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# Oakland Police Department

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## Negotiated Settlement Agreement

## Fourth Semi-Annual Report

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## REPORT OVERVIEW

### Preface

This is the Department's *Fourth 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 fourth reporting period from July 1, 2004 through December 31, 2004. Also covered in this report are significant progress and milestones achieved through April 2005.

This report differs from previous reports in both its format and content. The Report Overview section serves to better exemplify the attached exhibits and reports that are contained within the body of this report. This *Fourth 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 training.

While policy development and training is ongoing, the OIG has concerns with regard to the implementation (practice) stage of compliance. This is primarily due to the findings identified in the *Management Risk Assessment*, which identified the Department was not ready for Agreement implementation. This Assessment was included in the last semi-annual report. Since the publication of the last report, the Department has devised plans to successfully steer them into compliance. These plans include Phases I and II, of which Phase I has been successfully implemented and Phase II is currently underway. These Plans are identified in detail in the body of this report.

### JOINT STATUS CONFERENCE STATEMENT

This status conference was requested with the Court by the Plaintiffs' Counsel. Counsel's objective was to discuss issues which have arisen out of the Negotiated Settlement Agreement (Agreement), in the "Riders Litigation".

### Plaintiffs' Counsel Position

It has been more than two years since the Court approved the Agreement, of which the intent was to result in positive reforms with the Oakland Police Department (Department). The intent of the reforms is to prevent future misconduct and civil rights violations by members of the Department.

Plaintiffs' Counsel believes the Department has somewhat complied in drafting mandated Agreement policies, but that members of the command staff have failed to take appropriate steps to implement and enforce many of the reforms.

Counsel states that during the two years of the Agreement, they have made themselves available (in over two dozen meetings) at no cost to the City in an effort to work with the Department to employ the reforms. Additionally, counsel has agreed to extend numerous deadlines which were proposed by the Department for policy implementation and development. While Plaintiff's Counsel have attempted to work with the City of Oakland (City) and command staff, there have been "...delays and failures to meet deadlines..."

Plaintiffs' Counsel also stated they waited in vain for meaningful action after the City lost its Chief of Police, and the Mayor of Oakland allowed the Department to remain without a chief or interim for an inappropriate length of time. In December 2004 and January 2005, Counsel wrote the City and demanded meet and confer sessions with the City's counsel. They sought to informally resolve the issues of the City's failure to fully comply with the "non-monetary" Agreement; particularly the issues identified in the Independent Monitoring Team's (IMT) *Combined Fourth and Fifth Quarterly Report*. Counsel did note that these sessions resulted in some progress, however, counsel stated that none of those actions addressed the following: 1. obvious failure of the Department to implement reforms; 2. lack of accountability when reforms were not implemented; and 3. the blatant contempt for the reforms exhibited by command staff. As a result, plaintiffs' counsel informed counsel for the City that they intended to bring these issues to the attention of the Court and to request intervention by the Court in enforcing the Agreement.

### **City of Oakland's Position**

The IMT's combined *Fourth and Fifth Quarterly Report* noted accomplishments by OPD as well as several areas of concern. Their concerns included: 1. undocumented training; 2. lack of stop data forms; 3. quality of internal investigations; and 4. incomplete policy compliance including late drafting of major policies. The IMT also questioned the City and Department's overall commitment to implement the Agreement, given their expressed concerns. Also noted were individuals with the Department who have expressed disagreement with the Agreement. This was in contrast (as noted by the IMT) to commanders and managers that have led commendably, which included BFO and the Communications Division of BOS.

Upon receipt of the IMT's report, the Mayor, City Administrator, a Department Deputy Chief and the Department's Inspector General, immediately acknowledged the seriousness of the identified problems and initiated immediate corrective actions. The City Administrator personally assumed direct oversight of compliance responsibility. The City Administrator held weekly meetings with command staff to discuss and ensure compliance with the Agreement. Additionally, this meeting served to address any and all concerns of the IMT and the plaintiff's attorneys. As a demonstration of the City Administrator's commitment, she distributed a letter to all Department personnel enforcing the requirement of full compliance with the Agreement; and commitment and accountability for all Department employees. The City Administrator stated in the letter that she has "...embraced this Agreement, and assured all concerned that we will fully comply..." "Every member and employee will be held accountable to comply with its provisions." A copy of the City Administrator's letter is contained in the body of this report.

On January 24, 2005, the Mayor, the City Administrator and command staff met to discuss the Agreement and the need to fully comply with its provisions. The Department further responded to the IMT's concerns by issuing (on January 18<sup>th</sup>, 2005), a Compliance Status Report, which is included in this report.

## **Compliance Status Report**

This report was prepared by the Department's Inspector General and it noted the following has been accomplished or will be accomplished in January 2005, addressing problems identified by the IMT:

- All policies required to be drafted (M-3, M-4, K-3, K-4, the Discipline Matrix and Internal Affairs Manual, have been completed and submitted to plaintiffs' counsel and the IMT for immediate review and comment;
- Required training has been completed with 100 percent compliance by all Department officers. A copy of *Summary of Training Statistics*, labeled Exhibit B is contained in this report for reference;
- Each Bureau has identified the status of audit recommendations provided by the Office of Inspector General (OIG). Implementation of these recommendations as required;
- Training/lesson plans for recently completed policies are also included in this report;
- A Command Review Packet which was distributed to enhance managerial oversight;
- A command retreat which was held January 24, 2005. Additional detail is provided on the retreat in the later part of this Overview;
- Weekly Agreement status reports are being conducted at Wednesday's Command Staff Meeting. A few months ago, this meeting was consolidated with Crime Stop and renamed the Managerial Assessment Plan (MAP) meeting. Additional detail is provided on MAP on the last page of this Overview; and
- The Internal Affairs Division has been reconstructed. An organization chart depicting the new restructure is included in this report. Additional detail of the restructure are provided in the latter section of this Overview.

Following are two specific concerns of the IMT, and the results achieved during the past 30 days (January 13 – February 13, 2005), which address those concerns. This information was also provided to the Court:

### ➤ **Persistent Inability to Reliably Track and Document Agreement Training**

On January 26, 2005 at the IMT's Monthly Meeting, the Department produced a Training Compliance Report, which identified a 97.44 percent documented achievement. These training numbers are identified in Attachment B of this report, and are represented by policy; and

### ➤ **The IMT Reported that Department Officers are Failing to Complete Stop Data Forms**

At a meet-and-confer held on January 18, 2005, a Deputy Chief reported to Plaintiffs' Counsel, reports have increased during the November-December 2004 period. Ninety-five percent of the reports have the reporting officer's name on them as required, and the Deputy Chief is personally reviewing the form. More specific information is contained within the *Joint Status Conference Statement* attachment of this report.

## **SETTLEMENT AGREEMENT COMPLIANCE STATUS REPORT – JANUARY 18, 2005**

### **Letter from the City Administrator Regarding the Negotiated Settlement Agreement**

A letter from the City Administrator is included in this report, which re-enforces the City Administrator's support of the Agreement. Excerpts of this letter's content are discussed above in the Joint Status Conference Summary of this Overview, and a copy of the letter is attached in the body of this report for the reader's review.

## **Achieving and Maintaining Substantial Compliance**

*Achieving and Maintaining Substantial Compliance*, this report was written by the Department's Inspector General. The report discusses and defines reform, and presents the various views and perceptions of reform efforts. "For Oakland to achieve long-term cultural change and substantial compliance with the Agreement, we must first embrace the need to reform the Department and accept that proactive policing and reform are not mutually exclusive." This is a direct quote from the report, and serves as one of the primary themes of the report's emphasis.

The report also explores the term "best practices" – a new industry buzz word in policing. To say an agency has embraced a best practice, when an agency can not achieve policy compliance and its intended outcome – this is misleading. Best practices should work and other agencies who have embraced them, should have similar outcomes - achieving compliance. The key to best practices is not the actual practice; it is the principles contained within them.

Lastly the report discusses the next steps the Department has and will implement to achieve compliance. It concludes with the discussion of the passage of Measure Y. The Department views the passage of this measure as a second chance opportunity to restore the greatness of the Department and regain public trust and confidence.

## **Creation of Phase I and Phase II Compliance Plans**

### **Phase I – Recommendations to Achieve Compliance**

This plan was the antecedent to Phase II, *A Settlement Agreement Compliance Plan*. This phase provided for the expeditious policy review process of several significant policies: M-3, *Complaints Against Department Personnel or Procedures*; K-4, *Use of Force*; IAD *Investigations Manual* and the *Discipline Matrix* and its *Training Bulletin*. This review process also involved putting these policy task managers on special assignment to complete the policies. This phase also included the following deliverables: make training a priority for all approved policies; require work plans for all Tasks that are not in compliance; require division-level tracking systems and reviews to ensure compliance; provide follow-up on audit recommendations; demonstrate Agreement support from City Officials; reinstate weekly command staff meetings to review Agreement status; immediately address the timelines and quality of internal investigations; if needed, secure funds to cover the cost of training overtime and contract investigators; and immediately address the non-compliance issue of racial profiling. Phase I's goals and objectives have been obtained and are currently being implemented with the Department.

### **Phase II – Settlement Agreement Compliance Plan**

This is the follow-up Plan to Phase I, which (if properly implemented) will ensure the Department maintains its compliance course plotted in the Phase I Plan. Phase II of the Compliance Plan includes the following deliverables: a restructuring of the Internal Affairs Division (both a captain and additional lieutenant were added to staff); contract with a national "expert" to conduct "train-the-trainer" course for all IAD investigators and other select and directly impacted OPD personnel; develop an internal investigations template and checklist for IAD and division-level investigations; assign backlog investigations to 19 recently "trained" sergeants; OIG will conduct quality control audit of completed "backlogged" internal investigations; identify administrative liaison for each bureau; secure funds to implement recommendations for backlogged cases, OIG quality control audits, and developing a use of force tracking system; develop internal investigation tracking procedures; implement all



“approved” recommendations from OIG audits; continue weekly command reviews of Agreement Tasks; incorporate Agreement-related Task in performance evaluations, promotional tests, FTO selection process, and special assignment testing processes; finalize PIMS contract and develop implementation work-plan; develop use of force tracking system; complete training on all policies; and create managerial incentive and award programs.

### **Managerial Audits**

Command Staff was ordered to conduct command reviews (managerial audits), and complete Command Review Report forms. This review was established to enhance managerial accountability and supervisor oversight. As part of these weekly reviews, lieutenants shall review a small sample (to be determined by the lieutenant) of the work product of their assigned squads. The categories to be reviewed are: 1. Arrest Approvals; 2. Stop-Data Collection; 3. Citizens Signing Statement Forms; 4. Report Front-End Reviews; and 5. the Officer’s Daily Activity Sheets.

The lieutenants shall provide the number of actual forms and or reports reviewed for each category. Additionally, they shall also provide: the total number of reports and forms that were completed in compliance with policy and the Agreement, and the total number of reports and forms reviewed that did not comply with policy and the Agreement, and the total percentage of compliance. The lieutenants shall forward a copy of the command review form to their supervising captain no later than Friday of each week. The captain shall review and forward a copy of the command review to the bureau commander and to the Office of Inspector General on a weekly basis. Lieutenants shall retain a copy of the officer’s daily activity reports for one year.

### **Conducting a Command Staff Retreat Focusing on Implementation of the Agreement**

A command staff retreat was conducted to primarily focus on and reinforce the importance of the Agreement. The OIG hosted a successful retreat on January 24, 2005. Some of the attendees included Mayor Jerry Brown, the City Administrator Deborah Edgerly, the Deputy Chiefs as well as all four members of the IMT. The Mayor and City Administrator both expressed the importance and their commitment to the Agreement.

A “very full discussion” with the command staff and the IMT occurred that lasted approximately 1.5 hours. In the afternoon, a brainstorming session took place on obstacles the Department faces, including identifying problems that are hindering the Agreement process. Some of the other issues discussed were accountability, training and chain of command. Issues regarding training included consistency in reporting and the use of tracking systems.

Deliverables were identified, which were narrowed down to five items. The group created a list of action items to include the following: all lesson plans will be developed by the Training Section; they want to make sure consistency is used across the board. Stop data collection forms were discussed and the amount being turned in has increased.

The IMT were present and provided feedback which included, “... glad to see such a commitment from the City. Especially with Administrator Edgerly being there all day and Mayor Brown half a day.” “...we are encouraged to see the involvement by the command staff, and now would wait for the action to follow the words. The level of commitment exhibited at the retreat was very encouraging.”

### **Policy Training Percentages**

As of the publication of this report, the Department has achieved substantial compliance (at 95 percent) or higher on all published policies. A copy of the matrix, entitled *Compliance Report for NSA Publication Training*, is also included in this report. The two non-highlighted publications, DGO B-6 and Special Order 8136 have achieved substantial compliance since the last revision of this document.

### **Settlement Agreement Training Plan**

Training Plans for all newly published and soon to be completed policies have been developed and are included in this report for review.

### **Restructure of Internal Affairs Division**

For the first time a captain has been charged with the leadership of this division. A captain rather than a lieutenant (previously) now leads the division. The addition of a second staff lieutenant and the addition of additional investigators are included in this reorganization. There will also be new training for the IA investigators from both experienced homicide detectives as well as outside special instructors to conduct investigation techniques. An organization chart is included in this report which depicts the new restructure.

### **Office of Inspector General Audit Recommendations**

In accordance with the Agreement, upon implementation of policies and procedures pursuant to the Agreement, the Department is to conduct certain 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.

The body of this report contains the recommendations of several audits conducted by the OIG and the status of implementation for those recommendations. The OIG will continue to conduct audits and reviews on the Agreement's provisions, and provide updates on the implementation of the Agreement requirements and the review recommendations.

### **Managerial Risk Assessment**

#### **Audit Recommendations – Status Update**

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. 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.

Recommendations associated with the findings of this audit, and a status of implementation are included and outlined in the body of this report.

### **Oleoresin Capsicum (OC) Log and Checkout Procedures Audit Recommendations – Status Update**

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. 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.

Recommendations associated with the findings of this audit, and a status of implementation are included and outlined in the body of this report.

### **Mobile Data Terminal (MDT) Audit**

On April 1, 2004, the Audit Unit of the OIG initiated the first annual audit of the Department's MDT traffic for the quarter beginning April 1, 2004 through June 30, 2004. The purpose of this audit was to examine the content of car-to-car message transmissions and ensure that user-generated messages do not violate Department policy, the Agreement or local and/or federal laws.

Recommendations associated with the findings of this audit, and a status of implementation are included and outlined in the body of this report.

### **Developed and Implemented a Comprehensive Management Assessment Program (MAP)**

By order of the Chief of Police, Special Order 8222, the *Weekly Management Assessment Program* went into effect February 24, 2005. This order mandates the weekly unit commanders and CrimeStop meetings be combined with a compliance review of the Agreement to form the

weekly MAP meeting. Additionally, this Order reinforces that Agreement compliance and associated requests for information, data, services, etc. requested by the OIG shall be given the highest priority and considered a direct request from the Chief of Police.

MAP reinforces the importance of the Agreement to the organization. The Agreement is the primary topic of discussion for the first two hours of the meeting. MAP defines and stresses the four primary goals for 2005 which are: reduce homicides and overall crime; eliminate sideshow activity; implement all reforms outlined in the Agreement; and significantly reduce overtime expenditures. The main areas of review/focus in these meetings are: stop data; community meetings; uses of force; internal investigation; arrest approvals; performance appraisals, training compliance and policy. In these weekly meetings managerial accountability is enhanced with “real time” data reporting. Deficiencies are identified and commanders are requested to provide explanations and or develop “fix it systems” to counter these deficiencies. To date, 12 audit recommendations by the OIG have been reviewed and updates and status reports were provided at the meeting.

## 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 *Fourth Semi-Annual Report*. This public report will be filed with the Court and will document compliance implementation activities undertaken by the Department during the fourth six-month period of the Agreement. In addition to the “required six-month reporting period,” the OIG has included activity through April 2005.

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15 UNITED STATES DISTRICT COURT

16 NORTHERN DISTRICT OF CALIFORNIA

17 DELPHINE ALLEN; et al; ) MASTER  
18 ) CASE NO. C-00-4599 TEH  
19 )  
20 ) JOINT STATUS CONFERENCE  
21 ) STATEMENT RE NON-MONETARY  
22 ) SETTLEMENT ISSUES  
23 vs. )  
24 ) Date: 2/14/05  
25 CITY OF OAKLAND, et al., ) Time: 1:30 p.m.  
26 ) The Hon. Thelton E. Henderson  
27 )  
28 ) Defendants. )

29 \_\_\_\_\_ )  
30 AND RELATED ACTIONS )  
31 \_\_\_\_\_ )

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**I. INTRODUCTION**

Plaintiffs' counsel have requested this Status Conference to discuss issues which have arisen with respect to the settlement agreement in the "Riders Litigation" which was approved by the Court on January 22, 2003.

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**II. PLAINTIFFS' POSITION CONCERNING THE  
CITY OF OAKLAND'S LACK OF COMPLIANCE**

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It has now been more than two years since the Court approved the non-monetary settlement agreement in the "Riders Litigation" which was intended to result in positive reforms within the City of Oakland Police Department and to prevent the future misconduct and civil rights violations by members of the City of Oakland Police Department against minority and other citizens in the City of Oakland.

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While it is true that the City of Oakland Police Department has complied to some degree in drafting written policies mandated by the settlement agreement, it is clear that the City of Oakland and members of its Police Department command staff have failed to take appropriate steps to implement and enforce many of the reforms mandated by the settlement agreement as evidenced by the most recent report of the Independent Monitor.<sup>1</sup>

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Since the settlement agreement was signed nearly two years ago, plaintiffs' counsel, (who are both residents of the City

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<sup>1</sup> It is plaintiffs' counsel's understanding that the Monitor's most recent report has been received by the court. If this is incorrect, plaintiffs' counsel will provide the court with a copy. The report is also available online at <http://www.oaklandpolice.com/agree/4and5qtr.pdf>

1 of Oakland) have participated in over two dozen meetings with  
2 the Oakland Police Department Command Staff and have made  
3 themselves available at virtually no cost to the City in an  
4 effort to work with the Police Department to implement the  
5 reforms that are detailed in the settlement agreement.

6 Plaintiffs' counsel have agreed to extend numerous  
7 deadlines for policy development and implementation even though  
8 virtually every one of these deadlines was originally proposed  
9 by the Oakland Police Department. Although plaintiffs' counsel  
10 have attempted to work with the counsel for the City of Oakland  
11 and its command staff to implement the non-monetary settlement  
12 agreement and have been patient despite numerous delays and  
13 failures to meet deadlines, the numbers of complaints against  
14 members of the City of Oakland Police Department have continued  
15 to grow and it now appears that there has been no meaningful  
16 reduction in the endless cycle of police misconduct incidents  
17 and lawsuits that take time and money away from important needs  
18 of the City of Oakland.

19 Plaintiffs' counsel have waited in vain for some  
20 meaningful action after the City of Oakland lost its Chief of  
21 Police and while its Mayor allowed the Oakland Police  
22 Department to remain without a chief or interim chief for an  
23 inappropriate length of time.

24 As a result, in December 2004 and January 2005,  
25 plaintiffs' counsel wrote two letters demanding meet and confer  
26 sessions with counsel for the City of Oakland in an attempt to  
27 informally resolve the issues of the City's failure to fully



1 comply with the non-monetary settlement agreement, particularly  
2 with respect to the serious issues noted in the Independent  
3 Monitor's latest report.<sup>2</sup> These sessions did result in some  
4 progress in the areas of policy compliance, training  
5 compliance, and restructuring of internal affairs. However,  
6 none of these actions address 1)the obvious failure of the  
7 Oakland Police to implement the reforms themselves; 2)the lack  
8 of accountability within the OPD when the reforms were not  
9 implemented; and 3)the blatant contempt for the reforms  
10 exhibited by the OPD command staff. As a result, plaintiffs'  
11 counsel informed counsel for the City of Oakland that they  
12 intended to bring these issues to the attention of the Court  
13 and to request intervention by the Court in enforcing the  
14 settlement agreement.

15 Some of the most serious issues raised by the Independent  
16 Monitor's report which reflect the failure of the City of  
17 Oakland to fully commit to the implementation and enforcement  
18 of the reforms required under the non-monetary settlement  
19 agreement are summarized below.

20 **1. The Oakland Police Department Has Violated Its  
21 Agreement to Complete Stop Data Forms**

22 The Settlement Agreement (Task 34) requires City of  
23 Oakland Police Officers to complete a basic report for every  
24 vehicle and pedestrian stop, field investigation, and  
25 detention. This reform was designed to ensure that the Oakland  
26 Police Department did not engage in illegal racial profiling

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27 <sup>2</sup> Copies of these letters are attached as Exhibits 1 and 2.

1 and other improper practices.

2 In September 2003, the Oakland Police Department's own  
3 management audit division (OIG) reported in an internal audit  
4 that the officers were failing to complete the required  
5 paperwork for nearly 75% of the applicable stops.

6 Despite giving the City of Oakland Police Department over  
7 one year to correct this egregious deficiency, the current  
8 report of the Independent Monitor indicates that City of  
9 Oakland police officers completed stop data forms for only  
10 approximately 37% of the citations they issued. Even worse,  
11 the Independent Monitor reported that the Oakland Police  
12 Department's own commanders referred to the Department's stop  
13 data collection efforts as "bullshit."

14 This outright defiance of the non-monetary settlement  
15 agreement by the highest levels of the City of Oakland Police  
16 Department command staff cannot be tolerated and is indicative  
17 of an unwillingness to fully implement and enforce the reforms  
18 called for in the non-monetary settlement agreement.

## 19 **2. Quality of Internal Investigations**

20 The most recent report by the Independent Monitor also  
21 concluded that the "quality of many investigations is so low  
22 that it calls into question the reliability of the  
23 investigative findings and case dispositions."

24 It was reported that follow-up interviews in Internal  
25 Affairs Investigations were virtually non-existent. Perhaps  
26 worst of all, the Independent Monitor found that the "failure  
27 to identify and interview witnesses is pervasive."

1 During the negotiations leading to the settlement  
2 agreement, plaintiffs' counsel continually complained about the  
3 City of Oakland Police Department's failure to identify and  
4 interview witnesses and to include them in police reports.

5 Plaintiffs' counsel insisted on the inclusion of a  
6 specific section in the non-monetary settlement agreement that  
7 required the inclusion of witnesses in all Use of Force Reports  
8 and a specific statement that in situations in which there were  
9 no known witnesses, that the police report specifically state  
10 this fact.

11 For the Internal Affairs Division itself to fail to  
12 include witnesses in their reports is deplorable. This conduct  
13 is indicative of a total failure to commit to enforcing the  
14 reforms called for in the non-monetary settlement agreement and  
15 evidences a total disregard for the need to account for  
16 witnesses, both by patrol officers and by the division  
17 responsible for investigating misconduct by the line officers.

18 In fact, the Independent Monitor has demanded that the  
19 Oakland Police Department reopen several Internal Affairs cases  
20 due to shoddy investigations. The Independent Monitor has  
21 reported that the disposition of many investigations "do not  
22 appear to comport with the evidence."

23 The Monitor also characterized Internal Affairs interviews  
24 as "low quality." In one case, a sergeant appears to have  
25 participated in an investigation despite being the subject of  
26 the investigation.

27 Moreover, it does not appear that the City of Oakland

1 Police Department has taken appropriate action to establish an  
2 effective system for preventing investigations from missing  
3 critical state mandated deadlines. As a result, officers have  
4 not been disciplined for their conduct when discipline was  
5 clearly warranted. This gross negligence has even resulted in  
6 the failure of the City of Oakland Police Department to impose  
7 any discipline on some officers who have received sustained  
8 complaints.

9 The City of Oakland Police Department has missed deadlines  
10 since the signing of the consent decree and there is no  
11 comprehensive system in place that will prevent this from  
12 happening again.

13 Given the abject failure of the City of Oakland Police  
14 Department to effectively implement and enforce the reforms of  
15 its Internal Affairs Division mandated by the settlement  
16 agreement, is not surprising that the number of complaints  
17 against City of Oakland Police Officers has risen.

18 When problem officers have no fear of swift and sure  
19 punishment, they will continue to engage in police misconduct  
20 and rules violations. The quality of Internal Investigations  
21 also calls into question the kind of effective law enforcement  
22 that the citizens of Oakland are receiving.

23 Accordingly, plaintiffs counsel believe that formal Court  
24 action is required to ensure that these important reforms are  
25 not only written into policies, but that the command staff of  
26 the City of Oakland Police Department take immediate action to  
27 ensure that the policies are fully implemented, enforced and

1 respected.

2 **3. Lack of Policy Compliance**

3 As noted above, the City of Oakland set nearly every  
4 deadline for compliance with the non-monetary settlement  
5 agreement's mandates for policy revision. When many of the  
6 deadlines were not met, plaintiffs' counsel agreed to extend  
7 those deadlines.

8 Nevertheless, even with extended deadlines, the City of  
9 Oakland Police Department is in compliance with only twenty-one  
10 (21) of the fifty (50) tasks that have become due.

11 However, even those policies that have been written are  
12 not in full compliance with the consent decree. The  
13 Independent Monitor's most recent report concludes that "due to  
14 OPD's persistent failure to reliably document and track the  
15 training it has provided its officers, the IMT (Monitor) **is**  
16 **unable to report training compliance for any of the Tasks**  
17 **requiring training."**

18 In the most recent meeting between the IMT, plaintiffs'  
19 counsel, and the OPD on January 26, 2005, the OPD reported that  
20 training compliance had significantly improved. Moreover,  
21 significant effort to achieve policy compliance had also been  
22 undertaken. These dramatic improvements underscore the fact  
23 that the OPD can comply with the settlement agreement when the  
24 command staff exhibits the will to achieve compliance. The  
25 sudden improvement by the OPD in the areas under the threat of  
26 court intervention also illustrates the need for judicial

1 supervision. Moreover, the failure to discipline or counsel a  
2 single officer for consent decree violations—even when command  
3 staff has referred to the agreement with profanity—indicates  
4 that the OPD has a long way to go in achieving compliance.  
5 Policy and training compliance have absolutely no meaning with  
6 the absence of significant change in the way OPD implements the  
7 reforms. This implementation must include accountability for  
8 non-compliance (including discipline when necessary) and a more  
9 positive attitude by the OPD command staff.

10 The crude reaction of supervisory officers to the Stop  
11 Data Collection Reforms and the comment by the Independent  
12 Monitor that they have “observed commanders’ open disdain of  
13 Settlement Agreement training” leads us to conclude that much  
14 of the training that City of Oakland police officers do receive  
15 is colored by the negative reaction of the Command Staff  
16 towards the reforms.

17 In fact, the open disdain for the settlement agreement,  
18 even in the presence of the Independent Monitor, indicates that  
19 the settlement agreement is probably being even more openly  
20 defied by City of Oakland command staff in a more private  
21 setting.

#### 22 **4. Personnel Policies**

23 Plaintiffs’ counsel became extremely concerned when they  
24 learned about the recent testimony by City of Oakland police  
25 officer, Steve Hewison, during the “Riders” officers’ criminal  
26 trial in Alameda Superior Court that he had been systematically  
27 harassed and intimidated because of his testimony in the  
28

1 "Riders" case.

2 While plaintiffs' counsel have no opinion to whether  
3 Officer Hewison's charges are true, they became concerned when  
4 their request to ascertain if these charges were ever  
5 investigated, was met with no response. If in fact, no effort  
6 was made to investigate these charges, this is a blatant  
7 violation of the settlement agreement's provisions for  
8 "whistleblower protection."

9 The apparent failure of "whistleblower protection" has  
10 been coupled with disturbing reports that a number of former  
11 problem officers, who had been terminated, are now being  
12 reinstated by the City of Oakland to their former positions.

13 The rewarding of problem officers and the harassment of  
14 "whistleblowers" is specifically forbidden by several sections  
15 of the non-monetary settlement agreement.

16 Moreover, this conduct breeds a climate where officers are  
17 forced, either willingly or unwillingly, into a "Code of  
18 Silence" where they are afraid to report problem officers and  
19 are themselves harassed when they do. This is the exact  
20 dynamic that led to the creation of the "Riders" and the  
21 failure to report their misconduct. The inevitable result of  
22 this dynamic is that good officers are disheartened, lawsuits  
23 and complaints rise, and the citizens of Oakland pay the price.

24 Furthermore, the Independent Monitor has also reported  
25 that Performance Appraisals for City of Oakland police officers  
26 are not being written on a regular basis. This is yet another  
27 violation of the non-monetary settlement agreement and another

1 indication that City of Oakland police officers are not being  
2 supervised in an effective and professional manner.

3 The Independent Monitor's conclusion that "there are  
4 troubling signs that progress is slowing in many areas and  
5 completely stagnant in others" is matched by the perception of  
6 plaintiffs' counsel that the City of Oakland Police Department  
7 is once again spinning out of control.

8 Although plaintiffs' counsel acknowledge that there are  
9 many fine officers within the City of Oakland Police Department  
10 who do their difficult job every day in a professional and  
11 responsible manner, the continued tolerance of misconduct and  
12 the open defiance of the settlement agreement will ensure that  
13 the City of Oakland Police Department will continue to  
14 experience the kinds of problems that led to the "Riders" case  
15 and will tarnish the department with an image that many of its  
16 officers do not deserve.

17 **5. Current Position of Plaintiffs' Counsel**  
18 **Re Judicial Intervention**

19 Plaintiffs' counsel anticipates that the City of Oakland  
20 and OPD will make a serious effort to convince the court that  
21 no judicial intervention is warranted at this time. This will  
22 include submission of hundreds of pages of new policies and a  
23 detailed plan to show that the OPD is committed to the  
24 settlement agreement. It may also include appearances by high  
25 ranking city officials who will tell the court that they will  
26 implement the reforms.

27 All of these developments are positive. However, as  
28



1 stated above, they only underscore that the City of Oakland can  
2 achieve settlement agreement compliance if they are motivated  
3 to make these changes. That commitment has been sadly lacking  
4 for two years. The OPD's recent dedication to implement the  
5 settlement agreement is only a beginning and not an end in  
6 itself. There is still a significant danger that the City will  
7 go back to the status quo and allow the settlement agreement to  
8 expire with no significant changes in the OPD's way of doing  
9 business. This outcome will be far more likely in the absence  
10 of meaningful judicial supervision and intervention.

11 Real improvement will only come when there is a  
12 commitment to enforce the settlement agreement with  
13 accountability and discipline if necessary. There is no  
14 indication in the hundreds of pages recently given to  
15 plaintiffs' counsel that this has been done. There is only the  
16 promise that it will be done. However, the reality remains  
17 that it has not been done for two years, and that 40% of the  
18 time for the settlement agreement has expired with no  
19 meaningful change in the OPD.

20 The recent actions by the OPD are only a small beginning,  
21 and are not an end in itself. When the settlement agreement is  
22 enforced, complaints will decline and lawsuits will drop. This  
23 has happened in other cities and it can happen in Oakland.  
24 Words and promises are not enough. Only action and change will  
25 show that the OPD is truly committed to the settlement  
26 agreement. Continued direct judicial supervision make this  
27 possibility much more likely.

1 Plaintiffs' counsel have spent a substantial amount of  
2 time at minimal cost to the City of Oakland in an effort to  
3 obtain full compliance by the City of Oakland Police Department  
4 with the reforms mandated by the non-monetary settlement  
5 agreement. These efforts included diligent efforts to meet and  
6 confer with the City of Oakland and its attorneys to reach some  
7 accord as to how the City intended to specifically address the  
8 serious problems raised by the Independent Monitor's most  
9 recent report concerning the City's lack of compliance and (in  
10 some cases) open defiance of the settlement agreement.

11 As stated above, there has been progress in recent weeks.  
12 However, there is still no fundamental change and after two  
13 years, there has been no substantial commitment by the City of  
14 Oakland to take appropriate action to remedy the problems with  
15 implementation and enforcement of the non-monetary settlement  
16 agreement.

17 Although Plaintiffs' counsel have been patient with the  
18 City of Oakland and its attorneys heretofore and have granted  
19 them many extensions of time to adopt the policies mandated by  
20 the non-monetary settlement agreement, Plaintiffs' counsel are  
21 growing increasingly concerned that the City of Oakland will  
22 not fully implement the reforms required under the non-monetary  
23 settlement agreement within the time frame originally agreed to  
24 for the duration of the agreement.

25 Under the terms of this agreement, the Independent Monitor  
26 is appointed for a duration of five years, with the possibility  
27 of a two year extension (for a total of seven years) in the  
28

1 event that the Court determines that such an extension of time  
2 is necessary for the Monitor to complete their duties under the  
3 terms of the agreement.

4 Two years have already passed and it has become clear that  
5 there are serious problems with not only the City of Oakland's  
6 compliance with the deadlines under the agreement, but with the  
7 actual commitment of its command staff to fully implement and  
8 support the reforms required under the agreement. Given the  
9 foot dragging and open contempt for the terms of the agreement  
10 by certain members of the City of Oakland Police Department's  
11 command staff, it is certainly a possibility that the five (and  
12 even seven) year duration of the agreement will expire without  
13 the City of Oakland meeting the letter and spirit of the  
14 agreement without intervention by the Court.

15 In addition, while plaintiffs' counsel were willing to  
16 spend a substantial amount of time working with the City of  
17 Oakland to attempt to obtain full compliance with the non-  
18 monetary agreement at very minimal cost to the City of Oakland,  
19 the settlement agreement does provide that plaintiffs' counsel  
20 have the right to petition the Court for relief where the City  
21 has chronically failed to adopt and implement the reforms  
22 called for under the non-monetary settlement agreement and to  
23 recover the attorneys' fees and costs incurred by them if  
24 successful.

25 Plaintiffs' counsel simply want the agreement to be  
26 implemented and enforced and do not want to make this an issue  
27 about their attorneys' fees and costs. However, in the event  
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1 that the City of Oakland and its police department command  
2 staff continue to exhibit an unwillingness to implement and  
3 enforce the agreement and exhibit an open defiance of the terms  
4 of the agreement, plaintiffs' counsel will file appropriate  
5 petitions with the Court and move for an award of their  
6 attorneys' fees and costs due to the City's failure to comply  
7 with both the letter and spirit of the non-monetary settlement  
8 agreement.

9       Accordingly, plaintiffs' counsel requests that the Court  
10 set a further status conference in this matter in April or May  
11 2005 following the next IMT report and order the City of  
12 Oakland to undertake immediate and appropriate action necessary  
13 to rectify the problems raised in the Independent Monitor's  
14 most recent report and to continue to meet and confer with  
15 plaintiffs' counsel and with the Independent Monitor with  
16 respect to those issues. Plaintiffs' counsel also believes  
17 further Case Management Conferences should be set so that the  
18 court can more closely supervise compliance with the settlement  
19 agreement. In the event that the City has failed to make  
20 significant progress by the time of the next status conference,  
21 or that there is any deterioration in the OPD's recent  
22 commitment to these settlement agreement, plaintiffs' counsel  
23 will request that the Court issue an Order to Show Cause for  
24 Contempt and set a briefing schedule with respect to the City's  
25 contempt of the agreement and for an award of fees and costs to  
26 plaintiffs' counsel.

**CITY OF OAKLAND'S POSITION**

1           The Allen et. al. v. City of Oakland Settlement Agreement  
2 Re: Pattern and Practice Claims sets forth a binding agreement  
3 on the City of Oakland requiring material changes to OPD's  
4 Internal Affairs Division (IAD), Supervisory Span of Control  
5 and Unity of Command, Policy and Procedures for Use of Force  
6 Notification and Reporting, Personnel Information Management  
7 System (PIMS), Field Training Program, Academy and In-Service  
8 Training and Personnel Practices.

9           The Monitors in their combined Fourth and Fifth Quarterly  
10 Report noted certain accomplishments by OPD during that  
11 reporting period but also noted several areas of concern. The  
12 concerns include (1) undocumented training; (2) lack of stop  
13 data forms; (3) quality of internal investigations; (4)  
14 incomplete policy compliance including late drafting of major  
15 policies. Most important, the Monitors question the City and  
16 OPD's overall commitment to implement the Settlement Agreement  
17 given their expressed concerns. The Monitors also noted that  
18 certain individuals within OPD have expressed disagreement with  
19 the Agreement in contrast to those "units, commanders and  
20 managers [that] have led commendably ... including the Bureau of  
21 Field Operations and the Communications Division of the Bureau  
22 of Services."

23           Upon receipt of the Report by the City, Mayor Brown, City  
24 Administrator Deborah Edgerly, OPD Deputy Chief Peter Dunbar  
25 and OPD Inspector General Captain Ronald Davis immediately  
26 acknowledged the seriousness of the identified problems and  
27

1 engaged in direct action to correct them. City Administrator  
2 Deborah Edgerly has personally assumed direct oversight  
3 responsibility for OPD compliance with the Settlement Agreement  
4 by meeting weekly with OPD command staff that includes  
5 discussions to ensure compliance with the Settlement Agreement  
6 and to address any and all concerns of the Monitors and  
7 plaintiffs attorneys. Her January 2005 letter to all OPD  
8 officers is attached as Exhibit A. In that letter she clearly  
9 states to all OPD officers and employees that the City of  
10 Oakland requires full compliance, commitment and accountability  
11 by all OPD supervisors, commanders, officers and employees with  
12 the Settlement Agreement:

13 "While we are continuing to make progress toward  
14 addressing some of the deficiencies identified in the  
15 Settlement Agreement we are behind schedule in others.

16 I have embraced this Agreement and assured all concerned  
17 that we will fully comply with all aspects as outlined. **Every**  
18 **member and employee will be held accountable to comply with its**  
19 **provisions,** as well as the provisions outlined in the Manual of  
20 Rules and the Department's core values.

21 I strongly encourage you to take the time to understand  
22 the Agreement and how it will impact the delivery of police  
23 services in the City of Oakland." See Exhibit A.

24 Mayor Brown also responded by personally attending lineups  
25 to inform the officers of his commitment to the Settlement  
26 Agreement and the need for their full cooperation. Along with  
27

1 the City Administrator he met with all OPD command staff on  
2 January 24, 2005 to discuss the Agreement and the need for all  
3 concerned to fully comply with the provisions of the Agreement.

4 OPD further responded to the monitors concerns expressed  
5 in their quarterly report by issuing on January 18, 2005 a  
6 Compliance Status Report [which is being provided to the Court  
7 as Exhibit C under separate hand delivery because of its size]  
8 that has already been provided to plaintiffs counsel and the  
9 monitors. The Compliance Status Report, prepared by Captain  
10 Ronald Davis, Inspector General, OPD, notes the following has  
11 been accomplished or will have been accomplished in January  
12 2005 addressing the problems identified by the Monitors.

- 13 1. All policies required to be drafted (M-3 (Complaints  
14 against Department Personnel), M-4, K-3, K-4 (Reporting  
15 and Investigating the Use of Force), the Discipline  
16 Matrix and Internal Affairs Manual, have been completed  
17 and submitted to plaintiffs' counsel and the monitors  
18 for immediate review and comment.
- 19 2. Required Training has now been completed with 100%  
20 compliance by all OPD officers. See below discussion  
21 and Exhibit B - Summary of Training Statistics.
- 22 3. Each Bureau has identified the status of audit  
23 recommendations provided by the Office of Inspector  
24 General. Implementation of these recommendations as  
25 required.
- 26 4. Training plans for the recently completed policies (M-  
27 3, M-4, K-3, K-4, Discipline Matrix and the IAD Manual)

are being developed.

- 1 5. A Command Review packet has been distributed to enhance  
2 managerial oversight.
- 3 6. Implementation of daily supervisory review of Stop-Data  
4 forms and weekly managerial audits with the number of  
5 required reports doubling over earlier months. See  
6 discussion below.
- 7 7. A command retreat was held Januarys 24, 2005 that  
8 included the attendance all day of the City  
9 Administrator and for one-half day by the Mayor as well  
10 as a round-table discussion with all staff and the  
11 monitors regarding the Settlement Agreement. At that  
12 retreat both the Mayor and City Administrator stated  
13 their full commitment to the Agreement and compliance  
14 on a timely basis with strict accountability for all  
15 OPD members.
- 16 8. Weekly Settlement Agreement status reports are being  
17 conducted at Wednesday OPD Command Staff Meetings  
18 (changed from Mondays to allow greater participation).
- 19 9. The Internal Affairs Division has been restructured.  
20 For the first time a captain has been charged with its  
21 leadership with the new appointment of Captain Howard  
22 Jordan to head the Division, rather than a lieutenant,  
23 and the addition of a second staff lieutenant position  
24 as well as additional investigators. There will also  
25 be new training for IA investigators from both  
26 experienced OPD homicide detectives as well as outside  
27



1 retained special instructors in investigation  
2 techniques. IA now has more investigators than any  
3 other section of OPD other than homicide.

4 10. As noted above, City Administrator Edgerly is providing  
5 direct oversight of OPD's compliance with the  
6 Settlement Agreement on a weekly basis during her  
7 command staff meetings.

8 And with regards to specific concerns of the Monitors the  
9 following additional information is provided to the Court on  
10 results achieved during the past 30 days.

11 1. The Monitors Report of Persistent Inability to Reliably  
12 Track and Document Settlement Agreement Training.

13 OPD responded to this concern at the January 26<sup>th</sup> 2005  
14 monthly monitors meeting by producing a Compliance Report  
15 showing a 97.44% documented achievement in necessary and  
16 required training. See Attachment B. According to Deputy  
17 Chief Dunbar as of January 31, 2005 the number is now 100%  
18 compliance. Monitor Christy Lopez responded at the meeting  
19 that the Compliance Report was very good and that the  
20 monitors' fact checking of underlying documentation appeared  
21 to verify the results. Ms. Lopez stated the monitors would  
22 interview individual officers to verify that the training  
23 has been substantive.

24 2. The Monitors Report on OPD Officers Failing to Complete  
25 Stop Data Forms.

26 Deputy Chief Dunbar reported to plaintiffs counsel at a meet  
27 and confer meeting held January 18, 2005 that the required

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reports have increased during the November-December 2004 time period to approximately 5, 700 stop/data reports and that 95% of the reports have the reporting officer's name on the report as required and that he is personally reviewing the reports and mandating that sergeants must meet daily with their patrol officers to correct deficiencies. This was in contrast to only 3109 stop data reports generated in August 2004. The Monitors noted that of these stops approximately 1305 resulted in a citation being issued which, based on a total of 3497 concurrent citations issued during that same time period, indicated approximately 2000 stop/data reports were not completed by officers as required. Based on the increase of stop data reports by approximately 2500 to 5700 forms, Deputy Chief Dunbar concluded that he fully expected maximum compliance with the stop/data reports forms as evidenced by the most recent data.

The City of Oakland and its police department recognize that it needs to continue with the results achieved over the last 30 days to ensure total compliance with the Settlement Agreement. Based on the commitment of the Mayor, City Administrator, the Deputy Chiefs and all command staff the Agreement will be complied with on a timely basis and there will be accountability for any member failing to do his or her duty with regards to the Agreement. The City and OPD will continue to work and cooperate with the Monitors and plaintiffs counsel to achieve the goals of the Settlement

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Agreement on a timely basis.

Mayor Brown announced on February 1 that he was appointing Wayne G. Tucker as interim police chief. Chief Tucker was Alameda County Assistant Sheriff at the time of his retirement and has 38 years of law enforcement experience. One of his specific duties will be responsibility for implementing the Settlement Agreement.

Dated: January \_\_, 2005

\_\_\_\_\_  
JOHN L. BURRIS  
Attorney for Plaintiffs

Dated: January \_\_, 2005

\_\_\_\_\_  
JAMES B. CHANIN  
Attorney for Plaintiffs

Dated: \_\_\_\_\_, 2005

\_\_\_\_\_  
GREGORY M. FOX  
Attorney for Defendant  
City of Oakland

# OAKLAND POLICE DEPARTMENT



## SETTLEMENT AGREEMENT COMPLIANCE STATUS REPORT

JANUARY 18, 2005

# CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Office of the City Manager  
Deborah A. Edgerly  
City Manager

(510) 238-3301  
FAX: (510) 238-2223  
TDD: (510) 238-2007

**Re: Negotiated Settlement Agreement**

**Dear Members and Employees:**

**Happy New Year!**

**It is with admiration and great pride that I extend my thanks to you for your dedication and commitment to the City of Oakland.**

**As we begin the new year, we can proudly reflect upon our crime and violence reduction efforts of the past year. These efforts are more than noteworthy, truly appreciated and can become the foundation upon which we will continue to build the new direction of the Department. It is my belief that we can sustain these efforts by increasing our organizational accountability, adopt best operational practices and focus upon restoring the public's trust and confidence. Paramount to this effort, are the outlined provisions identified in our Negotiated Settlement Agreement ("Agreement").**

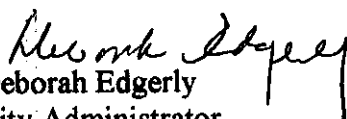
**While we are continuing to make progress toward addressing some of the deficiencies identified in the Agreement, we are behind schedule in others.**

**I have embraced this Agreement and assured all concerned that we will fully comply with all aspects as outlined. Every member and employee will be held accountable to comply with its provisions, as well as the provisions outlined in the Manual of Rules and the Department's core values.**

**As a valued member/employee of the Department, I strongly encourage you to take the time to understand the Agreement and how it will impact the delivery of police services in the City of Oakland.**

**I look forward to working with all of you as we produce tremendous outcomes that will benefit us and our great city.**

Sincerely,

  
Deborah Edgerly  
City Administrator

## NEGOTIATED SETTLEMENT AGREEMENT

### “ACHIEVING AND MAINTAINING SUBSTANTIAL COMPLIANCE”

It has been two years since the Department entered into the Negotiated Settlement Agreement – herein referred to as the “Agreement” – stemming from the Riders’ misconduct case. Whether one agrees with the terms of the Agreement, the manner in which it was developed, or the parties involved, it is clear that the Department must comply with the Agreement or face potentially severe sanctions from the court and further loss of public trust and confidence. Like most major cities, Oakland is forced to handle more with less and balance the demands of crime reduction with the demands for professional police services. Unlike most major cities, however, Oakland must face these challenges while implementing significant court-ordered reforms.

Many see reform as counter to proactive crime fighting and view the Agreement as a necessary, even political, evil that hinders “real” policing. Others view the Agreement as a necessary step to restore public trust and confidence. Depending on the view one takes with regard to reform often dictates their level of support. To the extent reform is embraced and compliance achieved because staff recognizes not only the value of change to the organization but to themselves as well, determines whether the organization achieves long-term cultural change or short-term technical compliance. Short-term compliance is similar to short-term crime reduction: down today, up tomorrow, generally unpredictable. Long-term cultural change on the other hand is more predictable and sustainable.

For Oakland to achieve long-term cultural change and substantial compliance with the Agreement, we must first embrace the need to reform the Department and accept that proactive policing and reform are not mutually exclusive. In fact, one has little value without the other. Significant crime reduction means very little to the community if they lack trust and confidence in the police. Conversely, the community places minimal value on professional conduct if they are terrorized by crime and disorder. The police can and must accomplish both crime reduction and ethical policing.

#### **WHAT IS REFORM?**

Over the past two decades the Oakland Police Department has enjoyed a reputation as one of the most progressive police departments in the state, if not the country. Oakland was, and remains, a department rich in its pride, traditions and core values. It was Oakland that established the first Beat Health unit in the country. Oakland was one of the first agencies to track officer behavior through an early warning system known as the Select Indicator List, and until recently, Oakland produced more police chiefs in this area than any other agency in northern California.

Since the Riders’ misconduct case, Oakland’s reputation has been tarnished and our standing in the profession lowered. Notwithstanding, many in the Department believe that any acknowledgement for the need to reform reflects negatively on our past traditions and successes. This is not the case. To embrace reform is not necessarily a judgment of the past as much as it is an acceptance of our responsibility to address current problems and prepare for future challenges. Until we view reform as a reinvention of the way we do business to respond to the ever-changing conditions and demands of policing, the push for reform will meet with great resistance and defiance.

Of equal importance is the need to define “real” policing so that it extends beyond calls for service and arrests. Too often supervisors and commanders decry the Agreement under the premise that officers must complete these tasks in addition to “real” policing. This suggests that the Agreement is a threat to policing and a hindrance to officers. Real policing must include accountability and be rooted in the community. This is best accomplished through the utilization of proactive, aggressive policing strategies and the adoption of “best practices” that embrace and reinforce organizational core values.

## **BEST PRACTICES**

The term “best practices” has become the new buzz word in policing. Like most buzz words, however, it is also the most commonly misused. Agencies that clout best practices often make this claim simply because other agencies use a similar process, not necessarily because the practice actually works. To say an agency has adopted a model policy and best practice when in fact the agency has been unable to comply with the policy and has not achieved its intended outcomes is misleading. Best practices must actually work and should be such that other similarly situated agencies can adopt the core principles of the practice to achieve similar outcomes. The key to best practices is not the actual practice; it is the principles contained within them.

Practices that work in Los Angeles may not work in Oakland. However, the principals within these practices should. For example, community policing in Oakland may look different than in Hayward and Alameda. Nevertheless, the principles outlined in each community policing program, such as community involvement, collaboration and accountability, remain constant for any such program to be effective. In other words, the principles define what we want to achieve, the practice “operationalizes” the principles and defines how we achieve it. Best practices must therefore take into account organizational cultural and operational and logistic challenges that are unique to an agency.

The ability to operationalize reform depends on our commitment to it. If we merely achieve technical compliance, the method (or practice) of reform will be dictated by others. If we embrace reforms, we have the ability and opportunity to develop methods of change and practices that achieve compliance and fit the operational and cultural needs of the Department. For this to occur, each member of the Department must take time to understand the Agreement and look beyond its cover and look into its content.

Another key to embracing both the Agreement and the need for organizational reform is ownership. The Agreement must become the Department’s Agreement and every one within it. Not the plaintiffs’ attorneys or the appointed independent monitors. It is our Agreement!

The latest Monitor’s report underscores the need for each member and employee of the Department to exercise leadership. The report was critical of the Department, but it was accurate. We must accept responsibilities for our past failures as we are so ready to accept accolades for our accomplishments. More importantly, however, we must acknowledge the conditions in which we work and take responsibility to improve those conditions within the Department as a whole and to the service we provide to our community.

## **NEXT STEPS**

1. Complete training on all publications.
2. Complete development of all outstanding policies.
3. Develop internal control mechanisms for each Division/Watch.
4. Initiate audits at the Division and Bureau levels.
5. Develop compliance work-plan for the Department.
6. Incorporate Agreement compliance into weekly Command meeting.
7. Incorporate Agreement related issues into performance evaluations, promotions, assignments and transfers.
8. Develop Strategic Plan that ensures short-term compliance efforts become long-term cultural changes.
9. Re-evaluate existing organizational structure to ensure it supports compliance efforts.
10. Hold each level of the organization accountable for Agreement implementation and compliance.

## **CONCLUSION**

With the passage of Measure Y, the community has given the Department a “second chance”: a second chance to regain public trust and confidence; a second chance to restore the greatness of OPD, and a second chance to become a model law enforcement agency in the state and the country. A second chance is not a new opportunity to repeat the same mistakes. Einstein defined insanity as, “...doing the same thing repeatedly and expecting different results.” A second chance is a unique opportunity to engage in new thoughts and practices and shape the future of the Department. Let’s take advantage of our second chance, because seldom is there a third.

Ronald Davis  
Captain of Police  
Inspector General



# **SETTLEMENT AGREEMENT**

## **COMPLIANCE PLAN 1**

**PHASE 1 – RECOMMENDATIONS TO ACHIEVE COMPLIANCE**

RECOMMENDATIONS	DUE DATE	RESPONSIBLE	STATUS
<p><b>1. Complete the M-3 Policy, IAD Manual, and Use of Force policies</b></p>	<p><b>15 Jan 05</b></p>	<p><b>Deputy Chief M. Holland</b></p>	
<ul style="list-style-type: none"> <li>• Put task managers on special assignment and/or hire a consultant to complete policies.</li> </ul>	<ol style="list-style-type: none"> <li>1. M-3 (Citizen Complaints)</li> <li>2. Internal Investigations Manual</li> <li>3. Criminal Investigations</li> <li>4. K-4 (Use of Force)</li> <li>5. Discipline Matrix</li> </ol>	<p>Lt. Rachal</p> <p>Lt. Fairow</p> <p>Captain Lacer</p> <p>Captain Lacer</p> <p>K. Burgess (31 Jan 05)</p>	<p><b>Completed.</b></p> <p>All policies (except the IAD Manual) submitted to Monitor and parties on 14 Jan 05.</p> <p>The IAD Manual sent 18 Jan 05.</p> <p>Discipline Matrix is complete. It will be submitted today.</p>
<ul style="list-style-type: none"> <li>• Expedite policy-review process.</li> </ul>	<p>15 Jan 05</p>	<p>Sgt. P. Hara</p>	<p><b>Completed.</b></p>
<p><b>2. Make Training a Priority for all Approved Policies</b></p>	<p><b>15 Jan 05</b></p>	<p><b>Deputy Chief G. Lowe</b></p>	<p><b>Completed.</b></p> <p>Training has corrected its software and tracking problems. Training percentages submitted to Monitor who will verify compliance the week of the 24<sup>th</sup>.</p> <p>17 out of 19 policies over 95% compliant.</p>
<ul style="list-style-type: none"> <li>• Instruct OIT to evaluate the effectiveness of the Training Management System (TMS) and develop new system if needed.</li> </ul>	<p>7 Jan 05</p>	<p>Sgt. M. Schmidt</p>	<p>N/A</p>

RECOMMENDATIONS	DUE DATE	RESPONSIBLE	STATUS
<ul style="list-style-type: none"> <li>If needed, assign staff (cadets, limited duty officers, etc.) to the Training Division to verify training compliance status for all approved Agreement policies.</li> </ul>	15 Jan 05	Lt. R. Orozco	N/A
<ul style="list-style-type: none"> <li>Schedule special training for the M-3 policy, IAD Manual, and Use of Force policies. This may require overtime funds.</li> </ul>	15 Jan 05	Lt. R. Orozco	<b>Completed.</b>
<b>3. Require Work Plans for all Tasks That are Not in Compliance</b>	<b>15 Jan 05</b>	<b>Deputy Chief P. Dunbar</b>	
Train Command and Managerial staff on Agreement compliance, project management and work plan development. (Command Retreat)	<ol style="list-style-type: none"> <li>Compliance</li> <li>Projects</li> <li>Work-plans</li> <li>Command Retreat</li> </ol>	C. Marsh Sgt. M. Beal K. Burgess K. Burgess	<b>Pending</b>  Command Retreat is scheduled for 24 Jan 05.
<ul style="list-style-type: none"> <li>Require Division commanders to develop internal tracking and control systems for Agreement</li> </ul>	15 Jan 05	All Captains	<b>In-progress</b>
<b>4. Require Division-Level Tracking Systems and Reviews to Ensure Compliance</b>	<b>8 Jan 05</b>	<b>Deputy Chief P. Dunbar</b>	
<ul style="list-style-type: none"> <li>Require division-level audits and reviews of Settlement tasks until compliance has been verified.</li> </ul>	8 Jan 05	3 – Deputy Chiefs	<b>Completed.</b>  Command Review Packet approved by D/C Dunbar.
<ul style="list-style-type: none"> <li>Require compliance coordinators in each Bureau to facilitate division-level audits and report findings to OIG.</li> </ul>	8 Jan 05	3 – Deputy Chiefs	<b>In –progress.</b>

<b>RECOMMENDATIONS</b>	<b>DUE DATE</b>	<b>RESPONSIBLE</b>	<b>STATUS</b>
<b>5. Follow-up on Audit Recommendations</b>	<b>10 Jan 05</b>	<b>Deputy Chief G. Lowe</b>	
<ul style="list-style-type: none"> <li>OIG will develop a spreadsheet of all recommendations from completed audits and distribute to commanders.</li> </ul>	17 Dec 04	Sgt. M. Beal	<b>Completed.</b>
<ul style="list-style-type: none"> <li>Require commanders to inform OIG of status of recommendations.</li> </ul>	10 Jan 05	3 – Deputy Chiefs	<b>Completed.</b>
<b>6. Demonstrate Settlement Agreement Support from City Officials</b>	<b>3 Jan 05</b>	<b>City Administrator D. Edgerly</b>	
<ul style="list-style-type: none"> <li>City Administrator will meet weekly with OPD to assess compliance.</li> <li>City Administrator will send letter to OPD staff underscoring the importance of the Agreement.</li> <li>Mayor will attend line-ups to reinforce the importance of the Agreement to the rank and file.</li> <li>Commanders and staff will be held responsible to ensure compliance.</li> </ul>	On-going		<b>On-going</b>
	3 Jan 05	Captain R. Davis	<b>Completed.</b> Letter will be distributed this week.
	On-going		<b>On-gong</b>
	On-going	3 – Deputy Chiefs	<b>On-going</b>
<b>7. Reinstate Weekly Command Staff Meetings to Review Agreement Status</b>	<b>27 Dec 04</b>	<b>Captain R. Davis</b>	
<ul style="list-style-type: none"> <li>Require status reports on SA tasks from commanders at each weekly meeting.</li> </ul>		All Command and Managerial Staff	<b>Completed.</b>

RECOMMENDATIONS	DUE DATE	RESPONSIBLE	STATUS
<ul style="list-style-type: none"> <li>Provide Command Staff weekly status report on Settlement Agreement.</li> </ul>	27 Dec 04	Ms. Carolyn Marsh	<p><b>Completed.</b></p> <p>OIG provides commanders weekly update and discusses compliance issue during Monday command staff meeting.</p>
<p><b>8. Immediately Address the Timeliness and Quality of Internal Investigations</b></p>	<b>31 Jan 05</b>	<b>Deputy Chief M. Holland</b>	
<ul style="list-style-type: none"> <li>Reassign backlogged IA cases to non-BFO investigators and/or contracted investigators to expedite their completion.</li> </ul>	15 Jan 05	Lt. B. Fairow	<p><b>In-progress.</b></p> <p>IAD restructured effective 22 Jan 05. Captain and additional lieutenant assigned. Two additional investigators assigned.</p> <p>Captain will implement backlog plan to ensure compliance.</p>
<ul style="list-style-type: none"> <li>Evaluate Monitors' report on Internal Investigations and conduct training needs assessment.</li> </ul>	1 Jan 05	Lt. B. Fairow	<p><b>Completed.</b></p> <p>As part of Phase II, training (based on the assessment) will be provided to all investigators.</p>
<p><b>9. If needed, secure funds to cover the cost of training overtime and contract investigators.</b></p>	N/A	<b>Administrator Taylor-Johnson</b>	N/A
<p><b>10. Immediately Address Racial Profiling Non-Compliance</b></p>	<b>15 Jan 05</b>	<b>Deputy Chief P. Dunbar</b>	
<ul style="list-style-type: none"> <li>Require the development and maintenance of a weekly statistics sheet to track Stop Data Forms.</li> </ul>	17 Dec 04	Sgt. D. Wayne	<b>Completed.</b>

RECOMMENDATIONS	DUE DATE	RESPONSIBLE	STATUS
<ul style="list-style-type: none"><li>Require Sergeants, Lieutenants, and Watch Commanders to review and audit the collection of Stop Data Forms.</li></ul>	1 Jan 05	BFO Captains	<b>Completed.</b> On-going.

# **SETTLEMENT AGREEMENT**

## **COMPLIANCE PLAN 2**

## PHASE II – SETTLEMENT AGREEMENT COMPLIANCE PLAN

RECOMMENDATION	DUE DATE	RESPONSIBLE	STATUS
1. Restructure the Internal Affairs Division: <ul style="list-style-type: none"> <li>a. Assign 1 – Captain</li> <li>b. Assign 1 – Additional Lieutenant</li> <li>c. Create Investigation Section under a lieutenant.</li> <li>d. Create Administration Section under a lieutenant.</li> </ul>	1 Feb 05	Deputy Chief Dunbar	Effective 22 Jan 05.
2. Contract with national “expert” to conduct ‘train-the-trainer’ course for <u>all</u> IAD investigators and the following personnel: <ul style="list-style-type: none"> <li>a. 12 - Patrol Sergeants</li> <li>b. 3 – BOS Sergeants</li> <li>c. 3 – BOI Sergeants</li> <li>d. 2 – IAD Lieutenants</li> <li>e. 8 – Captains</li> <li>f. 3 – Deputy Chiefs</li> <li>g. 4 – OIG Auditors</li> </ul>	1 Feb 05	Captain H. Jordan	In-progress.
3. Develop Internal Investigation Template & Checklist For IAD and Division-level Investigations.	15 Feb 05	Captain H. Jordan	
4. Assign backlog investigations to the recently 18 “trained” sergeants. <ul style="list-style-type: none"> <li>a. Authorize 30 hours overtime for each investigation.</li> <li>b. Complete all investigations within 120-days.</li> </ul>	15 Feb 05	Captain H. Jordan	In-progress
5. OIG will conduct quality control audit of completed “backlogged” Internal Investigations: <ul style="list-style-type: none"> <li>a. Conduct second review of all Class I investigations.</li> <li>b. Conduct review of sample of Division-Level Investigations.</li> <li>c. Prepare summary report of audit</li> </ul>	1 Mar 05  Completion date in Jun 05	Captain R. Davis	



RECOMMENDATION	DUE DATE	RESPONSIBLE	STATUS
6. Identify Administrative Liaison for each Bureau <ul style="list-style-type: none"> <li>a. Primary Contact for Internal Affairs.</li> <li>b. Receive &amp; Assign Division-Level Investigations.</li> <li>c. Track Division-Level Investigations.</li> <li>d. Forward Information to IAD for Control File</li> </ul>	1 Feb 05	Deputy Chief Holland	
7. Secure Funds to Implement Recommendations 4, 6 and 13. <ul style="list-style-type: none"> <li>a. Overtime to conduct backlog internal investigations.</li> <li>b. Training</li> <li>c. PIMS</li> </ul> Projected Costs: \$160,000	1 Feb 05	Administrator Johnson	Completed.
8. Develop Internal Investigation Tracking Procedures: <ul style="list-style-type: none"> <li>a. Track all Division-Level Investigations.</li> <li>b. Create "Control" File System</li> <li>c. Maintains Administrative Log</li> </ul>	1 Mar 05	Captain H. Jordan	
9. Implement all "approved" recommendations from OIG Audits <ul style="list-style-type: none"> <li>a. Development of implementation plan(s).</li> <li>b. OIG will conduct follow-up reviews/audits.</li> <li>c. Assess effectiveness of each recommendation..</li> </ul>	1 Apr 05	Deputy Chief Lowe	
10. Continue weekly Command Reviews of SA tasks <ul style="list-style-type: none"> <li>a. Develop Database to Track Reviews</li> <li>b. Prepare Weekly and Monthly Summary Reports</li> </ul>	On-going	Captain R. Davis	On-going
11. Incorporate SA related task in Performance Evaluations, Promotional Tests, FTO Selection Process, and Special Assignment Testing Processes <ul style="list-style-type: none"> <li>a. Revise B-8 to Ensure SA Compliance Issues are Addressed in Managerial Evaluations.</li> <li>b. Incorporate language in Promotional Announcements.</li> <li>c. Incorporate in B-6 and in FTO interviews.</li> </ul>	1 Mar 05	Deputy Chief Lowe	

RECOMMENDATION	DUE DATE	RESPONSIBLE	STATUS
12. Finalize PIMS Contract and Develop Implementation Work-plan <ul style="list-style-type: none"> <li>a. Policy</li> <li>b. Training</li> <li>c. Implementation</li> <li>d. Staffing</li> </ul>	1 Apr 05	Deputy Chief Dunbar	
13. Develop Use of Force Tracking System <ul style="list-style-type: none"> <li>a. Identify Central Filing Location</li> <li>b. Require Copies Forwarded to IAD, Training, OIG, OCOP, and Chair of Use of Force Board.</li> <li>c. Prepare Monthly Statistical Report (IAD).</li> <li>d. Prepare Quarterly Analysis Report (Training).</li> <li>e. Prepare Annual Summary Report (Use of Force Committee).</li> </ul>	15 Feb 05	Deputy Chief Dunbar	
14. Complete Training on Policies <ul style="list-style-type: none"> <li>a. M-3/M-4/K-4</li> <li>b. Discipline Matrix/Internal Investigation Manual</li> </ul>	15 Apr 05	Deputy Chief Lowe	
15. Create Managerial Incentive & Award Program for: <ul style="list-style-type: none"> <li>a. Reduction in Complaints, Uses of Force, etc.</li> <li>b. Reduction in Litigation</li> <li>c. Positive Findings from OIG Audits</li> </ul>	15 Feb 05	Deputy Chief Holland	

# **SETTLEMENT AGREEMENT**

## **MANAGERIAL AUDITS**

CITY OF OAKLAND

**Memorandum**

TO: Bureau of Field Operations  
ATTN: All Bureau Captains  
FROM: Deputy Chief P. Dunbar  
DATE: 29 Dec 04  
RE: Command Review of Settlement Agreement Tasks

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Effective 1 Jan 05, all BFO officers (including WDOP officers) shall complete a daily activity report. The activity report shall be reviewed and approved by the officer's immediate supervisor, or in his or her absence, the adjacent District supervisor or watch commander. As part of the activity report review and approval process, supervisors shall review each officer's work product and reconcile it with the daily activity report. The supervisor shall sign the activity report acknowledging their review and approval.

Sergeants shall retain their squad's activity reports, all stop-data collection forms, and a copy of any consolidated arrest report (CAR) that required supervisory review and approval. These documents shall be forwarded to their supervising lieutenant on a daily basis. Additionally, the First Watch desk officer shall forward copies of crime reports in the following manner:

1<sup>st</sup> Watch: Reports are forwarded to the supervising watch lieutenant.  
2<sup>nd</sup> Watch: Reports are forwarded to the supervising PSA lieutenant.  
3<sup>rd</sup> Watch: Reports are forwarded to the supervising watch lieutenant.

PSA lieutenants and First and Third Watch lieutenants shall conduct a weekly command review (see attached form) of their assigned squads' activity reports, stop-data forms, arrest approval/disapproval and other Settlement Agreement (SA) requirements listed on the review form. Lieutenants shall forward a copy of the command review form to their supervising captain no later than Friday of each week. The Captain shall review and forward a copy of the command review to the bureau commander and to the Office of Inspector General on a weekly basis. Lieutenants shall retain a copy of the officers' daily activity reports for one year.

After completion of the weekly command review, lieutenants shall ensure all stop-data forms are submitted to the Crime Analysis Unit (CAU) for data entry. Stop-data forms can be either hand delivered to CAU or placed in the report receptacle in the basement. Until further notice, the process enumerated in this memo supersedes the requirement for officers to submit stop-data forms on a daily basis outlined in Department General Order M-19, Racial Profiling.

Attached is a copy of the Command Review Report and instructions on its use. Also provided is a chart outlining the specific Settlement Agreement tasks for each of the categories requiring review and audit.

Peter Dunbar  
Deputy Chief of Police  
Bureau of Field Operations



**COMMAND REVIEW REPORT  
OAKLAND POLICE DEPARTMENT**

*Instructions: Patrol Lieutenants shall write totals in each category for each squad in the appropriate box. Completed review reports shall be forward to the Watch Commander for review. Once reviewed, this form shall be retained for one year.*

Name	Serial No.	Date of Report	Dates of Review	Watch	Section
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Category	Squad	Squad	Squad	Squad	
<b>1. Arrest Approvals</b>					
A. Disapproved					
<b>2. Use of Force</b>					
A. Use of force Incidents Reported					
B. K-4 Reports Completed					
C. K-4 Reports Forwarded to OCOP					
<b>3. Internal Investigations</b>					
A. Currently Assigned					
B. Completed & Forwarded					
C. Overdue					
<b>4. Personnel Evaluations</b>					
A. Completed					
B. Overdue					
<b>5. Community Meetings</b>					
A. # of Meetings Attended					
B. # of Officers Attending Meetings					
C. # of Officers Required to Attend Meetings This Quarter					

**Weekly Reviews**

	Number Reviewed	In Compliance	Out of Compliance	Percent of Compliance
1. Arrest Approvals				
2. Stop-Data Collection				
3. Citizen Signing Statement Forms				
4. Report Front-End Reviews				
5. Officer Activity Reports				

Comments:

Reviewer	Serial No.
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Instructions  
Command Review Report

In completing the Command Review Report, provide the following information for each category. The below information must be provided for each squad and cover the period of one week.

1. Arrests Approval

- A. Fill in the total number of arrests that were disapproved by supervisory and/or command officers.

2. Use of Force

- A. Fill in the total number of uses of force reported during the week.
- B. Fill in the total number of use of force reports (K-4) completed.
- C. Fill in the total number of K-4 reports forward to Office of Chief of Police.

3. Internal Investigations

- A. Fill in the total number of internal investigations assigned to your sergeants.
- B. Fill in the total number of internal investigations completed and forwarded.
- C. Fill in the total number of internal investigations that are overdue.

4. Personnel Evaluations

- A. Fill in the number of evaluations completed.
- B. Fill in the number of overdue evaluations.

5. Community Meetings

- A. Fill in the total number of community meetings attended.
- B. Fill in the total number of officers who attended community meetings.
- C. Fill in the total number of officers required to attend community meetings this quarter.

Weekly Reviews

The purpose of this section of the Command Review is to enhance managerial accountability and supervisor oversight. As part of the weekly reviews, lieutenants shall review a small sample (to be determined by the lieutenant) of the work product of their assigned squads. The categories to be reviewed are: 1) Arrest Approvals; 2) Stop-Data Collection; 3) Citizen Signing Statement Forms; 4) Report Front-End Reviews, and 5) the Officer's Daily Activity Sheets.

The Lieutenant shall provide the number of actual forms and/or reports reviewed for each category; the total number of reports and forms that were completed in compliance with policy and the Settlement Agreement (SA); the total number of reports and forms reviewed that did not comply with policy and the SA, and the total percentage of compliance.

# Settlement Agreement Tasks

<p>Stop Data Collection</p>	<ol style="list-style-type: none"> <li>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:             <ol style="list-style-type: none"> <li>a. Time, date and location;</li> <li>b. Identification of the initiating member or employee commencing after the first year of data collection;</li> <li>c. Reason for stop;</li> <li>d. Apparent race or ethnicity, and gender of individual(s) stopped;</li> <li>e. Outcome of stop (arrest, no arrest);</li> <li>f. Whether a search was conducted, and outcome of search;</li> <li>g. Offense categories (felony, misdemeanor or infraction).</li> </ol> </li> <li>2. This data shall be entered into a database that can be summarized, searched, queried and reported by personnel authorized by OPD.</li> <li>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.”</li> </ol>
<p>Citizen Statements</p>	<p>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.</p>
<p>Personnel Evaluations</p>	<p>Performance appraisals shall be written individually for the member/employee being evaluated and shall accurately reflect the quality of each member/employee’s performance.</p> <ol style="list-style-type: none"> <li>1. Supervisors and commanders shall document, in performance appraisals, that they are aware of the nature and progress of complaints and investigations against members/employees, and shall consider such complaints and investigations in their performance appraisal of subordinates.</li> <li>2. Supervisors and commanders shall document, in performance appraisals, that they have carefully monitored members’: uses of force; “sick” and “injured” leaves; arrests for narcotics-related possessory offenses not made as a result of searches conducted pursuant to arrests for other offenses; arrests involving charges of Penal Code §§69, 148 and/or 243(b)(c); and vehicle accidents. When appropriate, supervisors and commanders shall be held accountable for having identified and acted upon patterns, among personnel in the unit, involving use of force, sick leave, line-of-duty injuries, narcotics-related possessory offenses, and on-duty vehicle accidents.</li> <li>3. OPD shall use the performance appraisal system to hold PSA lieutenants accountable for whether their subordinate supervisors are working to enhance the quality of community contacts by their beat officers.</li> <li>4. OPD shall conduct regular audits of the performance appraisal system to ensure compliance with the above requirements.</li> <li>5. The immediate supervisor of every member/employee of the Department shall have primary responsibility for conducting and writing the performance appraisal for that member/employee. For example, the patrol sergeant shall be responsible for conducting and writing the performance appraisal for each member/employee he or she supervises. However, every supervisor/manager in that member/employee’s direct chain of command, up to and including the Deputy Chief of that Bureau, shall review, sign and date every performance appraisal of every member/employee within his or her command. If the reviewer disagrees, he/she shall write an addendum to the evaluation expressing his/her concerns.</li> </ol>

	<p>6. When a member/employee, during the course of the period being appraised, had substantial collateral duties supervised by someone other than his or her regular and direct supervisor, the other supervisor or manager shall contribute to the performance appraisal by consulting with the direct immediate supervisor and by, at a minimum, writing a separate narrative evaluation that shall be signed, dated and included as a regular part of the performance appraisal. Similarly, when a member/employee has been supervised by two (2) or more individuals during the course of the appraisal period, because of transfer of the member/employee or the supervisor, primary responsibility for the performance appraisal shall be in accordance with the provisions of Departmental General Order B-6, "Performance Appraisal." In the case of a promotion, the promotee's new supervisor shall be responsible for the evaluation.</p>
Use of Force Incidents	<p>An on-scene supervisor is responsible for completing an investigated Use of Force Report in accordance with the provisions of Departmental General Order K-4, "Reporting and Investigating the Use of Force."</p> <ol style="list-style-type: none"> <li>1. OPD shall develop and implement a policy for conducting K-4 investigations that include, at a minimum:       <ol style="list-style-type: none"> <li>a. A statement taken from the member(s)/employee(s) using force;</li> <li>b. Separating and separately interviewing all officers at the scene;</li> <li>c. A Supplemental Report from other members/employees on the scene or a statement taken, if deemed necessary by the investigating supervisor;</li> <li>d. Identification and interviews of witnesses;</li> <li>e. Consideration of discrepancies in information obtained from members, employees and witnesses, and statements in the reports filed;</li> <li>f. Whether the force used was pursuant to a legitimate law-enforcement objective;</li> <li>g. Whether the type and amount of force used was proportional to the resistance encountered and reasonably related to the objective the members/employees were attempting to achieve;</li> <li>h. Whether the member/employee used reasonable verbal means to attempt to resolve the situation without force, if time and circumstances permitted such attempts;</li> <li>i. Whether the force used was de-escalated or stopped reasonably when resistance decreased or stopped;</li> <li>j. Whether arrest reports or use of force reports contain "boilerplate" or "pat language" (e.g., "fighting stance", "minimal force necessary to control the situation");</li> <li>k. Whether, in these and other regards, the use of force was in compliance with OPD use of force policy;</li> <li>l. Supervisor's justification as to why any element of the policy was not documented; and</li> <li>m. Documentation of physical evidence and/or photographs.</li> </ol> </li> <li>2. All supervisors shall be trained in conducting K-4 investigations and such training shall be part of a supervisory training course.</li> <li>3. Investigated Use of Force Reports by on-scene supervisors shall include:       <ol style="list-style-type: none"> <li>a. A description of the use of force incident;</li> <li>b. A summary and analysis of all relevant evidence gathered during the investigation;</li> <li>c. An analysis and a proposed recommendation. The analysis supporting the recommendation shall include:           <ol style="list-style-type: none"> <li>1) Whether the force used was consistent with OPD policy and training,</li> <li>2) Whether proper tactics were used, and</li> </ol> </li> </ol> </li> </ol>



	<p>3) Whether lesser force alternatives were available and/or practical.</p> <p>4. Reports of K-4 investigations shall be reviewed by the Watch Commander on duty at the time the incident occurred, the commander of the Police Service Area (PSA) in which the incident occurred, and the Area Commander/Division Commander and Deputy Chief of the involved personnel. All reviewers shall:</p> <ol style="list-style-type: none"> <li>a. Make a recommendation as to whether the use of force was in or out of policy,</li> <li>b. Order additional investigation and investigative resources when necessary, and</li> <li>c. Comment on any training issue(s) when appropriate.</li> </ol> <p>5. Any recommendation that the use of force was out of compliance shall result in the incident being referred to the Internal Affairs Division for investigation.</p> <p>6. Members/employees involved in a use of force incident resulting in serious injury or death and/or an officer-involved shooting, shall be separated from each other as soon as practicable at the incident scene, and kept apart until they have completed their reports and been interviewed.</p>
Arrest Approvals	<p>1. OPD shall develop standards for field supervisors that encourage or mandate close and frequent supervisory contacts with subordinates on calls for service. The policies developed in this Section shall require supervisors to respond to the scene of (at least) the following categories of arrest, unless community unrest or other conditions at the scene make this impractical:</p> <ol style="list-style-type: none"> <li>a. Felonies;</li> <li>b. Narcotics-related possessory offenses;</li> <li>c. Where there is an investigated use of force;</li> <li>d. Penal Code §§69, 148 and 243(b)(c).</li> </ol> <p>2. The responding supervisor shall review the arrest documentation to determine whether probable cause for the arrest, or reasonable suspicion for the stop, is articulated, to ensure that available witnesses are identified, to approve or disapprove the arrest in the field, and to log the time of the contact.</p>
Community Meetings	<p>Each patrol supervisor, and officer assigned to a regular beat or geographic area of the City, shall attend a minimum of one (1) community meeting per quarter in the Area he/she is regularly assigned.</p>
Citizen/Prisoner Transports	<p>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.</p> <p>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.”</p>

**SETTLEMENT AGREEMENT**

**COMMAND RETREAT AGENDA**

# Command Staff Retreat

## Negotiated Settlement Agreement and the Department's Reform Efforts

Monday, January 24, 2004  
Joaquin Miller Recreation Center

### AGENDA

COFFEE		8:00	
1. Welcome and Review of Agenda	K. Burgess	8:15	15 min.
2. Introduction	Deputy Chiefs	8:30	20 min.
3. Presentation by City Administrator	Ms. Edgerly	8:50	20 min.
4. Presentation by Mayor	Mayor Brown	9:10	30 min.
5. Consent Decrees and OPD's Negotiated Settlement Agreement	Capt. Davis	9:40	30 min.
BREAK		10:10	15 min.
6. Roundtable Discussion with the IMT	IMT	10:25	95 min.
LUNCH		12:00	60 min.
7. Identification of Issues with Settlement Agreement Implementation	D.C. Dunbar	1:00	45 min.
8. Problem Solving Session: How to Ensure Compliance	D.C. Dunbar	1:45	60 min.
BREAK		2:45	15 min.
9. Next Steps: Planning for Long-Term Compliance	D.C. Dunbar	3:00	75 min.
10. Concluding Remarks	Deputy Chiefs/ Ms. Edgerly	4:15	

# **SETTLEMENT AGREEMENT**

## **POLICY TRAINING PERCENTAGES**

## COMPLIANCE REPORT FOR N.S.A. PUBLICATION TRAINING

Publication Type/Number	Task	Publication Title	# Not Trained	# Requiring Training	% Trained
BFO 03-02	20	Span of Control	28	730	96.16%
BFO 03-03	47	Community Meetings	6	747	99.20%
DGO A-18	22	Management Level Liaison	10	730	98.63%
DGO A-3	19	Departmental Reorganization	18	1086	98.34%
DGO A-7	48	Annual Management of Department Reports	1	45	97.78%
DGO B-6	21/44	Performance Appraisals	65	1086	94.01%
DGO B-7	47	Public Appearances	21	747	97.19%
DGO D-16	33	Check-In and Orientation Procedures	0	45	100.00%
DGO M-18	18	Arrest Approval and Review	23	730	96.85%
IB	38	Citizens Signing Police Forms	11	802	98.63%
MOR Rev.	33	Manual of Rules Revisions: 314.48, 314.49	123	1086	88.67%
SO 8055	36	Transportation of Persons in Police Vehicles	9	882	98.98%
SO 8061	27	Control of Oleoresin Capsicum Spray	11	802	98.63%
SO 8064	39	Reporting of Civil Action	10	776	98.71%
SO 8066	35	Witness Identification	12	906	98.68%
SO 8092	37	Update of Manual of Rules	15	1086	98.62%
SO 8136	33	Manual of Rules Revisions: Reporting Violations	107	1086	90.15%
TB III-A.5	47	Community Oriented Policing and BFO Reorg.	18	810	97.78%
Jail 05.01		Jail Division Complaint Package	2	66	96.97%
			<b>490</b>	<b>14248</b>	<b>96.56%</b>

### Note:

- 1.) Personnel on leave (military, sick, etc.) for more than 60 days prior to the date of this report have been excluded because they were not available to receive training.
- 2.) Shaded publications represent a compliance percentage of greater than 95%.

# **SETTLEMENT AGREEMENT**

## **TRAINING PLAN**

CITY OF OAKLAND

Memorandum

TO: Office of Inspector General  
ATTN: Capt. R. Davis  
FROM: Training Division  
DATE: 13 Jan 05

RE: Training Plan for Internal Affairs Division Discipline Policy Handbook  
and Departmental Use of Force Policy

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**Internal Affairs Division Discipline Policy Handbook**

The revision of Department General Order (DGO) M-3, Complaints Against Department Personnel or Procedures, will require the training of all Department personnel. I have consulted with Lt. B. Fairow and Sgt. J. Wood of the Internal Affairs Division (IAD) and Sgt. P. Hara of the Office of Inspector General (OIG) to develop a training plan.

The following publications (including Training Bulletins (TB)) have been created as a result of the rewrite of DGO M-3 and are included in the IAD Discipline Policy Handbook. I have also listed the target audience for each publication as well as the individual(s) that will be responsible for delivering the training.

<u>Policy</u>	<u>Target Audience</u>	<u>Trainer(s)</u>
DGO M-3, Complaints Against Department Personnel or Procedures	All Personnel	Unit Commander/ Manager
DGO M-3.1, Informal Complaint Resolution Process	All Personnel	Unit Commander/ Manager
DGO M-3.2, Citizens Police Review Board	All Sworn	Unit Commander/ Manager
TB V-T, OPD Disciplinary Policy	All Personnel	Unit Commander/ Manager
TB V-T.1, Internal Investigative Process	Supervisors/ Commanders	IAD Staff
TB V-T.2, Disciplinary Matrix	Commanders/ Managers	IAD Staff

Within five days of the publications being approved, a Subject Matter Expert (SME) from the IAD will develop two lesson plans. One lesson plan will be distributed with the new publications to all Unit Commander/Managers so that they can provide training for their personnel. The second lesson plan will be used to train Department personnel that may be assigned to conduct or review Division Level Investigations. This training will be conducted by the IAD SMEs and will require four (4) hours of instruction. I propose the following training schedule to give all effected personnel an opportunity to attend the training and to minimize overtime expenditures for personnel required to attend.

<b>WEEK 1</b>	<b>WEEK 2</b>	<b>WEEK 3</b>	<b>WEEK 4</b>
Monday	Tuesday	Monday	Tuesday
0700-1100, 1700-2100	0700-1100, 1700-2100	0700-1100, 1700-2100	0700-1100, 1700-2100
Thursday	Friday	Thursday	Friday
0700-1100, 1700-2100	0700-1100, 1700-2100	0700-1100, 1700-2100	0700-1100, 1700-2100

Unit Commanders/Managers will have one month from the date of distribution of the publications to ensure that all of their assigned personnel are trained and that rosters are signed and forwarded to the Training Division.

### **Departmental Use of Force Policy**

The revisions of DGO K-3 and K-4 will also require training for all personnel. The training plan for use of force policy can be modeled after the training for the IAD Discipline Policy Handbook. Supervisors/Commanders will require a greater level of training than officers because they will be conducting the use of force investigations. I recommend that the training for the Discipline Policy Handbook be given before the use of force policy training for the following reasons:

1. The Discipline Policy Handbook training (i.e. lesson plan development, instructor selection, etc.) is further along in the development process than the use of force training.
2. The Discipline Policy Handbook training on conducting investigations is more complex than the training required for conducting use of force investigations and the knowledge gained by supervisors/commanders during the discipline policy training will reduce the amount of time needed to train them on use of force investigations.

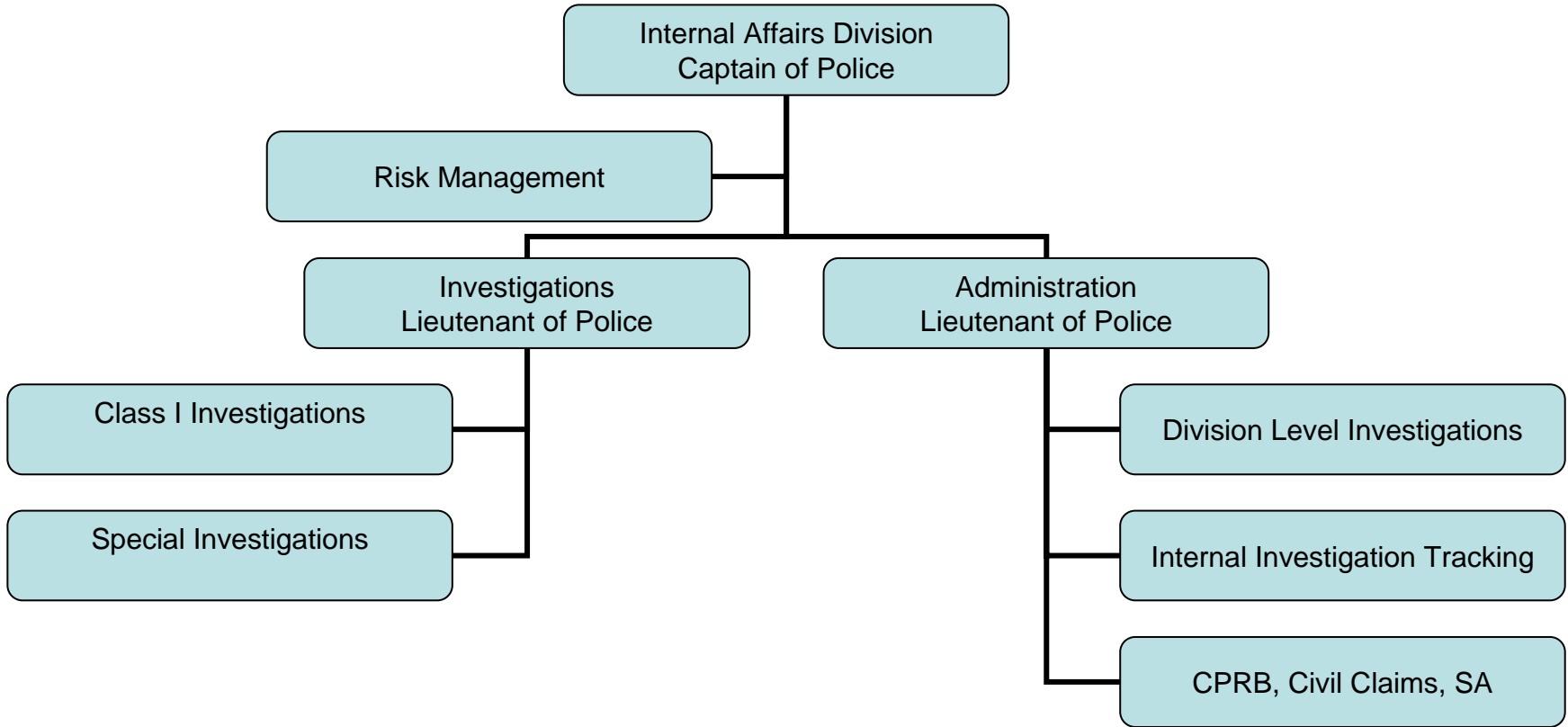
The training required for supervisors/commanders should not exceed two hours while Unit Commanders could conduct the training for officers during line-up training. I do not recommend conducting the training concurrently due the potential increase in overtime costs and the increase in time that personnel receiving training will be absent from their normal duty assignments.



# **SETTLEMENT AGREEMENT**

## **RESTRUCTURE OF THE INTERNAL AFFAIRS DIVISION**

# Internal Affairs Division



**SETTLEMENT AGREEMENT**

**OFFICE OF INSPECTOR GENERAL AUDIT  
RECOMMENDATIONS**

**STATUS REPORT**

## **Audit / Audit Recommendation Update Report**

**Date of Report:** 10 Jan 05

**Audit:** Risk Management Assessment

**Responsible  
Bureau, Division:** Bureau of Field Operations

**Task Manager:** Deputy Chief Peter Dunbar

**Reported by:** Deputy Chief Peter Dunbar

**Bureau Chief  
Review:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Recommendation 2.A.1:** Copies of Crime Reports are sorted by watch and audited by the appropriate lieutenant to ensure compliance to the statement signing policy. Weekly Command Level Review has been implemented and will be forwarded to the Office of Inspector General (OIG) after review by the Watch Commander and Bureau Commander. Additionally, the reports reviewed by the lieutenant will be forwarded to the appropriate sergeant to review. Prior to the implementation of the Command Level Review, Police Service Area lieutenants reviewed reports and forwarded reports without properly signed statements to the appropriate lieutenant for review and training. The Bureau training coordinator, Sergeant Hogenmiller, will conduct periodic audits to ensure compliance.

**Recommendation 2.A.2:** This will be accomplished when all supervisors have e-mail access (Recommendation 1.3 to be handled by the Bureau of Services). The Command Level Review by lieutenants will monitor the statement signing and the lieutenant will provide a formal letter (Letters of Discussion, etc).

**Recommendation 2.B.1:** Stop Data Collection is currently being monitored by the daily review of Daily Activity Reports and comparing vehicle and walking stops by officers with the number of Stop Data Collection Forms attached to the Daily Activity Report by the supervisor. The Daily Activity Reports are forwarded and compared at the lieutenant, captain and Deputy Chief levels prior to submitting the Stop Data Collection forms. Each level will be accountable for the proper monitoring and submission of activity reports and Stop Data Collection forms. The Command Level Review process is another “check and balance” to ensure compliance. A new Daily Activity Report will be implemented on 22 Jan 05 and provide a database to ensure the number of vehicle and pedestrian stops match the number of Stop Data Collection forms. Lieutenant Kozicki is researching the ability of traffic citations to capture the Stop Data Collection form

## **Audit / Audit Recommendation Update Report**

**Date of Report:** 10 Jan 05

**Audit:** Risk Management Assessment

**Responsible  
Bureau, Division:** Bureau of Field Operations

**Task Manager:** Deputy Chief Peter Dunbar

**Reported by:** Deputy Chief Peter Dunbar

**Bureau Chief  
Review:** \_\_\_\_\_ **Date:** \_\_\_\_\_

information. Additional research is planned to determine if completing Filed Contact forms can also provide this information in an electronic or other format.

**Recommendation 2.B.2:** Compliance will be conducted on a weekly basis by the Command Level review process.

**Recommendation 2.C.1:** Each watch has one “extra” supervisor to fill in for absent supervisors, beginning 22 Jan 05. Additional vacancies created by retirements will be filled by transfer, promotion or loan.

**Recommendation 2.C.2:** The Bureau Commander reviews each watch detail to ensure span of control compliance.

**Recommendation 3.1:** This recommendation has been continually implemented by lieutenants, captains and the Bureau Commander.

**Recommendation 3.2:** This recommendation has been continually implemented by sergeants, lieutenants, captains and the Bureau Commander. It is a standing topic at staff meetings and the Bureau Commander has taken on several processes to ensure compliance. Discipline has been administered for failing to comply with training timelines.

**Recommendation 3.3:** This has been completed as lieutenants as best as possible on all watches with the exception of PSA lieutenants.

**Recommendation 3.4:** This has been accomplished by BFO Policy 03-02 and monitoring by the Bureau Settlement Agreement Coordinator. Additional policies may not be necessary at this time.

**Recommendation 3.5:** An additional supervisor has been added to each watch, effective

## **Audit / Audit Recommendation Update Report**

**Date of Report:** 10 Jan 05

**Audit:** Risk Management Assessment

**Responsible  
Bureau, Division:** Bureau of Field Operations

**Task Manager:** Deputy Chief Peter Dunbar

**Reported by:** Deputy Chief Peter Dunbar

**Bureau Chief  
Review:** \_\_\_\_\_ **Date:** \_\_\_\_\_

22 Jan 05. This supervisor will assist with squad supervision and administrative duties.

**Recommendation 4.1:** The need for a Bureau Policy and Procedure will be evaluated with Sergeant Hogenmiller.

**Recommendation 5.1:** This has been accomplished with the exception of automated quarterly checks of complaints. Each complaint requires a supervisor to conduct an evaluation of each member in accord with Bureau Policy 03-02 and make an appropriate recommendation. The Bureau Commander retains written PIMS reports.

**Recommendation 5.2:** This is monitored on a regular basis. Discipline has been administered for failing to meet training compliance deadlines.

**Recommendation 6.3:** This has been accomplished through Command Level Review and soon-to-be-implemented Scantron Daily Activity Reports. Additional tracking will be implemented with the implementation of the PIMS system.

**Recommendation 6.4:** This is being done on a regular basis.

**Recommendation 6.6:** This is being done on a regular basis.

**Recommendation 6.7:** This has been done through discussion with city leadership and the OPOA.

## **Audit / Audit Recommendation Update Report**

**Date of Report:** 7 Jan 05

**Audit:  
Responsible** Bureau of Field Operations, OC Procedures, SO 8061

**Bureau, Division:** Bureau of Services, Training Division

**Task Manager:** **Lt. R. Orozco**

**Reported by:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
Lt. R. Orozco

**Bureau Chief  
Review:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
Gregory A. Lowe

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

**Agreement/Disagreement:** I agree with this finding.

**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.

**Agreement/Disagreement:** I agree with the recommendation and the Training Division will complete a new SO amending the procedures for the control and tracking of OC.

**Progress:** I reviewed the SO 8061 and will include procedures that will address the ordering, receiving and issuance of OC, and tracking of all Mark VI OC from the Property and Evidence Unit.

We anticipate that this order and training plan will be completed by **Friday, 4 Mar 05**. Training will begin five days after the SO has been reproduced and distributed.

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

**Agreement/Disagreement:** I agree with this finding.

**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.

## **Audit / Audit Recommendation Update Report**

**Date of Report:** 7 Jan 05

**Audit:  
Responsible** Bureau of Field Operations, OC Procedures, SO 8061

**Bureau, Division:** Bureau of Services, Training Division

**Task Manager:** Lt. R. Orozco

**Agreement/Disagreement:** Disagree with this recommendation. Alternative course of action, one day prior to the graduation of the academy or when new personnel are trained, PEU staff will meet with the authorized persons (i.e., sworn / non-sworn) and issue canisters / pick-up/file completed cards.

**Progress:** This will be included in the modification of SO 8061.

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

**Agreement/Disagreement:** I agree with this finding.

**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.

**Agreement/Disagreement:** Disagree with this recommendation.

The Training Division along with PEU staff will examine used/replaced canisters prior to check out to see if a serial number is visible. If the number is visible the Training Division will use the check out procedures in place and ensure an equal amount of OC canisters are returned as were checked out. This is due to cost savings. If the serial number were not visible, no OC canister would be checked out.

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

**Agreement/Disagreement:** Disagree with this recommendation.

**Progress:** The Training Division is not issued empty canisters. See above for partially used OC canister.

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



## **Audit / Audit Recommendation Update Report**

**Date of Report:** 7 Jan 05

**Audit:  
Responsible** Bureau of Field Operations, OC Procedures, SO 8061

**Bureau, Division:** Bureau of Services, Training Division

**Task Manager:** **Lt. R. Orozco**

**Agreement/Disagreement:** I agree with this finding.

**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.

**Agreement/Disagreement:** I disagree with the recommendation for the Training Division to maintain an inventory log to record all cases of OC received/purchased and all cases distributed to the PEU. The SO will mandate the responsibilities of the PEU regarding receiving, purchasing and logging of all OC.

I agree with the recommendation of maintaining a Training Division log for recording all cases of OC. PEU will maintain an inventory log and they will be responsible for including this information in the monthly OC Report.

The Training Division will be responsible for maintaining an inventory log on OC that was checked out for training purposes. The Training Commander will be responsible for reviewing the Training inventory log and insuring that an equal number of OC canisters that were checked out are returned.

**Progress:** This will be included in the modification of SO 8061.

**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.

**Agreement/Disagreement:** I agree with this finding.

**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

## **Audit / Audit Recommendation Update Report**

**Date of Report:** 7 Jan 05

**Audit:  
Responsible** Bureau of Field Operations, OC Procedures, SO 8061

**Bureau, Division:** Bureau of Services, Training Division

**Task Manager:** **Lt. R. Orozco**

and procedure regarding OC and those personnel issuing OC spray should be held accountable for not following policy.

**Agreement/Disagreement:** I agree with the recommendation.

**Progress:** This will be included in the modification of SO 8061. All sworn members can check out OC, as long as they follow the procedures in place. The Training Division will update the PEU with a list of non-sworn personnel that have been trained from TMS, after each class within 5 days after training.

## **Audit / Audit Recommendation Update Report**

**Date of Report:** 7 Jan 05

**Audit:  
Responsible** Bureau of Field Operations Risk Management Assessment

**Bureau, Division:** Director of Administration

**Task Manager:** Ms. Debra Taylor Johnson

**Reported by:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
Debra Taylor Johnson

### **MDT Audit**

**FINDING: Department monitoring of MDT traffic is impeded by computer software limitations.**

Two specific computer limitations contribute to the problem of data loss when attempting to monitor MDT traffic:

1. The current MDT computer system cannot archive transmissions. Data is streamed through a server and saved to a temporary system file that overwrites itself. To save message logs, a computer technician must manually copy the temporary system file from the server every 3-5 days. While this is not a complicated task, it is a newly added responsibility for the IT unit and demands adherence to a strict schedule to avoid missing collected data. Holidays, extended weekends, and unanticipated absences for IT personnel make scheduling even more problematic. The current MDT software cannot export data transmissions. The software resides on a Windows NT™ operating system. IT technicians have worked around this software deficiency by extracting transmissions from operating system logs. However, the operating system has character string length limitations that truncate strings after 856 characters<sup>1</sup>. Of the 3,788 transmissions we examined, 5% were truncated and the data lost.

**Agreement/Disagreement: I concur with this finding.**

**RECOMMENDATION #1:** The Department should use an MDT system that can auto-export and archive MDT logs from the server, using parameters set by IT staff, based on Department audit requirements.

**Agreement/Disagreement: I concur with this recommendation. The Department has already taken steps in this direction and purchased an Integrated Public Safety**

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<sup>1</sup> Car-to-car message transmissions are stored in a computer as a sequence of alphanumeric characters. This sequence of characters is also known as a "string."

## **Audit / Audit Recommendation Update Report**

**Date of Report:** 7 Jan 05

**Audit:  
Responsible** Bureau of Field Operations Risk Management Assessment

**Bureau, Division:** Director of Administration

**Task Manager:** Ms. Debra Taylor Johnson

**System (IPSS) from Motorola. However, there have been difficulties in implementing the original Mobile Module Motorola provided. After contract renegotiations with Motorola, they have substituted a subcontractor, Visiontek, to provide a new Mobile Module, with the above described capabilities. The Agency is now in the process of implementing this new system, but it is having technical difficulties operating in our wireless environment here in Oakland. Motorola's engineers, Visiontek's engineers, and the City's technical staff are working on the technical issues as of this date, with an expected resolution and completion date of September 30th, 2005.**

### **Risk Management Assessment**

**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.

**Agreement/Disagreement:** I agree with the recommendation. The Technology Unit has already provided the technical capability within the Department to provide all supervisory and command personnel with email accounts and access to computers. It is now a matter of the City's Information Technology Department to install.

## **Audit / Audit Recommendation Update Report**

**Date of Report:** 07 Jan 05

**Audit:** Management Level Liaison

**Responsible  
Bureau, Division:** Bureau of Investigation

**Task Manager:** Captain R. Lacer

**Reported by:** Lieutenant B. Fairow

**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.

**Agreement/Disagreement:** The IAD is not assigned to provide input on this finding, however, the matter clearly impacts the Division. With this in mind, I am providing input as the impact in the IAD. As a matter of principle, I concur with this finding

**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.

**Agreement/Disagreement:** I disagree in part. The IAD does not provide monthly updates on any individual investigations. To require such reporting for certain investigations is burdensome at best and likely to create another layer of bureaucracy in an already stressed system. Regular reporting mechanisms are currently under development in the IAD at this time that may eventually help address this issue. Considering the limited number of MLL investigations, it would be more efficient to for the IAD to advise the MLL of the file number, assigned investigator or Bureau, and ultimate findings, as is currently the practice. Monthly updates should be obtained directly from the assigned IAD or Division Level investigator by the MLL.

**Progress:** The process to advise the MLL of the IAD number, assigned investigator or Bureau, and the ultimate finding is already in place. The IAD Administrative Sergeant utilizes the email system to communicate this information with the MLL. Any process to obtain monthly updates should be developed and implemented by the MLL.

## **Audit / Audit Recommendation Update Report**

**Date of Report:** 07 Jan 05

**Audit:** Risk Management Assessment

**Responsible  
Bureau, Division:** Bureau of Field Operations

**Task Manager:**

**Reported by:** Lieutenant B. Fairow

### **Finding #6:**

Perceived inconsistencies in the processing and outcome of complaints also contribute to mistrust. Those we interviewed cited specific incidents that they perceived to be unfair due to the reporting process, investigation process, the review or hearing process, and the disciplinary process. Many of those interviewed asserted that a member that performs his or her job within the spirit and letter of Department policy can wind up being disciplined, while another member may openly violate policy without consequence.

Commanders also perceive themselves as having only limited influence and tracking capabilities in the current discipline process. They report that their discipline recommendations are changed when they are sent up the chain of command, though they are not informed of the changes made that affect those who report to them. They state that this impedes their ability to implement consistency of discipline.

**Agreement/Disagreement:** I can neither agree nor disagree, since no specific examples are provided. Because much of the information circulated throughout the Department surrounding internal investigations is rumor based, it is likely much of the information is just that. Since the IAD is unable to clarify rumors with facts, due to the personnel related matters associated with internal investigations, there is seldom an opposing viewpoint to any such rumors. However, I do agree the mere perception of such issues is just as much a problem as if it were reality.

**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. **Internal Affairs to Develop notification Process.**

**Agreement/Disagreement:** I agree with this recommendation, however, not to the level of specificity recommended. The IAD is at a distinct disadvantage when attempting to communicate with personnel outside the Division. For this reason, I recommend notification of final discipline determinations be made to the member or employee's

## **Audit / Audit Recommendation Update Report**

**Date of Report:** 07 Jan 05

**Audit:** Risk Management Assessment

**Responsible  
Bureau, Division:** Bureau of Field Operations

**Task Manager:**

**Reported by:** Lieutenant B. Fairrow

Bureau Chief or, in their absence, their designee. Such notifications should be via email, with a scanned copy of the file attached and the hard copy to follow. This allows the person most likely to know the current Chain-of-Command for the subject member or employee to ensure the proper flow of information. A Chain-of-Command can change on a daily basis, depending on sickness, injuries, days off for vacation or OTA, or a loan of the effected member or employee in an attempt to remove them from the environment which causes an excessive number of complaints. Each person in a Chain-of-Command usually knows who, directly below them would be available to receive this information and thereby meet the desired 24 hour notification.

**Progress:** The above described process would be able to be implemented immediately within the IAD. Adjustments to the IAD Manual would eventually need to be made to reflect this procedure.

## Audit / Audit Recommendation Update Report

**Date of Report:** 07 Jan 05

**Audit:** MDT Audit

**Responsible  
Bureau, Division:**

**Task Manager:**

**Reported by:** Lieutenant B. Fairow

### Finding:

Policy violations were isolated and confined to few users.

During the 91-day period examined, 13 message transmissions from 8 users were found to violate Department policy. These users represented 1.7% of active MDT users and their message transmissions accounted for 0.4% of all messages examined.

**Agreement/Disagreement:** I agree with the finding.

**Recommendation #2a.** The Department should investigate the instances of policy violation identified by this audit and administer additional training and/or impose discipline as appropriate.

**Agreement/Disagreement:** I agree with this recommendation, however, the details exceed the scope of responsibility for the IAD. While the IAD will readily ensure instances of policy violation are investigated, the administration of additional training and/or imposition of discipline are not functions of the Division. The IAD does have a current policy of identifying potential training issues. When such issues are identified, recommendations are forwarded to the Chain-of-Command when the training need is individual in nature, or to the Training Section when the need is collective. The decision and responsibility to provide such training lies beyond the IAD.

**Progress:** The policy for initiating investigations is already in place and no modification is required. Once noticed of a violation, the IAD initiates an investigation. Similarly, the mechanism for identifying potential training issues is also in place and addressed in Reports of Investigation written by investigators in the IAD.





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.

BFO	BUREAU OF FIELD OPERATIONS	RISK MANAGEMENT
BOS to Handle	<p><b>Recommendation 1.1:</b> 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. <b>Bureau of Services to Handle.</b></p> <p><b>Recommendation 1.2:</b> 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 that the other bureaus have designated appropriate staff for this function.</p>	
BOS, Training to Handle	<p><b>Recommendation 1.3:</b> 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. <b>Bureau of Services to Handle.</b></p>	
BOS, Training to Handle	<p><b>Recommendation 1.4 -</b> 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. <b>Bureau of Services to Handle.</b></p> <p><b>Recommendation 2.A.1:</b> Continue to monitor statement signing, provide corrective feedback as appropriate, and provide positive feedback to squads, watches, and the Bureau when compliance is achieved.</p> <p><b>Recommendation 2.A.2:</b> 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.</p> <p><b>Recommendation 2.B.1:</b> Create a reliable and efficient means of internally auditing stop data form completion.</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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 implement-</li> </ul>	

tation. Explore electronic reporting system for future implementation.

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

**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 3.1:** Commanders and supervisors reassure officers during line-ups that closer supervision is required not only to satisfy Settlement 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 Settlement 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.

**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.

<p>BOS, Personnel to Handle</p> <p>All D/Cs</p> <p>IAD to Address the Policy</p>	<ul style="list-style-type: none"> <li>▪ 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.</li> </ul> <p><b>Recommendation 5.1:</b> Develop a bureau policy for PIMS to address the following:</p> <ul style="list-style-type: none"> <li>▪ 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 in place prior to the 2005 implementation of the new PIMS.</li> <li>▪ Supervisors and commanders check quarterly on complaints filed against squad members and red flag any problems</li> <li>▪ Supervisors document PIMS counseling sessions</li> <li>▪ Follow up performance problems with the appropriate discipline, as indicated.</li> </ul> <p><b>Recommendation 5.2:</b> Hold Department members accountable for compliance by imposing the appropriate discipline for performance problems affecting compliance.</p> <p><b>Recommendation 6.3:</b> Increased efforts toward establishing centralized systems within the Department that are effective and efficient, and can accommodate changes in personnel.</p> <p><b>Recommendation 6.4:</b> Department-wide enforcement of set timelines, with clear communication of expectations and due dates and consequences for not meeting them.</p> <p><b>Recommendation 6.5:</b> Develop Department strategy for replacing retiring members before they exit to ensure continuity and minimize disruption of command and supervision. <b>Bureau of Services, Personnel Division</b></p> <p><b>Recommendation 6.6:</b> 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. <b>All Bureau Chiefs</b></p> <p><b>Recommendation 6.7:</b> 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.</p> <p><b>Recommendation 6.9:</b> 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. <b>Internal Affairs to Develop notification Process.</b></p>
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<p>ATS</p>	<p><b>MDT Audit</b></p> <p><b><u>FINDING:</u> Department monitoring of MDT traffic is impeded by computer software limitations.</b></p> <p>Two specific computer limitations contribute to the problem of data loss when attempting to monitor MDT traffic:</p> <ol style="list-style-type: none"> <li>1. The current MDT computer system cannot archive transmissions. Data is streamed through a server and saved to a temporary system file that overwrites itself. To save message logs, a computer technician must manually copy the temporary system file from the server every 3-5 days. While this is not a complicated task, it is a newly added responsibility for the IT unit and demands adherence to a strict schedule to avoid missing collected data. Holidays, extended weekends, and unanticipated absences for IT personnel make scheduling even more problematic.</li> <li>2. The current MDT software cannot export data transmissions. The software resides on a Windows NT™ operating system. IT technicians have worked around this software deficiency by extracting transmissions from operating system logs. However, the operating system has character string length limitations that truncate strings after 856 characters<sup>1</sup>. Of the 3,788 transmissions we examined, 5% were truncated and the data lost.</li> </ol> <p><b>RECOMMENDATION #1:</b> The Department should use an MDT system that can auto-export and archive MDT logs from the server, using parameters set by IT staff, based on Department audit requirements.</p> <p><b>Risk Management Assessment</b></p> <p><b>Recommendation 6.10</b> - 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.</p>
<p>BOS</p>	<p><b><u>MDT AUDIT</u></b></p> <p><b><u>FINDING:</u> Policy violations were isolated and confined to few users.</b></p> <p>During the 91-day period examined, 13 message transmissions from 8 users were found to violate Department policy. These users represented 1.7% of active MDT users and their message transmissions accounted for 0.4% of all</p>

<sup>1</sup> Car-to-car message transmissions are stored in a computer as a sequence of alphanumeric characters. This sequence of characters is also known as a “string.”

<p>IAD to Address</p>	<p>messages examined.</p> <p><b>RECOMMENDATION #2:</b> The Department should consider incorporating MDT policy review into the current SA training or include as part of a professional development course to prevent future MDT misuse.</p> <p><b>Recommendation #2a.</b> The Department should investigate the instances of policy violation identified by this audit and administer additional training and/or impose discipline as appropriate.</p>
<p>BOI</p>	<p><b>Recommendation 2.D.1</b> – Address the above concerns in the new Departmental policy under development (upcoming K-4.1), including:</p> <ul style="list-style-type: none"> <li>• Timely scheduling requirements for Use of Force Review Boards.</li> <li>• Reporting to the bureau commander (within 72 hours) when the board is scheduled.</li> <li>• 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.</li> <li>• Notify bureau commander (within 72 hours) of the outcomes of Use of Force boards.</li> </ul>
<p>OIG</p>	<p><b>Recommendation 2.C.3</b> - An audit of Span of Control will be conducted by the Office of Inspector General’s Audit and Inspections Unit in June 2004.</p> <p><b>Recommendation 6.1</b> - Distribution of a synopsised Settlement Agreement that covers the practical aspects of the Agreement in an understandable way.</p> <p><b>Recommendation 6.2</b> - 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.</p> <p><b>Recommendation 6.8</b> - Complete, publish, and implement the in-progress Departmental discipline matrix to ensure consistency of discipline.</p>



## **Audit / Audit Recommendation Update Report**

**Date of Report:** 24 Dec 04

**Audit:  
Responsible** Bureau of Field Operations Risk Management Assessment

**Bureau, Division:** Bureau of Services, Personnel Division

**Task Manager:** **Lt. D. Anderson**

**Reported by:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
Lt. D. Anderson

**Bureau Chief  
Review:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
Gregory A. Lowe

**Recommendation 6.4:** Develop Department strategy for replacing retiring members before they exit to ensure continuity and minimize disruption of command and supervision.

**Agreement/Disagreement:** Agree with the recommendation and will expand it to include strategies beyond commanders and supervisors to include other key positions and classifications.

**Progress:** The on-going strategies in place to address the above recommendation include:

1. Regular promotional testing with in 90 days of promotional list expiration for Captain, Lieutenant, and Sergeant to ensure certified promotional lists are available when vacancies occur.

An updated job analysis is conducted for each promotional examination to determine the appropriate knowledge, skills, and abilities required of the position.

2. Entry-level testing for Police Officer Trainees will be resuming a twice-yearly schedule in 2005. This will be supplemented by periodic testing for lateral officers.
3. Continued participation in the City's **Succession Planning Committee** to further identify key individuals and critical positions within the Department. The Committee meets once a month, the next meeting being scheduled for 5 Jan 05.
4. Anticipating, tracking when commanders, supervisors and other key personnel will retire so as to begin preparing those persons that will replace them for their new job assignments.

## **Audit / Audit Recommendation Update Report**

**Date of Report:** 24 Dec 04

**Audit:  
Responsible** Bureau of Field Operations Risk Management Assessment

**Bureau, Division:** Bureau of Services, Personnel Division

**Task Manager:** **Lt. D. Anderson**

5. Training Division continues the yearly assessment of Department training needs to ensure that members and employees receive:

- a. POST-mandated basic and in-service training.
- b. Training in those areas specified by Task 43 of the Negotiated Settlement Agreement which would increase the member/employees ability to better accomplish the responsibilities of his/her current assignment as well as to better prepare him/her for their next assignment. Such areas would include but not be limited to:
  - Ethics
  - Professionalism
  - Critical Thinking
  - Problem Solving
  - Conflict Resolution
  - Relationships with the Community.

Two key tools that are used in providing the materials necessary for the class are a) needs assessment to determine what areas of training the employees/members need/want 2) post-course evaluation to determine the relevancy and delivery of the materials presented.

Succession planning is an ongoing process. New strategies and programs will be evaluated to ensure operational continuity and minimize disruption of commanders, supervisors and other key persons who retire.

## **Audit / Audit Recommendation Update Report**

**Date of Report:** 7 Jan 05

**Audit:  
Responsible** Bureau of Field Operations, OC Procedures, SO 8061

**Bureau, Division:** Bureau of Services, Training Division

**Task Manager:** **Lt. R. Orozco**

**Reported by:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
Lt. R. Orozco

**Bureau Chief  
Review:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
Gregory A. Lowe

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

**Agreement/Disagreement:** I agree with this finding.

**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.

**Agreement/Disagreement:** I agree with the recommendation and the Training Division will complete a new SO amending the procedures for the control and tracking of OC.

**Progress:** I reviewed the SO 8061 and will include procedures that will address the ordering, receiving and issuance of OC, and tracking of all Mark VI OC from the Property and Evidence Unit.

We anticipate that this order and training plan will be completed by **Friday, 4 Mar 05**. Training will begin five days after the SO has been reproduced and distributed.

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

**Agreement/Disagreement:** I agree with this finding.

**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.

## **Audit / Audit Recommendation Update Report**

**Date of Report:** 7 Jan 05

**Audit:  
Responsible** Bureau of Field Operations, OC Procedures, SO 8061

**Bureau, Division:** Bureau of Services, Training Division

**Task Manager:** Lt. R. Orozco

**Agreement/Disagreement:** Disagree with this recommendation. Alternative course of action, one day prior to the graduation of the academy or when new personnel are trained, PEU staff will meet with the authorized persons (i.e., sworn / non-sworn) and issue canisters / pick-up/file completed cards.

**Progress:** This will be included in the modification of SO 8061.

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

**Agreement/Disagreement:** I agree with this finding.

**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.

**Agreement/Disagreement:** Disagree with this recommendation.

The Training Division along with PEU staff will examine used/replaced canisters prior to check out to see if a serial number is visible. If the number is visible the Training Division will use the check out procedures in place and ensure an equal amount of OC canisters are returned as were checked out. This is due to cost savings. If the serial number were not visible, no OC canister would be checked out.

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

**Agreement/Disagreement:** Disagree with this recommendation.

**Progress:** The Training Division is not issued empty canisters. See above for partially used OC canister.

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

## **Audit / Audit Recommendation Update Report**

**Date of Report:** 7 Jan 05

**Audit:  
Responsible** Bureau of Field Operations, OC Procedures, SO 8061

**Bureau, Division:** Bureau of Services, Training Division

**Task Manager:** **Lt. R. Orozco**

**Agreement/Disagreement:** I agree with this finding.

**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.

**Agreement/Disagreement:** I disagree with the recommendation for the Training Division to maintain an inventory log to record all cases of OC received/purchased and all cases distributed to the PEU. The SO will mandate the responsibilities of the PEU regarding receiving, purchasing and logging of all OC.

I agree with the recommendation of maintaining a Training Division log for recording all cases of OC. PEU will maintain an inventory log and they will be responsible for including this information in the monthly OC Report.

The Training Division will be responsible for maintaining an inventory log on OC that was checked out for training purposes. The Training Commander will be responsible for reviewing the Training inventory log and insuring that an equal number of OC canisters that were checked out are returned.

**Progress:** This will be included in the modification of SO 8061.

**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.

**Agreement/Disagreement:** I agree with this finding.

**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

## **Audit / Audit Recommendation Update Report**

**Date of Report:** 7 Jan 05

**Audit:  
Responsible** Bureau of Field Operations, OC Procedures, SO 8061

**Bureau, Division:** Bureau of Services, Training Division

**Task Manager:** **Lt. R. Orozco**

and procedure regarding OC and those personnel issuing OC spray should be held accountable for not following policy.

**Agreement/Disagreement:** I agree with the recommendation.

**Progress:** This will be included in the modification of SO 8061. All sworn members can check out OC, as long as they follow the procedures in place. The Training Division will update the PEU with a list of non-sworn personnel that have been trained from TMS, after each class within 5 days after training.

## **Audit / Audit Recommendation Update Report**

**Date of Report:** 7 Jan 05

**Audit:  
Responsible** Bureau of Field Operations Risk Management Assessment

**Bureau, Division:** Bureau of Services, Training Division

**Task Manager:** **Lt. R. Orozco**

**Reported by:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
Lt. R. Orozco

**Bureau Chief  
Review:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
Gregory A. Lowe

**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.

**Agreement/Disagreement:** Agree with the recommendation.

**Progress:** Special Order 8141 would be amended to outline the Training Division and Bureau Training Coordinators' responsibilities. I would recommend meeting with the Bureau Training Coordinators to include their comments/concerns in the SO, and have it completed by 4 Mar 05.

**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.

**Agreement/Disagreement:** Agree/Disagree with this recommendation.

**Progress:** I agree with the recommendation with providing the training coordinator with computer and e-mail access. This is in place and operational. Relevant software (e.g., MS Excel and MS Access) is provided to the training coordinator.

I disagree with the recommendation of providing training in relevant software packages to the training coordinators. The City of Oakland will provide, through the Finance and Management Agency, Office of Personnel offers training and development for City of Oakland employees. Training coordinators will review the City Wide Training Catalog and identify which course suits their needs. After the completion of the course the student obtains a certificate, which would then be placed in his/her personnel file. The

## **Audit / Audit Recommendation Update Report**

**Date of Report:** 7 Jan 05

**Audit:  
Responsible** Bureau of Field Operations Risk Management Assessment

**Bureau, Division:** Bureau of Services, Training Division

**Task Manager:** **Lt. R. Orozco**

Training Division will be responsible for reviewing the 2005 catalog when published and identifying courses such as, MS Excel and MS Access, and placing a Daily Bulletin item out to training coordinators to attend.

**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.

**Agreement/Disagreement:** Agree with this recommendation.

**Progress:** The Training Division maintains a centralized electronic system with TMS. The TMS system tracks all Department-wide training. A hard copy of the delivered and completed training is retained in the Training Division for auditing, which is done manually.



## **Audit / Audit Recommendation Update Report**

**Date of Report:** 10 Jan 05

**Audit:** Risk Management Assessment

**Responsible  
Bureau, Division:** Inspector General

**Task Manager:** Captain Ron Davis

**Reported by:** Sgt. J. Beal

**Bureau Chief  
Review:** \_\_\_\_\_ **Date:** \_\_\_\_\_

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

**Agreement:** The IMT conducted an audit of BFO span of control in July of 2004 and published it in September, 2004

**Recommendation 6.1:** Distribution of a synopsised Settlement Agreement that covers the practical aspects of the Agreement in an understandable way.

**Progress:** The synopsised version of the Settlement Agreement has been completed. A letter from the City Administrator has been drafted and will be sent to all staff with a synopsised Settlement Agreement attached within a week.

**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.

**Progress:** Sgt. Beal conducted a two-hour block of instruction during this past Sergeant's AOS.

**Recommendation 6.8:** Complete, publish and implement the in-progress Departmental discipline matrix to ensure consistency of discipline.

**Progress:** The discipline matrix is in it's final draft and will be sent to the monitors for compliance review by 15 Jan 05.