

In June, 2004, the draft policies were reviewed by a select group of Departmental commanders to provide a “fresh look” at the documents. The group identified additional areas of policy that needed modification and clarification.

As part of the July, 2004 Monthly “Riders” meeting, the subject matter expert provided an update on the status of the use of force policies. The subject matter expert indicated that more time would be needed to complete the documents. It was agreed that in two weeks, the subject matter expert would submit a request for a due date extension. The extension request would identify the remaining steps to be accomplished and an estimated timeline for their completion.

During the last semi-annual reporting period, the OIG reviewed the Department’s use of force reporting and investigation systems. The use of force review resulted in several recommendations, which included conducting performance audits to ensure Boards of Review files are not misplaced or missing; implementing timeline restrictions in which to convene

Boards of Review; and implementing a system to ensure Board recommendations are complied within a timely manner. It was reported that some of the recommendations had been implemented as noted, or were otherwise under advisement.

In their *Third Quarterly Report*, the IMT observed and conducted a document review of the Department's Firearms Discharge Board of Review. The IMT reported the Review Board suffered from several deficiencies, including: untimely review, a lack of tracking of shooting reviews, insufficient involvement by relevant Departmental components, and gaps in the shooting investigations. The IMT made a number of recommendations that are currently being implemented or are under advisement.

The OIG will continue to conduct audits and reviews on this Agreement provision and provide updates on the implementation of the Agreement requirements and the review recommendations.

### **Task 27: Oleoresin Capsicum Log and Checkout Procedures**

Assigned Unit: BOI

Settlement Agreement Section V. D.; page 22, lines 12-16 (lead-in page 18, lines 11-12)

**Compliance Date:** July 20, 2004

#### **Settlement Agreement Language:**

- “• By July 20, 2004, OPD must develop and implement a policy for logging the checking out and use of Oleoresin Capsicum (OC) spray canisters by any member or authorized employee.
- By July 22, 2004, this log must be computerized and electronically accessible and OPD must regularly prepare and distribute reports.”

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**Status:** Not in Full Compliance

#### **Deliverables:**

- Oleoresin Capsicum log
- Oleoresin Capsicum checkout electronic tracking and database
- Special Order 8061, *Oleoresin Capsicum (Pepper Spray) Log and Checkout Procedures*

Comment: This Task is linked to Task 40, Personnel Information Management System. The information from the OC database is a requirement per Settlement Agreement Section VII. A. 2., “OC spray canister check-out log.”

#### **Implementation Activities**

This policy is currently in policy compliance as Special Order 8061 was published on October 1, 2003. Training is in progress, and compliance verification is pending.

For calendar year 2003, the OIG conducted its first annual audit of Oleoresin Capsicum with the following results:

#### **Audit Findings and Recommendations**

##### **Finding #1: The Training Division does not track its inventory or distribution of OC.**

The Training Division is directly involved in the issuance, replacement, and storage of OC; however, they have no internal controls for distribution or inventory management. Current Department policy does not require the Training Division to log OC distribution in accordance with the Agreement. This omission is a significant oversight which defeats the purpose of the Property and Evidence Unit (PEC) tracking and brings the Department into non-compliance.

##### **Recommendation:**

Amend SO 8061 to incorporate procedures for distribution and inventory of Mark VI OC canisters by the Training Division.

All management affected by the audit agrees that SO 8061 should be amended by the original author to incorporate procedures for distribution of all Mark VI OC canisters.

**Finding #2: Policy regarding distribution of OC is not being adhered to.**

As required by SO 8061, OC Spray is issued to new members or employees upon graduation from the police academy or upon completion of a certification process. However, records in PEU indicate that initial issues of OC were made through the PEU during the audit period.

**Recommendation:**

Make the Training Division the sole source of the initial issuance of OC to newly trained personnel. This will preclude PEU personnel from having to determine whether personnel are qualified to receive an initial canister of OC. It is also recommended that Equipment Cards be filled out by the individuals receiving their first canister and these cards should be forwarded to the PEU supervisor for inclusion in the computerized database and monthly OC reports.

**Finding #3: Used OC canisters distributed to Range staff for training purposes are not tracked and are not disposed of properly.**

Used/replaced canisters of OC are often not completely empty and contain a sufficient quantity to be used for training purposes. These canisters are offered by the PEU to Range staff to use for training purposes. These canisters are not logged or tracked and are not disposed of in the prescribed manner.

**Recommendation A**

Stop providing the used/replaced canisters stored in the PEU to the Range staff for training purposes. If the Training Division is in need of Mark VI OC canisters for training purposes, full canisters can be issued from the PEU to the Training Division and the canisters can then be logged and tracked properly.

If the Training Division uses Mark VI canisters from their own inventory for training purposes, an equipment card should be forwarded to the PEU to ensure proper logging.

**Recommendation B**

All empty canisters issued/logged to the Training Division shall be returned to the PEU for proper disposal.

**Finding #4: The Training Division does not maintain any inventory information.**

The Training Division purchases, stores and distributes OC for the Department. They do not maintain any inventory information and there are no systems to quantify and/or reconcile the amount of OC received and distributed. The Training Division does not track OC provided to the PEU, nor does it have record of canisters issued to individuals. Without internal controls for inventory, the Department is unable to accurately track OC usage, properly determine the amount of OC used within a year or verify that OC is being distributed within the Department.

Exact figures of OC distributed cannot be verified because the Training Division has no inventory and issuance tracking.

**Recommendation:**

Direct the Training Division to maintain an inventory log to record all cases of OC received/purchased and all cases distributed to the PEU. The log should also record cases of OC used for training purposes and initial issuance distribution. It is recommended that this log

contain the date, time and quantity of OC received and distributed. The log would then be a reconcilable document of OC inventory for the Department and would be forwarded to the PEU for inclusion in the monthly OC Report.

**Finding #7: The PEU has no internal controls in place to determine if a member or employee is authorized to carry and therefore check out OC spray.**

The lack of internal controls has been ignored in the past because of the size of the membership and familiarity of personnel within the Department. There appears to be an implied authorization if a member or employee is wearing a uniform when checking out OC or if they have an old OC canister to return. This system will become less reliable as the Department grows and there are more personnel changes. No evidence was discovered during this audit to indicate unauthorized attempts to receive OC had been attempted or accomplished.

**Recommendation:**

Draft a policy on proper OC check out procedures. The policy should identify individuals, verify their authority and work detail and refuse issuance of OC when policy is not followed. This could be achieved by having a current personnel list, and require proper identification and work detail for each request. All personnel involved in the issuance of OC spray should be trained on all related Department policy and procedure regarding OC and those personnel issuing OC spray should be held accountable for not following policy.

**Task 28: Use of Force — Investigation of Criminal Misconduct**

Settlement Agreement Section V. E.; page 22, lines 17-21 (lead-in page 18, lines 11-12)

Assigned Unit: BOI

**Compliance Date:** July 20, 2004

**Settlement Agreement Language:**

“• By July 20, 2004, OPD must develop and implement a policy to report, as soon as possible, any use of force situation, citizen complaint, or other member/employee-involved action in which there is apparent evidence of criminal misconduct by a member/employee to the Alameda County District Attorney’s Office.”

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**Status:** Progressing with Concern

**Deliverables:**

- Revised Departmental General Order M-4, *Coordination of Criminal Investigations*
- Internal Affairs Division Policy and Procedures Manual

**Implementation Activities**

Departmental General Order M-4, *Coordination of Criminal Investigations*, had been revised to clarify procedures and to avoid any confusion that may result during the training or implementation phases of compliance. The policy is currently undergoing a final internal review before submission to the IMT for compliance approval.

The IAD Manual has been drafted by the Internal Affairs Division. The Chief of Police is currently reviewing drafts of the Manual. Additionally, the OIG’s Policy Production and Development (PP&D) Unit is currently reviewing and editing the Manual.

**Task 29: IAD Investigation Priority**

Settlement Agreement Section V. F.; page 22, line 22 – page 23, line 2 (lead-in page 18, lines 11-12)

Assigned Unit: BOI

**Compliance Date:** July 20, 2004

**Settlement Agreement Language:**

- “• By July 20, 2004, OPD must develop and implement a policy to coordinate its administrative investigation of a member/employee with the Alameda County District Attorney’s Office if a criminal proceeding is potentially viable.
- By July 20, 2004, when OPD initiates an interview or interrogation of OPD personnel and it appears that the subject may be charged with a crime, or the subject asserts his or her Fifth Amendment rights on grounds that the answers to questions posed may be incriminating, such interrogation must be preceded by a Lybarger warning.”

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**Status:** Progressing with Concern

**Deliverables:**

- Departmental General Order M-4, *Coordination of Criminal Investigations*
- Internal Affairs Division Policy and Procedures Manual

**Implementation Activities**

Departmental General Order M-4, *Coordination of Criminal Investigations*, had been revised to clarify procedures and to avoid any confusion that may result during the training or implementation phases of compliance. The policy is currently undergoing a final internal review before submission to the IMT for compliance approval.

Ibid, pages 29 – 31, to review associated M-3 Implementation Activities for this Task.

The IAD Manual has been drafted by the Internal Affairs Division. The Chief of Police is currently reviewing drafts of the Manual. Additionally, the OIG’s Policy Production and Development (PP&D) Unit is currently reviewing and editing the Manual.

**Task 30: Firearms-Discharge Board of Review**

Settlement Agreement Section V. G.; page 23, lines 3-9 (lead-in page 18, lines 11-12)

Assigned Unit: BFO

**Compliance Date:** July 20, 2004

**Settlement Agreement Language:**

“• By July 20, 2004, OPD must develop and implement a policy requiring that it convene a Firearms Discharge Board of Review for every officer-involved firearms discharge. The Settlement Agreement sets forth criteria that must be included in this policy.”

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**Status:** Progressing with Concern

**Deliverables:**

- Revised Departmental General Order K-4, *Reporting the Use of Force*
- Revised Departmental General Order K-4.1, *Investigating the Use of Force*

**Implementation Activities**

In March, 2004, the OIG’s Compliance Unit scheduled a series of meetings with Departmental use of force experts, the Bureau of Investigations Chief, representatives of the Office of the City Attorney, and the Internal Affairs Division. The meetings discussed the substantive areas of the General Orders K-4, and K-4.1. to elicit viable recommendations toward finalizing the policies in an expeditious manner. A substantial number of comments were received, which identified policy areas that required revision and/or restructuring.

As a strategy to achieve timely policy compliance, accommodations were made to increase the time that use of force experts could directly assist the subject matter expert in completing all outstanding revisions. The revised drafts were reviewed by the OIG and returned to the task manager with comments suggesting further revision.

In June, 2004, the draft policies were reviewed by a select group of Departmental commanders to provide a “fresh look” at the documents. The group identified additional areas of policy that needed modification and clarification.

As part of the July, 2004 Monthly “Riders” meeting, the subject matter expert provided an update on the status of the use of force policies. The subject matter expert indicated that more time would be needed to complete the documents. It was agreed that in two weeks, the subject matter expert would submit a request for a due date extension. The extension request would identify the remaining steps to be accomplished and an estimated timeline for their completion.

During the last semi-annual reporting period, the OIG reviewed the Department’s use of force reporting and investigation systems. The use of force review resulted in several recommendations, which included conducting performance audits to ensure Boards of Review files are not misplaced or missing; implementing timeline restrictions in which to convene Boards of Review; and implementing a system to ensure Board recommendations are complied

with in a timely manner. It was reported that some of the recommendations had been implemented as noted, or were otherwise under advisement.

In their *Third Quarterly Report*, the IMT observed and conducted a document review of the Department's Firearms Discharge Board of Review. The IMT reported the Review Board suffered from several deficiencies, including: untimely review, a lack of tracking of shooting reviews, insufficient involvement by relevant Departmental components, and gaps in the shooting investigations. The IMT made a number of recommendations that are currently being implemented or are under advisement.

The OIG will continue to conduct audits and reviews on this Agreement provision and provide updates on the implementation of the Agreement requirements and the review recommendations.

**Task 31: Officer-Involved Shooting Investigation**

Settlement Agreement Section V. H.; page 23, lines 10-19 (lead-in page 18, lines 11-12)

Assigned Unit: BOI

**Compliance Date:** July 20, 2004

**Settlement Agreement Language:**

“Within 390 days from the effective date of this Agreement, OPD shall develop and implement a revised policy, and appropriate forms, regarding use of force reporting and review.

**G. Officer-Involved Shooting Investigation**

OPD shall develop a policy to ensure that, in every officer-involved shooting in which a person is struck, Homicide and Internal Affairs investigators respond to the scene. The shooting investigation shall be conducted in partnership with, and when deemed appropriate by, the Alameda County District Attorney’s Office. Interviews of the subject officer(s) shall be conducted jointly with the appropriate staff from Homicide and the Office of the District Attorney. The District Attorney and City Attorney shall be notified in accordance with the provisions of Section V, paragraph A (5), of this Agreement. All evidentiary material shall be duplicated and provided to the Alameda County District Attorney’s Office, the Internal Affairs Division, and the City Attorney’s Office.”

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**Status:** Progressing with Concern

**Deliverables:**

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

**Implementation Activities**

This training bulletin is complete and in compliance. Training is reported to be complete, but has not yet been verified through an audit of the training rosters. The current report submitted by the assigned unit indicates that the Task has been completed. Training Bulletin V-O, Officer Involved Shooting, was published on August 21, 2003, and the task manager reports that members have been trained on the directive.

Although the above-listed Training Bulletin addresses the provisions of this Task, portions of this Task will also be reflected in the following Department publications:

- Revised Departmental General Order K-3, *The Use of Force*;
- Revised Departmental General Order K-4, *Reporting the Use of Force*; and
- Revised Departmental General Order K-4.1, *Investigating the Use of Force*.

In the *Second Semi-Annual Report*, it was reported that recommendations from the OIG review of this Task have been implemented as noted or are otherwise under advisement. As reported in the IMT’s *Third Quarterly Report*, the IMT conducted a document review of firearms discharge investigations. The IMT identified deficiencies in the shooting investigations. Most notably were the lack of forensic and criminalities information. The IMT made a number of recommendations that are under advisement or in the process of being implemented.

The OIG will continue to conduct audits and reviews on this provision and provide updates on the implementation of the Agreement requirements and the review recommendations.

**Task 32: Use of Camcorders**

Settlement Agreement Section V. I.; page 23, lines 20-21 (lead-in page 18, lines 11-12)

Assigned Unit: BFO

**Compliance Date:** July 20, 2004

**Settlement Agreement Language:**

*“Within 390 days from the effective date of this Agreement, OPD shall develop and implement a revised policy, and appropriate forms, regarding use of force reporting and review.*

**H. Use of Camcorders**

*OPD shall explore the use and cost-effectiveness of camcorders in Patrol vehicles.”*

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**Status:** In Full Compliance

**Deliverables:**

- White paper research report

**Implementation Activities**

Their research and recommendations were presented to the Chief of Police in a report dated May 28, 2003

On June 6, 2003, the Chief of Police requested that a report of a funding source study be completed. This request was assigned to the Bureau of Field Operations with a due date of July 7, 2003. The report was provided to the Chief. Based on the funding report, the Chief of Police determined that at the present time it was neither feasible nor cost-effective to install camcorders in Patrol vehicles.

The Department continues to explore possible funding sources for the use of camcorders in patrol cars.

**Task 33: Misconduct**

Settlement Agreement Section VI. A.; page 23, line 25 – page 24, line 16 (lead-in page 23, lines 23-24)

Assigned Unit: BOS

**Compliance Date:** August 25, 2003

**Settlement Agreement Language:**

*“Within 154 days from the effective date of this Agreement, OPD shall establish policy and procedures for the following:*

**A. 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.”*

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**Status:** Not in Full Compliance

**Deliverables:**

- Departmental General Order D-16, *Check-In and Orientation*  
September 1, 2002 *Manual of Rules* revisions:
- *Manual of Rules* Section 314.48, *Reporting Violations of Laws, Ordinances, Rules or Orders*
- *Manual of Rules* Section 314.49, *Confidential Reporting of Police Misconduct*
- *Manual of Rules* Section 370.18, *Arrests*
- *Manual of Rules* Section 370.27, *Use of Physical Force*

**Implementation Activities**

On February 6, 2004, the IMT opined that *Manual of Rules* Sections 370.18 and 370.27 were in conflict with the provisions of this Task. Specifically, the maximum time allowed to report apparent improper uses of force to the Internal Affairs Division should be shortened from 72-hours to 24-hours.

On March 9, 2004, the Department met with the IMT and agreed to revise the *Manual of Rules* sections to require a 24-hour reporting period. The revised sections were published on April 13, 2004, as Special Order 8136. DGO D-16, *Manual of Rules*, Sections 314.48 and 314.49, were published during the last semi-annual reporting period.

Full implementation of this Task will be complete when training has been provided to all members and employees. Training is underway, and verification is pending. The Department has been unable to confirm the level of training compliance. The Department anticipates being able to determine the level of training compliance within the early part of the next reporting period.

**Task 34: Vehicle Stops, Field Investigation and Detentions**

Settlement Agreement Section VI. B.; page 24, line 17 – page 25, line 6 (lead-in page 23, lines 23-24)

Assigned Unit: BFO

**Compliance Date:** August 25, 2003

**Settlement Agreement Language:**

“Within 154 days from the effective date of this Agreement, OPD shall establish policy and procedures for the following:

**B. Vehicle Stops, Field Investigation and Detentions**

1. OPD shall require members to complete a basic report on every vehicle stop, field investigation and every detention. This report shall include, at a minimum:
  - a. Time, date and location;
  - b. Identification of the initiating member or employee commencing after the first year of data collection;
  - c. Reason for stop;
  - d. Apparent race or ethnicity, and gender of individual(s) stopped;
  - e. Outcome of stop (arrest, no arrest);
  - f. Whether a search was conducted, and outcome of search;
  - g. Offense categories (felony, misdemeanor or infraction).
2. This data shall be entered into a database that can be summarized, searched, queried and reported by personnel authorized by OPD.
3. The development of this policy shall not pre-empt any other pending or future policies and or policy development, including but not limited to ‘Promoting Cooperative Strategies to Prevent Racial Profiling.’”

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**Status:** Not in Full Compliance

**Deliverables:**

- Special Order 8012, *Racial Profiling Stop-Data Collection Form*

**Implementation Activities**

As noted in the last semi-annual report, Special Order 8012, *Racial Profiling Stop-Data Collection Form*, was published April 1, 2003. Special Order 8012 outlines the procedure for completing and processing the “Stop-Data Collection Form.” This Special Order was evaluated against the Agreement, and determined to adequately address all the points listed in Agreement Task 34. This policy was determined to be in compliance, but training reported as completed has not yet been verified through an audit of training rosters; thus, this policy is not in full compliance based on a preliminary review of implementation. An audit revealed that the initial data collection took this Task out of compliance.

A preliminary review by the OIG of the implementation of this Task revealed that overall, 26 percent of forms were being turned in. Interviews with officers in the field indicated that some did not have access to the form and some did not receive the training. Some officers also expressed concern that although they did not believe they were practicing biased policing, the data collected might be used to make it seem as though they were.

The Chief advised commanders of the results of the review, and the need to address compliance. Accessibility of forms was monitored, and corrected as necessary. Processing of forms and input of data was examined, and modified as necessary.

**Task 35: Use of Force Reports – Witness Identification**

Settlement Agreement Section VI. C.; page 25, lines 7-16 (lead-in page 23, lines 23-24)

Assigned Unit: BOS

**Compliance Date:** August 25, 2003

**Settlement Agreement Language:**

*“Within 154 days from the effective date of this Agreement, OPD shall establish policy and procedures for the following:*

***C. Use of Force Reports – Witness Identification***

*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.*

*In situations in which there are no known witnesses, the report shall specifically state this fact.*

*Policy shall further require that in situations in which witnesses were present but circumstances prevented the author of the report from determining the identification or phone number or address of those witnesses, the report shall state the reasons why the member/employee was unable to obtain that information. Reports shall also include the names of all other members/employees of OPD witnessing the incident.”*

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**Status:** Progressing with Concern

**Deliverables:**

- Revised Departmental General Order K-4, *Reporting the Use of Force*
- Revised Departmental General Order K-4.1, *Investigating the Use of Force*
- Special Order 8066, *Use of Force – Witness Identification*

**Implementation Activities**

Special Order 8066, *Use of Force – Witness Identification*, was published on December 23, 2003. However in February, 2004, the IMT determined that the term “when applicable” as referenced in two sections of the Order did not provide specific guidelines of when officers must take statements from witnesses. The Department agreed and revised the Order to remove the ambiguity and published a revised Special Order on April 1, 2004.

The provisions of Special Order 8066 will be folded into the published versions of DGO’s K-4 and K-4.1. Full implementation of this Task will be complete when all required training has been provided to all members and employees.

**Task 36: Procedures for Transporting Detainees and Citizens**

Settlement Agreement Section VI. D.; page 25, lines 17-24 (lead-in page 23, lines 23-24)

Assigned Unit: BOS

**Compliance Date:** August 25, 2003

**Settlement Agreement Language:**

*“Within 154 days from the effective date of this Agreement, OPD shall establish policy and procedures for the following:*

**D. Procedures for Transporting Detainees and Citizens**

1. *OPD shall continue to require every member and employee to log in and log out on the radio when transporting a detainee or any other civilian. The radio report shall include time, mileage, location, purpose of transport, gender of individual being transported, and identification of the member or employee involved in the transport.*
2. *This requirement does not apply to ‘wagons’ engaged exclusively in the transport of prisoners. These ‘wagons’ shall continue to comply with the provisions of Departmental General Order (DGO) O-2, ‘Transportation of Prisoners and Persons in Custody.’”*

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**Status:** Not in Full Compliance

**Deliverables:**

- Special Order 8055, *Transportation of Persons in Custody*

**Implementation Activities:**

This Special Order was published November 14, 2003. Training for this Task began in January, 2004. Full implementation of this Task will be complete when all required training has been provided to all members and employees. The retention of all training records pertaining to the Agreement is necessary to demonstrate compliance.

**Task 37: Internal Investigations – Retaliation Against Witnesses**

Settlement Agreement Section VI. E.; page 25, line 25 – page 26, line 9 (lead-in page 23, lines 23-24)

Assigned Unit: BOS

**Compliance Date:** August 25, 2003

**Settlement Agreement Language:**

*“Within 154 days from the effective date of this Agreement, OPD shall establish policy and procedures for the following:*

***E. Internal Investigations – Retaliation Against Witnesses***

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

*Reports misconduct by any other member or employee, or*

*Serves as a witness in any proceeding against a member or employee.*

*The policy prohibiting retaliation shall acknowledge that retaliation may be informal and subtle, as well as blatant, and shall define retaliation as a violation for which dismissal is the presumptive disciplinary penalty. Supervisors, commanders and managers shall be held accountable for the conduct of their subordinates in this regard. If supervisors, commanders or managers of persons engaging in retaliation knew or reasonably should have known that the behavior was occurring, they shall be subject to the investigative, and if appropriate, the disciplinary process.”*

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**Status:** Not in Full Compliance

**Deliverables:**

September 1, 2002, *Manual of Rules* revisions:

- *Manual of Rules* Section 398.73, *Retaliation Against Witnesses*
- *Manual of Rules* Section 398.74, *Retaliation Against Witnesses, Accountability*

**Implementation Activities**

These policies were published November 14, 2003. Full implementation of this Task will be complete when adequate training on all related policy has been provided to all members and employees. Training on this policy is scheduled to take place January 19, 2004. The retention of all training records pertaining to the Agreement is necessary to demonstrate compliance.

Training is underway, but the Department has been unable to confirm the level of training compliance. The Department anticipates being able to determine the level of training compliance within the early part of the next reporting period.

**Task 38: Citizens Signing Police Forms**

Settlement Agreement Section VI. F.; page 26, lines 10-14 (lead-in page 23, lines 23-24)

Assigned Unit: BOS

**Compliance Date:** August 25, 2003

**Settlement Agreement Language:**

“Within 154 days from the effective date of this Agreement, OPD shall establish policy and procedures for the following:

**F. Citizens Signing Police Forms**

OPD personnel shall be required to ensure that citizens who sign written statements on a Statement form draw a diagonal stripe from the end of the written narrative to the bottom of the page, and sign along that stripe. Statements taken on offense reports shall be signed by the citizen immediately following the statement.”

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**Status:** Not in Full Compliance

**Deliverables:**

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

**Implementation Activities**

As mentioned in the previous semi-annual report, the Department published an Information Bulletin on Citizens Signing Police Forms on October 22, 2003. All watch commanders, Police Service Area commanders, and a majority of Department members and employees have received the training on citizens signing police forms, as noted on the training logs. The Office of Inspector General conducted a preliminary review and determined that compliance with the signing of police forms was at 55 percent. The review found the policy had a positive impact on compliance.

In the IMT’s *Second Quarterly Report*, they reviewed a three-day sample of citizen statements from December 15, 2003; December 18, 2003; and December 20, 2003. The IMT also reviewed training rosters for the same three-day period to determine the number of officers completing the reports who had received training on this Task. The IMT determined the Departmental policy was in compliance, but the training and practice was not in compliance at 52-80 percent and 77.3 percent, respectively.

**Task 39: Personnel Arrested, Sued and/or Served with Civil or Administrative Process**

Settlement Agreement Section VI. G.; page 26, line 15 – page 27, line 11 (lead-in page 23, lines 23-24)

Assigned Unit: BOS

**Compliance Date:** August 25, 2003

**Settlement Agreement Language:**

*“Within 154 days from the effective date of this Agreement, OPD shall establish policy and procedures for the following:*

**G. Personnel Arrested, Sued and/or Served with Civil or Administrative Process**

1. *OPD shall continue its policy requiring OPD personnel to report, to IAD directly and through his/her chain of command, within 72 hours, any occurrence in which that member or employee has been:*
  - a. *Arrested; or*
  - b. *Sued and/or served with civil or administrative process related to his/her employment or containing allegations which rise to the level of a Manual of Rules violation.*
2. *OPD shall develop a policy requiring OPD personnel to report to the Chief of Police, through his/her chain of command, within 72 hours, that they have been served with civil or administrative process, including tort claims, financial claims, whenever applying for a transfer to or serving in:*
  - a. *The Gang Unit, Vice/Narcotics Section, Intelligence Division or Internal Affairs Division;*
  - b. *An assignment that may tend to indicate a conflict of interest with respect to the performance of his/her official duties; or*
  - c. *A specialized unit in which there is a strong possibility that bribes or other improper inducements may be offered.*
3. *For the purposes of this Agreement, allegations involving “financial claims” mean civil or administrative process claims relating to judgments for collection related to property seizures, taxes, judgments for money owed, debt as a debtor or creditor, filing bankruptcy, garnishments, liens, attachments on bank or savings accounts, spousal support, child support and/or foreclosure.”*

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**Status:** Not in Full Compliance

**Deliverables:**

- September 1, 2002, *Manual of Rules* revision; *Manual of Rules* Section 314.28, *Notification*
- Special Order 8064, *Reporting Civil Actions Served*

**Implementation Activities**

On February 6, 2004, the IMT opined that Special Order 8064, *Reporting Civil Actions Served*, was confusing and likely to leave officers unsure of the reporting requirements. Specifically, officers may have been led to believe that they are only required to report financial claims (as opposed to tort claims and other civil and administrative processes) because financial claims were the only types of claims enumerated.

On April 13, 2004, the Special Order was revised to closely track the Agreement language and to provide examples of financial claims that trigger the reporting requirements set forth in the policy. Full implementation of this Task will be complete when training has been provided and training records verified for all members and employees.

**Task 40: Personnel Information Management System (PIMS)**

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

Assigned Unit: BOS

**Compliance Date:** June 28, 2005

**Settlement Agreement Language:**

“By June 28, 2005, OPD must develop and implement a Personnel Information Management System (PIMS). This computerized relational database must maintain, integrate and retrieve data necessary for supervision and management of OPD and its personnel. Specifically, this data must be used by OPD to promote professional police practices; manage the risk of police misconduct; and evaluate and audit the performance of OPD members of all ranks, employees and OPD units, subunits and shifts. The Settlement Agreement sets forth particular information that must be captured by PIMS.”

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**Status:** Progressing without Concern

**Deliverables:**

- Subcommittee on the Personnel Information Management System (PIMS)
- New Departmental General Order
- Relational database and associated computer hardware and software

**Implementation Activities**

The specifications phase for the PIMS’s RFP process was completed. After the PIMS RFP was posted on the city website in January, 2004, a vendor conference was held in February, 2004. Three vendors responded. One dropped out, one submitted a bid for over \$1 million and CRISNET, Inc. of Salt Lake City, Utah, met the requirement of not exceeding the bid amount specified. In addition, CRISNET demonstrated their Evalis software/program for the Department’s staff.

CRISNET reviewed our specification requirements for database integration, data fields, document links, and file tracking. In order to get a better understanding of the proposed system, the IMT met with CRISNET. Presently, the Department and CRISNET are in the final phases of contract negotiations.

**Task 41: Use of Personnel Information Management System (PIMS)**

Settlement Agreement Section VII. B.; page 28, line 23 – page 33, line 24

Assigned Unit: BOS

**Compliance Date:** June 28, 2005

**Settlement Agreement Language:**

“By June 28, 2005, OPD must develop a policy for the use of PIMS, including supervising and auditing the performance of specific members, employees, supervisors, managers and OPD units, as well as OPD as a whole. The Settlement Agreement sets forth extensive requirements regarding how PIMS must be used.”

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**Status:** Progressing without Concern

**Deliverables:**

- Subcommittee on the Personnel Information Management System
- Chief of Police Memorandum, *Personnel Information Management System* (May 15, 2003)
- Revised Departmental General Order M-5, *Case Evaluation and Report Review Notice*
- Report Writing Manual Insert E-3
- Case Evaluation and Report Review Notice form

**Implementation Activities**

A PIMS Administration Unit was designated by the Chief of Police and a sub-committee was formed to conduct research on the PIMS and determine best practices. The subcommittee appointed a new chairperson and formed new subcommittees with specific roles and responsibilities. Committee members, including a policy analyst from the Citizen’s Police Review Board, have met with public policy students from UC Berkeley to research the effectiveness of existing PIM Systems, data fields, policy, and intervention strategies. The PIMS committees continue to meet regularly.

**Task 42: Field Training Program**

Settlement Agreement Section VIII.; page 33, line 25 – page 37, line 4

Assigned Unit: BOS

**Compliance Date:** April 16, 2004

**Settlement Agreement Language:**

“By April 16, 2004, OPD must develop and implement a plan to enhance its Field Training Program. This plan must address: the criteria and method for selecting Field Training Officers (“FTOs”); the training provided to FTOs to perform their duty; the supervision and evaluation of FTOs; the length of time that trainee officers spend in the program; and the methods by which FTOs assess and evaluate trainee officers in field training. The Settlement Agreement sets forth extensive requirements that must be part of this new Field Training Program.”

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**Status:** Not in Compliance

**Deliverables:**

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

**Implementation Activities**

Departmental General Order B-8, *Field Training Program*, was published and distributed prior to the retention of the IMT. The policy was determined to be in compliance by the Department. The IMT has not determined the status of compliance for this policy.

The IMT reviewed DGO B-8 and provided their comments on March 8, 2004. Essentially, the IMT identified several areas that did not fulfill the requirements of the Agreement. During this reporting period, the California Commission on Peace Officer Standards and Training (POST) changed the requirements for certification of the FTO program, which required the DGO B-8 policy to be revised.

The current Task Progress Report indicates that the Field Training Program Coordinator (FTPC) held a focus group session for the 153<sup>rd</sup> Basic Academy, and provided the results to the Training Section Commander. The FTPC held the first Personal Interview with the Trainee Officer. The FTPC also audited the trainee’s field training folder and found that all of the required daily evaluations had been maintained. The FTPC provided training on the Field Training Program to sergeants attending the Supervisor Transition Course.

The FTPC began using a newly-created “Trainee Officer Weekly Field Training Log” to document which FTO provided field training on each work day as well as what assignment the trainee officer was given if no FTO was available. This form also documents which area supervisor completed the required Field Training Supervisor’s Weekly Evaluation Report.

The FTPC submitted a newly-created form entitled, “Field Training Evaluation Report,” to meet both Settlement Agreement and POST field training requirements. The form will be used by trainee officers to evaluate the Field Training Program itself.

The FTPC has met with the IMT to identify substantive areas of policy that require revision. These changes are being incorporated into the DGO. When these changes are completed, the DGO will be forwarded to the IMT for compliance approval.

Training conferences continue with the Trainee Officer. The grievance filed regarding the FTO de-certification process has been discussed by the City Attorney's Office and OPOA, and is resolved.

Although there is one trainee officer at this time, because of fiscal constraints, no police academies are currently scheduled. A performance/compliance audit of this Task will be conducted once the Department resumes hiring and training new officers.

**Task 43: Academy Training Plan**

Settlement Agreement Section IX.; page 37, line 5 – page 38, line 19

Assigned Unit: BOS

**Compliance Date:** February 15, 2005

**Settlement Agreement Language:**

“By February 15, 2005, OPD must develop and implement a plan to enhance its Academy and in-service training to ensure that OPD personnel at all levels are adequately trained for their positions, and are aware of and able to implement the most contemporary developments in police training. The Settlement Agreement sets forth criteria that must be contained in this enhanced Academy and in-service training plan and parameters for the frequency and documentation of in-service training. In addition, this provision sets new training criteria for sergeants and command staff.”

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**Status:** Progressing without Concern

**Deliverables:**

- Revised Departmental General Order B-20, *Departmental Training Procedures*

**Implementation Activities**

The current Agreement Task Progress Report indicates that this Task is 50 percent complete. Research on best practices in instructor selection and training, and evaluation of the content and quality of training has begun. Law enforcement organizations including the California Highway Patrol, Rio Hondo Regional Training Center, Yuba Community College, Las Vegas Metropolitan Police Department, Los Angeles Police Department, and Miami Police Department were contacted. A final draft of the research findings is being revised.

**Task 44: Performance Appraisal Policy**

Settlement Agreement Section X. A.; page 38, line 23 – page 40, line 7 (lead-in page 38, lines 21-22)

Assigned Unit: BOS

**Compliance Date:** July 7, 2003

**Settlement Agreement Language:**

“By July 7, 2004, OPD must write performance appraisals individually for each member/employee being evaluated. These performance appraisals must accurately reflect the quality of the member/employee’s performance. The Settlement Agreement sets forth criteria for these performance appraisals, including documentation of complaints and patterns of conduct and accountability of PSA lieutenants for the quality of community contacts by their beat officers. The Settlement Agreement further designates the supervisor responsible for completing the performance appraisal and requires OPD to conduct regular audits of the performance appraisal system to ensure compliance with the Settlement Agreement.”

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**Status:** Not in Full Compliance

**Deliverables:**

- Revised Departmental General Order B-6, *Performance Appraisal*

**Implementation Activities**

A new DGO B-6, *Performance Appraisal*, was drafted, staffed, and reviewed by all parties. The DGO was published on April 27, 2004, and distributed to all personnel. Supervisors and commanders who administer personnel evaluations are being trained on the requirements for completing personnel evaluations.

During the last several months, all supervisors and managers were required to complete performance appraisals for their subordinates. The IMT conducted a compliance review of the completed appraisals and will be releasing a report at the end of the fourth quarter. The IMT has warned the Department that the appraisals were not completed in compliance with the requirements of the Agreement or DGO B-6. Additionally, the IMT will report whether supervisors and commanders were held accountable for non-compliance.

**Task 45: Consistency-of-Discipline Policy**

Settlement Agreement Section X. B.; page 40, line 8 – page 41, line 3 (lead-in page 38, lines 21-22)

Assigned Unit: IAD

**Compliance Date:** June 15, 2004 (Policy) / July 1, 2004 (Training)

**Discipline Matrix and Training Bulletin Due Date:** June 15, 2004

**Settlement Agreement Language:**

“By June 15, 2004, OPD must revise and update its disciplinary policy to ensure that discipline is imposed in a fair and consistent manner. The updated disciplinary policy must describe the circumstances in which disciplinary action is appropriate and those in which Division-level corrective action is appropriate, and establish a centralized system for documenting and tracking all forms of discipline and corrective action. The Settlement Agreement also sets forth general criteria for OPD’s response to sustained findings in Class I and Class II investigations.”

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**Status:** Not in Compliance

**Deliverables:**

- Discipline Matrix and Training Bulletin
- Departmental General Order M-3, *Complaints Against Department Personnel or Procedures*

**Implementation Activities**

To factor in past practices to formulate the Discipline Matrix, the Department researched its disciplinary records from 1999-2003 for sustained complaints. Personnel provided a historical log based on cases where disciplinary actions were taken, and the Office of the City Attorney provided anecdotal information. The research described a full range of Departmental discipline which included oral reprimands, counseling, training, written reprimands, suspensions, demotions, and terminations.

After considering disciplinary ranges from other municipalities in combination with the Department’s past practices, the Consistency of Discipline Working Group held a series of weekly meetings to draft a matrix with instructions for administering discipline.

Command staff reviewed the proposed matrix and accompanying instructions. Command staff recommended the following: define aggravating and mitigating circumstances, define the starting point and range for the process of prescribing discipline, and explain how to use the Matrix for multiple violations.

Subsequently, the plaintiffs’ attorneys and the IMT reviewed the draft matrix and accompanying instructions. The plaintiffs’ attorneys felt the matrix needed stricter, more severe and more consistent discipline. They requested more specific language and the inclusion of “no tolerance” areas. Additionally, they wanted input from the Office of the City Attorney on uniformity of discipline for sworn personnel so that the Department’s practices do not vary significantly from the City’s discipline of civilians for the same types of violations.

The IMT had similar concerns. The IMT believes that the inappropriate discipline ranges would undermine the fair imposition of discipline. In addition, the matrix does not indicate how the disciplinary sanctions of demotion, transfer, and fines fit into the disciplinary ranges. Discipline must be consistent with the Agreement's legal requirements and reflect the Department's values. Additionally, the IMT believes the instructions are insufficient and the descriptions and definitions of violations are inadequate.

The Department plans to continue meeting with stakeholders to discuss these concerns. If the matrix is finalized, the Department will beta-test the matrix by providing supervisors and commanders hypothetical discipline scenarios to facilitate the successful implementation of a new discipline approach.

Ibid, pages 29 – 31, to review associated M-3 Implementation Activities for this Task.

**Task 46: Promotional Consideration**

Settlement Agreement Section X. C.; page 41, lines 4-16 (lead-in page 38, lines 21-22)

Assigned Unit: BOS

**Compliance Date:** July 8, 2003

**Extended Compliance Date:** December 1, 2003

**Settlement Agreement Language:**

“By July 8, 2003, OPD’s promotion policy must be modified so that sustained misconduct cases against a member/employee are an important factor in determining promotability, including presumptive ineligibility for promotion for twelve months following the sustained finding of a Class I violation.

The Settlement Agreement further requires the Chief of Police to consider the following criteria, in addition to other factors, in making promotional determinations:

- (a) Commitment to community policing;
- (b) Quality of citizen contacts;
- (c) Number of citizen complaints;
- (d) Instances of unnecessary use of force; and
- (e) Support for Departmental integrity measures.”

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**Status:** Progressing without Concern

**Deliverables:**

- Memorandum from the Office of Chief of Police on Promotional Consideration

**Implementation Activities**

The Memorandum on Promotional Consideration issued by the Office of the Chief of Police was drafted, reviewed, and is ready for publication. Because this memorandum refers to Class I and Class II offenses, it is currently on hold (by mutual agreements of the stakeholders to the Agreement) until the Departmental publication defining these terms is issued. The publication which defines these terms is DGO M-3, which has been drafted. In the previous *Second Semi-Annual Report*, implementation stated that DGO M-3 was scheduled to be issued during the first quarter of 2004. Due to subsequent delays and rescheduling of delivery dates, M-3, will most likely be issued during the last quarter of 2004.

Update note: It was agreed at the April, 2004, Agreement meeting that the new DGO M-3 would be published by June 15, 2004. However, this document was not delivered to stakeholders for their review until July 9, 2004. The policy is undergoing an extended review period (beyond the standard 15-days), due to the nature and complexity of the documents, coupled with another complex document (the Discipline matrix) which was simultaneously issued for review as well.

**Task 47: Community Policing Plan**

Settlement Agreement Section XI.; page 41, line 17 – page 42, line 9

Assigned Unit: BFO

**Compliance Date:** August 1, 2003

**Settlement Agreement Language:**

“• By August 1, 2003, OPD must develop and implement a plan to strengthen its commitment to local communities. The Settlement Agreement sets forth particular requirements the plan must include: OPD must host at least one community meeting per quarter in each Patrol Service Area; each patrol supervisor and officer assigned to a regular beat or geographic area of the City must attend a minimum of one community meeting per quarter in the Area to which he/she is regularly assigned; OPD must develop mechanisms to measure its community policing and problem solving activities; OPD must incorporate positive statistics on community policing and problem solving activities in “Crime-Stop” meetings, along with information on citizen complaints and use of force incidents; and OPD must arrange a meeting within sixty days unless not feasible with representatives of an organization active within Oakland, if the organization communicates a concern regarding specific police personnel or practices.”

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**Status:** Not in Full Compliance

**Deliverables:**

- Departmental General Order B-7, *Requests for Meetings and Public Appearances*
- Bureau of Field Operations Policy and Procedure 03-03, *Community Meetings*
- Training Bulletin III-A.5, *Problem-Oriented Policing and the 2003 Reorganization of the Patrol Division*

**Implementation Activities**

In April, 2004, the IMT confirmed that the following three policies were compliant with the Agreement: Training Bulletin (TB) III A-5, *Community-Oriented Policing and the 2003 Reorganization of the Bureau of Field Operations*; Departmental General Order (DGO) B-7, *Requests for Meetings and Public Appearances*; and Bureau of Field Operations (BFO) Policy & Procedures 03-03, *Community Meetings*.

TB III A-5, *Community-Oriented Policing and the 2003 Reorganization of the Bureau of Field Operations*, has been published three times with different training plans, and current policies were trained on with old lesson plans. TB III A-5 sets forth Department objectives and changes of BFO personnel. It describes the reorganization of BFO since 27 September 02 and sets forth procedures to strengthen the Department’s commitment to Community Policing.

DGO B-7, *Requests for Meetings and Public Appearance*, was published on April 11, 2004. It sets forth Departmental policy and procedures for public appearances (including community meetings) of police personnel and a centralized file for public appearance information.

**Task 48: Departmental Management and Annual Management Report**

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

Assigned Unit: BOS

**Compliance Date:** July 2, 2003

**Settlement Agreement Language:**

“• By September 5, 2003, OPD must develop and implement a policy requiring each functional unit of OPD to prepare a management report every twelve months. The report must include relevant operating data and highlight ongoing or extraordinary problems and noteworthy accomplishments. The Settlement Agreement further requires that Division commanders meet individually with the Chief of Police and their respective Deputy Chiefs to thoroughly review the management reports of that Division.”

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**Status:** Not in Full Compliance

**Deliverables:**

- New Departmental General Order A-7, *Annual Management and Departmental Report*
- Annual Management Reports

**Implementation Activities**

A new Departmental General Order was drafted, staffed, and reviewed by all parties. The DGO was published on November 24, 2003.

Full implementation of this Task will be complete when adequate training on all Agreement-related policy has been provided to all members and employees. Training on this policy is scheduled to begin January 19, 2004. The retention of all training records pertaining to the Agreement is necessary to demonstrate compliance.

**Task 49: Monitor Selection and Compensation**

Settlement Agreement Section XIII. A.; page 42, line 18 – page 53, line 19

Assigned Unit: OCOF

**Compliance Date:** April 15, 2003

**Settlement Agreement Language:**

“• By April 15, 2003, the parties must select a Monitor, subject to the approval of the Court, who shall review and report on OPD’s implementation of, and assist with, OPD’s compliance with the Settlement Agreement. The Settlement Agreement sets forth extensive provisions related to the Monitor’s duties.”

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**Status:** In Full Compliance

**Deliverables:**

- Professional Services Agreement and Scope of Services for the Independent Monitor
- Departmental General Order N-13, *Exchange of Document Protocols*

**Implementation Activities**

Following negotiations with Relman & Associates, a Professional Services Agreement and Scope of Work for Independent Monitor services went before City Council on July 15, 2003.

The Independent Monitoring Team (IMT) made their first visit to the Department on July 14, 2003 – July 17, 2003, with meetings scheduled for July 16, 2003 and July 17, 2003, after Council met. Since that time, the IMT has been on-site August 19-21, 2003, September 3-5 and 22-26, 2003, October 27-31, 2003, November 18-20, 2003, and December 17-19, 2003.

The IMT continued to be on site during the period of this report on a monthly basis. The typical duration of visits were for a period of 4 to 5 days. These visits normally occur during the week of the Monthly Meeting, which is normally scheduled for the third Thursday of each month.

An initial draft of Departmental General Order N-13, *Exchange of Document Protocols*, was drafted and reviewed with comments by the IMT.

**Task 50: Compliance Unit Liaison Policy**

Settlement Agreement Section XIV. A.; page 53, line 21 – page 54, line 5

Assigned Unit: OIG

**Compliance Date:** March 4, 2003

**Settlement Agreement Language:**

“• By March 4, 2003, OPD must create a Compliance Unit to serve for the duration of the Settlement Agreement. The Compliance Unit will serve as the liaison between OPD, the Monitor and Plaintiffs’ counsel, and will assist with OPD’s compliance with the Agreement. Among the Compliance Unit’s many duties is the preparation of a semi-annual report describing the steps taken, during that reporting period, to comply with the provisions of the Settlement Agreement.”

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**Status:** In Full Compliance

**Deliverables:**

- Training Bulletin V-S, *Publication Development* (April 30, 2003)
- Special Order 8009, *Settlement Agreement 6-Week Progress Reports* (May 7, 2003)
- Special Order 8010, *Comments and/or Recommendation by Departmental Personnel Regarding Departmental Publications* (May 8, 2003)
- Special Order 8011, *Compliance Unit Liaison Policy* (May 9, 2003)

**Implementation Activities**

Functionally, the provisions of the Task are assigned to, and performed by, the Office of Inspector General. This Task was initiated prior to the filing of the Agreement, and key coordination and implementation responsibilities are now codified by the following: Training Bulletin V-S, *Publication Development*; Special Order 8009, *Agreement 6-Week Progress Reports*; Special Order 8010, *Comments and/or Recommendation by Department Personnel Regarding Departmental Publications*; Special Order 8011, *Compliance Unit Liaison Policy*.

The purpose of Training Bulletin V-S, *Publication Development*, is to establish uniform Departmental publication standards, styles and formats. It also provides instruction on how to develop a Departmental publication. Page two outlines the procedures that are to be taken to ensure that Departmental directives are developed or revised in accordance with the provisions of the Agreement.

The purpose of Special Order 8009, *Settlement Agreement Six-Week Progress Reports*, is to set forth Departmental policy and procedures regarding the six-week progress reporting of Agreement-related Tasks. A report is required for each functional Task. Based on these reports, the OIG is required to prepare a summary report to the Chief of Police (COP). To the extent possible, the COP ensures that the task managers complete the Task within the required time period.

The purpose of Special Order 8011, *Compliance Unit Liaison Policy* is to codify existing practices by designating the OIG as the Compliance Unit for the duration of the Agreement and, as such, shall serve as the liaison between OPD, the Independent Monitoring Team and the plaintiffs' counsel and shall assist with OPD's compliance with the Agreement.

Special Order 8011, published 09 May 03, modifies Departmental General Order N-12, *Audits and Inspections*. This Special Order, specifically Parts I and II, was evaluated against the Agreement language for Task 50.

Special Order 8011, Parts I. and II, reads as follows:

**I. PURPOSE**

“The purpose of this order is to codify existing practice by designating the Office of Inspector General (OIG) as the Compliance Unit for the duration of the Settlement Agreement (hereafter, referred to as Agreement) and, as such, shall serve as the liaison between OPD, the Monitor and the plaintiffs' counsel, and shall assist with OPD's compliance with the Agreement.”

**II. COMPLIANCE UNIT RESPONSIBILITIES**

The Compliance Unit Liaison shall have the responsibility of coordinating and reporting progress on Department implementation of the Agreement. The Compliance Unit shall:

- A. “Serve as a single-point-of-contact for the Independent Monitor;
- B. Coordinate Department implementation and compliance efforts;
- C. Report to the Chief of Police concerning Department progress toward implementation of, and compliance with, the provisions of the Agreement;
- D. Facilitate the provisions of data and documents;
- E. Provide to the Monitor access to OPD personnel, as needed;
- F. Ensure that documents and records are maintained as required by the Agreement; and
- G. Prepare a semi-annual report describing the steps taken during the reporting period to comply with the provisions of the Agreement.”

The OIG implementation review concluded that all of the provisions listed in the Agreement have been addressed in Special Order 8011.

The OIG has conducted training within the Unit to address the provisions set forth in Section II. A-G. Training outside the Unit is not required in order to comply with Task 50.

The Department was late in publishing Special Order 8011 in regards to the Agreement timelines and thus the Department was out of compliance with the provisions of the Agreement for a brief

period of time. Full implementation of this Task is now in effect. The OIG Implementation Review yielded a recommendation that the Task be reviewed again once the Independent Monitoring Team is retained and on-site to ensure continuing implementation of the Agreement.

The purpose of Special Order 8010, Comments and/or Recommendation by OPD Personnel Regarding Departmental Publications, is to set forth Departmental policy and procedures to establish a formal process for Department personnel to express his/her concerns or make recommendations regarding the development of Departmental publications or the evaluation of policy and procedure after publication.

**Task 51: Compliance Audits and Integrity Tests**

Settlement Agreement Section XIV. B.; page 54, lines 6-22

Assigned Unit: OIG

**Compliance Date:** September 1, 2005

**Settlement Agreement Language:**

“• By September 1, 2005, following the implementation of policies and procedures required by the Settlement Agreement, OPD must conduct annual audits of: arrest and offense reports (including follow-up investigation reports); use of force incident reports and use of force investigations; complaint processing and investigation; Mobile Data Terminal traffic; personnel evaluations; and citizen accessibility to the complaint process and the availability of complaint forms.

- The Settlement Agreement further sets minimum requirements for these audits and requires that their results be reported in OPD’s semi-annual compliance reports.”

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**Status:** Progressing without Concern

**Deliverables:**

- Special Order 8011, *Compliance Unit Liaison Policy*, (9 May 03)
- Training Bulletin V-P, *Guidelines for Audits and Inspections*

**Implementation Activities**

The OIG has conducted preliminary reviews of five areas related to the Agreement:

- Span of Control (Task 20)
- Citizens Signing Police Forms (Task 38)
- Vehicle Stops, Field Investigations, and Detentions (Task 34)
- Timeliness of Internal Affairs Investigations (Task 02)
- Use of Force Reporting and Investigation (Tasks 24, 25, 26, 30, 31)

The first three reviews (Tasks 20, 38, and 34) were conducted to determine compliance with Agreement-related policy that had been drafted and/or published. The September, 2003, audit of Span of Control (Task 20) showed non-compliance with the Agreement requirements. Although a second formal audit has not yet been conducted, the Department reports that the January 10, 2004 patrol draw has put the Department in compliance with this Agreement provision. Eleven of 42 Patrol Sergeants had more than eight members assigned to their squads. Reviews of Tasks 38 and 34 revealed that although the policies were published and training had been implemented, though not completed, the related Agreement requirements were not being practiced to a level the Department would consider substantially compliant. In particular, Task 34, involving the completion of Stop-Data forms, was trained on, but showed a very low rate of compliance.

The two additional reviews on timeliness of Internal Affairs investigations and use of force reporting and investigation were conducted as a preliminary exploration of two of the more complex areas of the Agreement. The purpose of these reviews was to gather information that

might be helpful in the current development of policies in these areas and in the development of audit plans and methodology for the OIG.

Details on the audits and reviews may be found under the corresponding Task sections within this report.

Recommendations from the audits and reviews have been implemented and/or are under advisement. The OIG will continue to conduct audits and reviews on these and other Agreement provisions. The Department will continue to provide updates on the status of activities related to the audits and recommendations in subsequent semi-annual reports.

**Task 52: Housekeeping Provisions**

Settlement Agreement Section XV.; page 54, line 23 – page 60, line 3

**Assigned Unit:** N/A

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**Status:** Progressing without Concern

**Deliverables:** None

**Implementation Activities:**

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## **APPENDIX B**

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### **➤ MANAGERIAL RISK ASSESSMENT REPORT**

#### **FINDINGS AND RECOMMENDATIONS**

## **APPENDIX B: MANAGERIAL RISK ASSESSMENT REPORT RESULTS**

### **FINDINGS AND RECOMMENDATIONS**

#### **1. Settlement Agreement Related Training**

- Based on an audit of BFO's training records, the bureau is compliant on all 2003 policies, and the first policies released for 2004.
- Personnel have been assigned specifically to coordinate and document training in the bureau.
- Logs are kept by commanders of their own staff's training, and a composite log is managed by a Training Coordinator Sergeant.
- Department-wide internal controls for training delivery, documentation, tracking and auditing are not sufficient to ensure compliance.

**Recommendation 1.1** – Develop policy that requires the Training Division to communicate with the Bureau Training Coordinators to provide clear documentation of which policies are in development, which are completed, and which have been distributed and should be trained. The Bureau Training Coordinators should then provide commanders' and sergeants' updates on when new policies will be issued and trained.

**Recommendation 1.2** – Maintain and support the position of Bureau Training Coordinator Sergeant. This position is imperative to achieve training compliance in the near term and overall compliance in the long term. Ensure the other bureaus have designated appropriate staff for this function.

**Recommendation 1.3** - Provide training coordinators with computer equipment, e-mail, and training in relevant software packages (e.g., MS Excel and MS Access) so they are able to document and track training within their units.

**Recommendation 1.4** - Implement a centralized electronic system for Department-wide training notification, delivery, documentation, tracking, and auditing. More detailed recommendations for Department-wide training are provided in an upcoming audit report on Publication Training within the Department.

#### **2. Implementation of Required Practices**

With regard to reporting practices, all those we spoke with were aware of the new reporting requirements including the signing of statement forms by citizens, stop data collection, and use of force witness identification. Reported compliance with Agreement policies varied, but commanders expressed concern about achieving compliance and are actively encouraging it short of discipline.

##### A. Citizens Signing Police Forms

- Commanders are less confident than field supervisors regarding compliance with statement signing requirements, but believe significant improvements have been made.
- Commanders' and supervisors' estimates of compliance on statement signing range from 75% to 99%.

**Recommendation 2.A.1** - Continue to monitor statement signing, provide corrective feedback as appropriate, and provide positive feedback to squads, watches, and the Bureau when compliance is achieved.

**Recommendation 2.A.2** – Share formalized written communication of compliance with statement-signing between commanders and sergeants so both are aware of the current status of compliance. It is recommended that all patrol sergeants be provided with e-mail to enable efficient communication of this and other significant work-related matters among supervisors and commanders.

**B. Racial Profiling Stop Data Collection**

- Commanders and field supervisors are unsure of compliance, as a reliable means of internally auditing practice is not available.
- Members interviewed felt that compliance could be improved by streamlining the current system used to capture the data and check compliance, and eliminating redundancies in reporting.

**Recommendation 2.B.1** - Create a reliable and efficient means of internally auditing stop data form completion.

- Modify BFO daily activity log to reflect the number of stop data collection forms written and require sergeants to compare the daily activity logs with the stop data forms at the end of every shift.
- Explore consolidation of traffic citation, field contact and stop data collection forms to create one document that captures all required data without redundancies for immediate implementation. Explore electronic reporting system for future implementation.

**Recommendation 2.B.2** – Require watch commanders to conduct, at minimum, a monthly review of compliance by watch.

**C. Supervisory Span of Control**

- Commanders and sergeants indicated they support the required span of control of 1:8.
- Span of control ratios are checked on a daily basis through the daily detail and Bureau policy is a minimum of 5 sergeants per shift.
- A number of commanders expressed that they are not comfortable with having acting sergeants for periods as extensive as indicated by the published policy.

**Recommendation 2.C.1** - Immediately loan a sergeant to take the place of a sergeant going on extended leave prior to his/her retirement to prevent open squads and minimize the use of acting sergeants.

**Recommendation 2.C.2** - Continue daily reviews of watch details by command staff to insure compliance with span of control requirement of the Settlement Agreement.

**Recommendation 2.C.3** - An audit of Span of Control will be conducted by the Office of Inspector General's Audit and Inspections Unit in June, 2004.

## Use of Force

### Witness Identification

- Commanders and sergeants expressed support for the new use of force witness identification reporting requirements.
- Reported quality of Use of Force Reports has improved, with commanders scrutinizing the reports more closely and returning them for redrafts when needed.
- Commanders feel Use of Force Review Boards are not scheduled in a timely manner and state that they rarely, if ever, receive the results.

**Recommendation 2.D.1** – Address the above concerns in the new Departmental policy under development (upcoming K-4.1), including:

- Timely scheduling requirements for Use of Force Review Boards.
- Reporting to the bureau commander (within 72 hours) when the board is scheduled.
- Notify bureau (within 72 hrs of a request for review) of status of Use of Force boards, as well as those uses of force recommended for review, but not brought before a board.
- Notify bureau commander (within 72 hours) of the outcomes of Use of Force boards.

### 3. Managerial Oversight and Supervision

- Commanders and supervisors report they have instituted closer supervision.
- Commanders and sergeants say they are monitoring the radio, reviewing reports and uses of force, showing up at scenes when able, and inquiring about specific calls to ensure increased field supervision of officers.
- Commanders and sergeants feel their administrative duties restrict their field presence, and fear that additional Agreement requirements will add further restrictions.
- The reporting and accountability structure within patrol contributes to inconsistencies in performance feedback for officers.
- It is perceived that because there are so many requirements placed on sergeants, accountability for compliance with the requirements of the Agreement will rest with them.

**Recommendation 3.1** - Commanders and supervisors reassure officers during line-ups that closer supervision is required not only to satisfy Agreement requirements, but to enhance professionalism and the quality of work.

**Recommendation 3.2** - Executive management must communicate and reinforce to sergeants that accountability for Agreement compliance does not rest solely with sergeants and is ultimately the responsibility of the executive management team.

**Recommendation 3.3** - Lieutenants schedule their days off as close as possible to their sergeants' days off.

**Recommendation 3.4** - Develop bureau policy for documentation of performance, both positive and negative, and timely feedback and file-building to assist in consistency of supervision, performance evaluations and discipline.

**Recommendation 3.5** – Recognizing current budget constraints, explore the possibility of adding or reassigning administrative staff so that supervisors and commanders are able to

delegate some of the clerical work and have sufficient contact with and field supervision of their troops.

#### **4. Documentation and Tracking**

- Out of necessity and in a sincere effort to implement the reforms using the available resources, individual commanders we interviewed have initiated their own systems and procedures toward implementing the reforms.
- Tracking systems developed range from hand written logs to Outlook databases with prompts programmed for due dates.
- Systems and procedures developed to implement, monitor, track, and audit Settlement Agreement requirements are not coordinated, and are therefore inconsistent across BFO.
- All the lieutenants expressed a real-time knowledge of pending conduct investigations.
- None of the commanders interviewed kept logs of recommended discipline.

**Recommendation 4.1** - Develop procedures that are consistent throughout the Bureau for documentation of events (e.g., training, report review, IA investigations), performance (e.g., uses of force), practices (e.g., discipline recommendations).

- Individually developed implementation and tracking mechanisms and controls should be shared among supervisory and command personnel within BFO with the goal of consolidating and making consistent related work produced, and minimizing duplication of efforts.
- In developing practices and procedures for documentation and tracking, consider integration with and/or contribution to current PIMS needs and new PIMS system for 2005.

#### **5. Accountability**

- Supervisors and lieutenants report that they are stressing and enforcing deadlines for completed staff work.
- Many of the performance tracking and monitoring systems included an early warning system with thresholds that would trigger flags and a meeting with the involved officer and his or her supervisor.
- None of the members we spoke with had yet imposed discipline for failure to comply with requirements of the Settlement Agreement.

**Recommendation 5.1** - Develop a bureau policy for PIMS to address the following:

- Consolidate and make consistent the systems and tools developed by supervisory and command personnel within BFO to create tracking and flagging mechanisms and controls that can be put in place prior to the 2005 implementation of the new PIMS.
- Supervisors and commanders check quarterly on complaints filed against squad members and red flag any problems
- Supervisors document PIMS counseling sessions
- Follow up performance problems with the appropriate discipline, as indicated.

**Recommendation 5.2** – Hold Department members accountable for compliance by imposing the appropriate discipline for performance problems affecting compliance.

## **6. Contributing Factors to the Current State of Readiness**

Apart from the core elements described above; training, implementation of required practices, managerial oversight and supervision, documentation and tracking, and accountability, several other factors emerged as contributing to the Department's readiness and ability to implement the Settlement Agreement. Most favorably, we found that members interviewed were in support of the provisions of the Settlement Agreement, and BFO command and supervisors reported that they were putting forth considerable effort in executing and developing controls for successful implementation. This type of support and effort to demonstrate commitment to reforms implementation existed despite limited coordination of efforts and, more importantly, a widespread lack of trust in, and perceived support from leadership.

- **Recommendation 6.1** - Distribution of a synopsis of the Settlement Agreement that covers the practical aspects of the Agreement in an understandable way.
- **Recommendation 6.2** - Classes for sergeants on the Settlement Agreement, communicating the spirit and intent of the Agreement, articulating the impact of the Agreement on the sergeants' and officers' jobs, sharing ideas and tips for successful implementation of the new policies and practices.
- **Recommendation 6.3** - Increased efforts toward establishing centralized systems within the Department that are effective and efficient, and can accommodate changes in personnel.
- **Recommendation 6.4** - Department-wide enforcement of set timelines, with clear communication of expectations and due dates and consequences for not meeting them.
- **Recommendation 6.5** - Develop Department strategy for replacing retiring members before they exit to ensure continuity and minimize disruption of command and supervision.
- **Recommendation 6.6** - Department commanders at all levels must ensure by their actions and communications that they support and trust members when they are properly performing their duties.
- **Recommendation 6.7** - Inform the City leadership of the perception by the rank and file that in its current structure and process the CPRB lacks credibility as a citizen review forum.
- **Recommendation 6.8** - Complete, publish, and implement the in-progress Departmental discipline matrix to ensure consistency of discipline.
- **Recommendation 6.9** - OCOP inform IAD within 24 hours of final discipline determination for members. IAD inform involved commanders and supervisors within 24 hours of final discipline determination for individuals under their command. If the decision immediately impacts the subject member's commander (e.g., the member returns to work the next day), OCOP informs IAD and the involved commanders and supervisors within 24 hours.

**Recommendation 6.10** - Provide all supervisory and command personnel with e-mail accounts and access to computers in order to facilitate communication of key information between supervisors and subordinates, across watches, and up and down the chain of command.

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## **APPENDIX C**

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### **➤ TASK REFERENCE CHART**

## APPENDIX C: TASK REFERENCE CHART

TASK NO.	PARAGRAPH	PAGE-LINE <sup>9</sup>	UNIT	COMPLIANCE DATE	TASK NAME
01	III A	7:3	IAD	13 Aug 04	Staffing of and Resources for IAD
02	III B 1	7:9	IAD	15 Jun 04	Timeliness Standards and Compliance with IAD Investigations
03	III C	7:18	IAD	13 Aug 04	IAD Integrity Tests
04	III D	7:23	IAD	15 Jun 04	Complaint Control System for IAD
05 <sup>10</sup>	III E 2 a	8:18	IAD	1 Jun 04; 15 Jun 04; and 13 Aug 04	Complaint Procedures for IAD
06	III F	11:8	IAD	15 Jun 04	Refusal to Accept or Refer Citizen Complaint
07	III G	11:13	IAD	15 Jun 04	Methods for Receiving Citizen Complaints
08	III H	12:8	IAD	15 Jun 04	Classifications of Citizen Complaints
09	III I	13:13	IAD	13 Aug 04	Contact of Citizen Complainant
10	III	6:23	IAD	13 Aug 04	Procedure Manual for Investigations of Citizen Complaints
11	III J	13:17	IAD	13 Aug 04	Summary of Citizen Complaints Provided to OPD Personnel
12	III K	14:1	IAD	15 Jun 04	Disclosure of Possible Investigator Bias
13	III L	14:12	IAD	13 Aug 04	Documentation of Pitches Responses
14	III M	14:15	IAD	15 Jun 04	Investigation of Allegations of MOR Violations Resulting from Lawsuits and Legal Claims
15	III N	15:1	IAD	15 Jun 04	Reviewing Findings and Disciplinary Recommendations
16	III O	15:5	IAD	15 Jun 04	Supporting IAD Process – Supervisor/Managerial Accountability
17.0	IV	15:15	N/A	20 Jan 04	Supervisory Span of Control and Unity of Command (Overall timeline for Tasks 18, 19, 21, & 23)
18	IV A	15:19	BFO	20 Jan 04	Approval of Field-Arrest by Supervisor
19	IV B	16:6	BFO	20 Jan 04	Unity of Command
20	IV C	16:11	BFO	14 Aug 03*	Span of Control for Supervisors
21	IV D	17:2	BOS	7 Jul 04	Members, Employee, and Supervisors Performance Review

<sup>9</sup> The page and line numbers indicate the starting point of the reference paragraph in the printed version of the Settlement Agreement.

<sup>10</sup> This task is subdivided divided into three parts: Task 5.1 due 15 Jun 04 is associated with General Order M-3; Task 5.2 due 1 Jun 04 is associated with Jail P& P 5.01; and Tasks 5.3 – 5.7 due 13 Aug 04 is associated with the IAD Manual.

TASK NO.	PARAGRAPH	PAGE-LINE <sup>11</sup>	UNIT	COMPLIANCE DATE	TASK NAME
22	IV E	17:20	BOI	15 Apr 03	OPD/DA Liaison Commander
23	IV F	18:2	OCOP	20 Jan 04	Command Staff Rotation
24	V A	18:13	BFO	20 Jul 04	Use of Force Reporting Policy
25	V B	19:13	BFO	20 Jul 04	Use of Force Investigation and Report Responsibility
26	V C	21:17	BFO	20 Jul 04	Use of Force Review Board (UFRB)
27	V D	22:12	BOI	20 Jul 04	Oleoresin Capsicum Log & Checkout Procedures
28 <sup>12</sup>	V E	22:17	BOI	20 Jul 04;13 Aug 04	Use of Force - Investigation of Criminal Misconduct
29 <sup>13</sup>	V F	22:22	BOI	20 Jul 04;13 Aug 04	IAD Investigation Priority
30	V G	23:3	BFO	20 Jul 04	Firearms Discharge Board of Review
31	V H	23:10	BOI	20 Jul 04	Officer Involved Shooting Investigation
32	V I	23:20	BFO	20 Jul 04	Use of Camcorders
33	VI A	23:25	BOS	25 Aug 03	Misconduct
34	VI B	24:17	BFO	25 Aug 03	Vehicle Stops, Field Investigation, and Detentions
35	VI C	25:7	BOS	25 Aug 03	Use of Force Reports- Witness Identification
36	VI D	25:17	BOS	25 Aug 03	Procedures for Transporting Detainees and Citizens
37	VI E	25:25	BOS	25 Aug 03	Internal Investigations- Retaliation Against Witnesses
38	VI F	26:10	BOS	25 Aug 03	Citizens Signing Police Forms
39	VI G	26:15	BOS	25 Aug 03	Personnel, Arrested, Sued and/or Served with Civil or Administrative Process
40	VII A	27:13	BOS	28 Jun 05	Personnel Information Management System (PIMS)
41	VII B	28:23	BOS	28 Jun 05	Use of PIMS
42	VIII A	33:25	BOS	16 Apr 04	Field Training Program
43	IX A	37:5	BOS	15 Feb 05	Academy Training Plan
44	X A	38:23	BOS	7 Jul 04	Performance Appraisal Policy
45	X B	40:8	IAD	15 Jun 04	Consistency of Discipline Policy
46	X C 1	41:4	BOS	8 Jul 03	Promotional Consideration
47	XI	41:17	BFO	1 Aug 03	Community Policing Plan
48	XII	42:10	BOS	5 Sep 03*	Department Management and Annual Management Report
49	XIII A	42:19	OCOP	15 Apr 03	Monitor Selection and Compensation
50	XIV A	53:21	OIG	4 Mar 03	Compliance Unit Liaison Policy
51	XIV B	54:6	OIG	1 Sep 05	Compliance Audits and Integrity Tests

<sup>11</sup> The page and line numbers indicate the starting point of the reference paragraph in the printed version of the Settlement Agreement.

<sup>12</sup> This task is subdivided into two parts: Task 28.1 is associated with the IAD Manual; and Task 28.2 is associated with General Order M-4.

<sup>13</sup> This Task covers two policies: General Order M-4 due 20 Jul 04; and the IAD Manual due 13 Aug 04.

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## **APPENDIX D**

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### **➤ GLOSSARY OF TERMS AND ACRONYMS**

## APPENDIX D: GLOSSARY OF TERMS AND ACRONYMS

The following list of terms and acronyms found in this report is not comprehensive. Additional terms are defined in the Settlement Agreement, Section II, and the Police Department *Manual of Rules*, Chapter I.

### Terms

**Area:** A geographical area of the City composed of two (2) or more districts under the command of a Captain of Police.

**Best Practices:** The knowledge and experiences of other Police Departments resulting in policies, procedures, and practices to successfully address law enforcement challenges or objectives.

**Bureau:** The first subordinate organizational unit within the Department, under the command of a Deputy Chief of Police. There are three (3) bureaus in the Department, Filed Operations, Investigations, and Services.

**Citizen:** Any individual person, regardless of citizenship status.

**Command officer/Commander:** Members of the Department holding the rank of Lieutenant or higher.

**Compliance Date:** The due date for completing a provision of the Agreement. The Compliance Date is typically expressed in number of days, which refers to number of working business days, excluding court holidays. Compliance Dates are inflexible due dates based on the specific language in the body of the Agreement. Compliance Dates may NOT be changed without the approval of the plaintiffs' counsel and the Court.

**Court:** The United States District Judge presiding over the Negotiated Settlement Agreement, Delphine Allen, et al., Plaintiffs, v. City of Oakland, et al., Defendants.

**Department:** The Oakland Police Department.

**Disaggregated Task:** To ensure complete compliance on each area of the Agreement, Tasks with multiple components were further broken out for the assigned bureaus and units into simpler components.

**Division:** The second subordinate organizational unit within the Department. All units directly supervised by or reporting to a Deputy Chief of Police or the Chief of Police.

**Effective Date:** The date the Agreement was entered by the Court (January 22, 2003).

**Employee:** Every person, other than members, appointed or assigned to the Department in any permanent or temporary civil service classification.

**Departmental General Order:** Establishes policies and procedures about matters which affect multiple units within the Department. The most authoritative directives issued in the Department, they supersede all previously published rules, orders, or other written directives on the same subject.

**Departmental Training Bulletins:** Advise members of current police techniques and procedures. They constitute official policy, and remain in effect until revised or canceled.

**Early Intervention System (EIS):** a pro-active, non-disciplinary program designed to identify and positively influence conduct or performance-related problems exhibited by individual officers.

**Field Training Officers:** Provides field supervision, training, and performance appraisal of new officers assigned to them.

**Independent Monitor, Independent Monitoring Team (IMT):** An agent of the Court, responsible for assessing and evaluating the City of Oakland's compliance with the provisions of the Agreement.

**Integrity Tests:** Targeted or random integrity tests, or "stings," designed to identify and investigate OPD personnel who are engaged in at-risk behavior, to measure compliance with Department directives and orders, and/or the terms and conditions of this Agreement.

**Manager:** An employee of the Department in charge of a Division or Section

**Manual of Rules (MOR):** The Department publication which provides additional specificity to the standards of conduct embodied in the Law Enforcement Code of Ethics and the Department's Statement of Values. The *Manual of Rules* constitutes official policy, and remains in effect until revised or canceled.

**Member:** Any person appointed to the Department as a full-time regularly salaried peace officer. For the purposes of this Agreement, Rangers are included in this definition.

**Memoranda of the Chief of Police:** Brief statements of official policy or official policy that affects selected personnel. They remain in effect until revised, canceled, or superseded.

**Milestone Date:** The expected completion date for an intermediate implementation step such as draft approval, staffing review, or publication distribution. Milestone dates were developed in July 2003 to enable closer scrutiny of Task implementation progress.

**Oleoresin Capsicum Spray (OC):** Pepper spray.

**OPD Personnel:** All members, employees, Reserve Officers, volunteers, and other persons working under the direction of the Oakland Police Department.

**Personnel Information Management System (PIMS):** The computerized complaint-tracking and select-indicator system, as designed within a relational database, for maintaining, integrating and retrieving data necessary for supervision and management of OPD and its personnel.

**Plaintiffs' Counsel:** Attorneys representing plaintiffs in the “riders” cases.

**Reserve Police Officer:** A person possessing a professional certificate from the Oakland Police Academy, appointed to the Department as a part-time, unpaid member having the powers of a peace officer only while on active duty.

**Report Writing Manual:** Official procedures for completing Department reports and a reference source for personnel (telephone numbers, etc.). Report Writing Manual inserts remain in effect until revised or canceled.

**Settlement Agreement:** The Negotiated Settlement Agreement entered into by the City of Oakland and the plaintiffs (Delphine Allen, et al.). A complete copy of the Agreement may be accessed via internet at [www.oaklandpolice.com/agree/agree.html](http://www.oaklandpolice.com/agree/agree.html).

**Special Orders:** Set forth official policy modifications until they can be incorporated into a permanent Departmental publication (Departmental General Order, Departmental Training Bulletin, Report Writing Manual, or *Manual of Rules*). Special Orders terminate two (2) years from the date of publication, if not specifically terminated or incorporated into a permanent Departmental publication sooner.

**Status Reports:** Reports submitted to the Chief of Police by the Office of Inspector General, summarizing and including the Six-Week Progress Reports submitted by the bureaus and units on their progress in executing the Agreement Tasks for which they are responsible.

**Subject Matter Expert (SME):** An individual assigned to draft new or revised policy and procedures, based on his or her knowledge and experience or assignment.

**Target Date:** Provisions of the Agreement had timelines established through an evaluation of the anticipated steps required for implementation. These timelines were converted to Target Dates and also included in the Agreement Appendix. Target Dates are the expected completion date for a Settlement Agreement Task based on an evaluation of implementation steps by the Bureaus and IAD.

**Tasks:** The Settlement Agreement has been divided, in its entirety, into 51 individual Tasks that need to be completed in order to implement the Agreement.

**Acronyms**

<b>BFO:</b>	Bureau of Field Operations
<b>BOI:</b>	Bureau of Investigations
<b>BOS:</b>	Bureau of Services
<b>CALEA:</b>	Commission on Accreditation for Law Enforcement Agencies
<b>CA:</b>	California
<b>COP:</b>	Chief of Police
<b>D/C:</b>	Deputy Chief
<b>DGO:</b>	Departmental General Order
<b>DWR:</b>	Duplicating Work Request
<b>EIS:</b>	Early Intervention System
<b>FTO:</b>	Field Training Officer
<b>GO:</b>	(Departmental) General Order
<b>IAD:</b>	Internal Affairs Division
<b>ID:</b>	Identification
<b>IMT:</b>	Independent Monitoring Team
<b>MOR:</b>	<i>Manual of Rules</i>
<b>OC:</b>	Oleoresin Capsicum Spray
<b>OCOP:</b>	Office of the Chief of Police
<b>OIG:</b>	Office of Inspector General
<b>OPD:</b>	Oakland Police Department
<b>OPOA:</b>	Oakland Police Officers' Association
<b>P&amp;P:</b>	Policy and Procedure
<b>PIMS:</b>	Personnel Information Management System
<b>P.O.S.T.:</b>	Police Officer Standards and Training
<b>PSA:</b>	Professional Services Agreement
<b>PSAs:</b>	Police Service Areas
<b>SA:</b>	Settlement Agreement
<b>SME:</b>	Subject Matter Expert
<b>SO:</b>	Special Order.
<b>UFRB:</b>	Use of Force Review Board