

CITY OF OAKLAND

AGENDA REPORT

OFFICE OF THE CITY CLERK
OAKLAND

2004 MAR 11 PM 12:38

To: Office of the City Manager
Attn: Deborah Edgerly
From: Police Department
Date: March 23, 2004

Re: A Status Report from the Chief of Police, as Provided for in the Negotiated Settlement Agreement of Delphine Allen, et al, v. City of Oakland, et al, United States District Court Case No. C00-4599 (TEH), on the Police Department's Implementation and Compliance with Terms of the Settlement Agreement

SUMMARY

This report outlines actions taken by the Oakland Police Department (OPD) to comply with the conditions of the Negotiated Settlement Agreement (hereinafter referred as the Agreement) between the City of Oakland and Plaintiffs in the Delphine Allen, et al., a.k.a. "Riders" cases. The report was filed with the Court on February 23, 2004.

FISCAL IMPACT

Funding to implement the Settlement Agreement was included in the Police Department's FY 2003-05 Baseline Budget. There are no additional fiscal impacts related to this informational report.

BACKGROUND

In accordance with Section XIII. A. 1., of the Agreement, commencing within 120 days from the effective date of the Agreement, OPD shall file status reports twice a year with the Court. The reports will delineate the steps being taken to comply with the provisions of the Agreement.

The first semi-annual report, prepared by the OPD Office of the Inspector General (OIG), consisted of a summary of implementation efforts and progress made from the implementation date of the Settlement Agreement through July 1, 2003. The report identified accomplishments, shortcomings and significant resource challenges anticipated, mainly due to FY 2003-2005 budget shortfalls, in the implementation of three of the sixteen tasks required during the initial time-frame. The remaining tasks were not yet due; however, there were several that were/are not proceeding at a satisfactory pace. As a corrective measure the OPD has implemented several strategies to better monitor task implementation and to apply remedial measures to those tasks that were/are lagging.

The second semi-annual report (Attachment A) details implementation progress and shortcomings commencing July 1, 2003 through December 31, 2003.

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KEY ISSUES AND IMPACTS

Resource Challenges

Budget shortfalls continue to severely impact the City of Oakland and the Police Department. Nevertheless, the OPD remains committed to adopting all provisions in the Agreement in the time and manner prescribed. As noted in the first semi-annual report, the OPD continues to explore the use of grant funds for computer purchases and utilizes staff from other organizational units on a part-time basis as two strategies to make up for the resource shortfall.

Implementation Progress Summary

For implementation delegation and tracking purposes, Agreement provisions were separated into five sub-headings containing 52 individual tasks.

The specific tasks noted in the table below are listed in the “Implementation Progress” section of the attached semi-annual report.

- The tasks listed as “Progressing With Concern” are considered “behind schedule” although the compliance dates have not yet passed.¹
- The tasks listed as “Progressing Without Concern” are proceeding commensurate with submitted work plans.
- The tasks listed as “Not in Compliance” have missed their compliance due dates.²

TASK STATUS	NUMBER OF TASKS
Progressing With Concern	22
Progressing Without Concern	12
Not in Compliance	3
Not in Full Compliance	9
In Full Compliance	4

¹ The OPD was granted an extension on the timelines of tasks related to complaints against department personnel or procedures, use of force reporting and investigation, and performance appraisals (18 of the 22 tasks in this category). The OPD requested technical assistance from the Independent Monitoring Team on two additional tasks that relate to the Personnel Information Management System (PIMS). Policy development and review continue on the remaining two tasks.

² At this time. Two of the three tasks remain “Not in Compliance.” The policy addressing span of control (Task 20) has been completed, but has not yet received approval by the Independent Monitor. Two of the three policies covering community policing (Task 47) have been published and training commenced January 27, 2004. The third policy was reviewed by the Independent Monitor, but has not received their approval. The plaintiff attorneys granted an extension on the third policy (Task 44)

³ The number of tasks totals 50 rather than 52. Task 17 and Task 52 are not included in the tracking. Task 17 is a summary task with no associated actions. Task 52 is a “housekeeping” item.

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Highlights of Accomplishments

- The Personnel Information Management System (PIMS) working group has met regularly and issued its Request for Proposal (RFP) to begin the bid process for creation of the PIMS database.
- Developed a new training roster to ensure compliance with the Agreement
- 737 police officers and non-sworn employees trained on 11 Agreement policies
- Stakeholder meetings convened on a monthly basis
- Improvements implemented to the Department's internal policy review process
- Publication of straight forward and accurate internal review of progress
- Full staffing the Office of Inspector General and increased staffing in the Internal Affairs Division
- Facilitated a seven-day audit training course for 35 members of the Department
- Weekly meetings between the Chief of Police and the OIG to discuss progress

Expectations in the Next Six Months

- Complete all over due policies
- Complete current policies by the due date
- Continue Department-wide training on all completed policies

SUSTAINABLE OPPORTUNITIES

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

DISABILITY AND SENIOR CITIZEN ACCESS

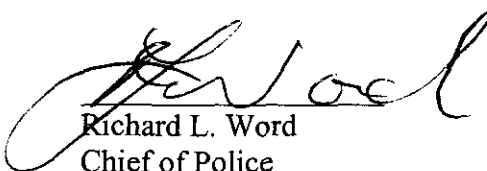
There are no known or relevant impacts associated with Disability and Senior Citizen Access.

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RECOMMENDATION

Staff recommends that the Council accept this information report on the Police Department implementation and compliance with the terms of the Settlement Agreement.

Respectfully submitted,



Richard L. Word
Chief of Police

Prepared by: Lt. Anthony K. Rachal
Compliance Coordinator
Office of Inspector General

Attachment A: 2nd Semi-Annual Report

APPROVED AND FORWARDED TO
THE PUBLIC SAFETY COMMITTEE:



Cheryl L. Thompson
Office of the City Manager

Oakland Police Department



Negotiated Settlement Agreement Second Semi-Annual Report

3

PUBLIC SAFETY CMTE.

MAR 23 2004

This report was prepared by:

Oakland Police Department
Office of Inspector General

Captain Ronald Davis
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February 18, 2004

Approved for Distribution:

Richard L. Word
Chief of Police

Date: 18 Feb 04

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Task 09: Contact of Citizen Complainant	34
Task 10: Procedure Manual for Investigations of Citizen Complaints	36
Task 11: Summary of Citizen Complaints Provided to OPD Personnel	37
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PREFACE

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 (6) month intervals, until this Agreement is terminated.

In accordance with the provisions of the Agreement the Oakland Police Department (OPD), Office of Inspector General has prepared this, the second semi-annual report. This public report will be filed with the Court and will document implementation activities undertaken by the Department during the second six (6) months of the Agreement.

This report constitutes a snapshot of Department implementation efforts and progress as of December 31, 2003.

Significant progress or milestones that have been achieved since December 31, 2003, and prior to the publication of this report, have been noted.

EXECUTIVE SUMMARY

Overview

This is the second Semi-Annual Report to the United States District Court, summarizing the Department's efforts to implement provisions of the Settlement Agreement between Delphine Allen, et al., and the City of Oakland, otherwise known as the "Riders" cases.

Administrative support efforts include the following:

- Continuing monthly meetings with stakeholders;
- The Oakland Police Officers' Association and the City Attorneys' Office have met and resolved nearly all issues related to Settlement Agreement related policy;
- Increasing the Office of Inspector General staff to ten persons;
- Completion of task plans, in the form of Milestone Tracking Sheets, by all Task Managers for each assigned Settlement Agreement task;
- Developing new policies and processes to expedite publication of and training on Settlement Agreement related policy; and
- Conducting five audits and reviews of completed policy areas, as well as policy areas under development.

Efforts related to reform provisions of the Settlement Agreement include the following:

- Completing and publishing twelve policies directly related to requirements of the Settlement Agreement;
- Initiation of a national conference on consistency of discipline, hosted by Oakland Police Department and a well-known researcher in law enforcement policy;
- Rotation of command staff;
- Continuing the collection of data on every vehicle stop, field investigation, and detention; and
- As of the publication of this report, a request for proposal for software programming of the new Personnel Information Management System has been completed and published. The Department is beginning to receive both solicited and unsolicited responses from vendors.

Although this reporting period has seen extensive work toward compliance in the area of policy development, the Office of Inspector General does have concern with regard to policy implementation. Audits and reviews conducted by the OIG reveal that overall compliance with newly published policies fall notably short of substantial compliance with the Settlement Agreement. The Chief of Police reports that during the next six (6) months, he plans to implement several measures recommended by the OIG to address the policy implementation concerns.

First Quarterly Report from the Independent Monitoring Team (IMT)

The IMT issued their first quarterly report on Tuesday, December 23, 2003. This report covered the period from July 15, 2003 to October 15, 2003.

Accomplishments noted included:

- establishing and adequately staffing a strong compliance unit under the auspices of the Office of Inspector General (OIG);
- conducting monthly monitoring meetings before the IMT began its work;
- producing straightforward and fair internal accounts of OPD's own progress, including the public release of OPD's first semi-annual status report;
- the personal involvement and commitment of the Chief of Police; and
- drafting new policies and procedures in a number of areas.

Areas of concern included:

- Personnel Information Management System (PIMS); and
- Consistency of Discipline

The IMT is concerned about timely progress on both of these areas of the Settlement Agreement.

The IMT noted that although the PIMS is not due to be in place for some time yet, there are fundamental questions about the data that should be captured that are unresolved. They also cite concerns about the RFP and financial resources for implementation of the system.

The Department agrees that PIMS is a highly complex undertaking, and has requested increased technical assistance from the IMT to assess whether the Department is on track with its efforts to date, and if not, what changes need to be considered. As of the publication of this report, the IMT has accepted the Department's request for assistance in this area.

The IMT views the Department's Consistency of Discipline policy as a lynchpin to its efforts to treat officers fairly and consistently, with positive, energetic policing rewarded and misconduct and lax policing punished. The IMT's assessment was that although the Department had made efforts in this area, it is far from developing and implementing a system that ensures the fair and consistent imposition of discipline.

The Department agrees that Consistency of Discipline is an extremely important component of the Settlement Agreement. Although the Department has made progress in developing the relevant policy in this area, it is not yet completed and the Department considers this an area of concern. The Department has re-evaluated its efforts and has presented a work plan with associated timelines to the IMT and plaintiffs' attorneys. The proposed timelines and extensions were granted by the parties at the January Monthly Meeting. Furthermore, because of the importance of this task and the concern of the IMT, additional technical assistance in the development of the Department's new discipline matrix has been requested. As of the publication of this report, the IMT has agreed to provide assistance regarding the tracking and timely processing of Internal Affairs cases, and is considering the extent to which they may provide assistance with the development of the discipline matrix itself.

Resource Challenges

Budget shortfalls continue to severely impact the City and the Police Department. Projected deficits may even increase and further hamper Settlement Agreement implementation efforts. Nevertheless, the City and Department remain committed to adopting all provisions in the Settlement Agreement and doing so in the time and manner prescribed. As noted in the first semi-annual report, the Department is exploring the use of grant funds for computer purchases and utilizing partial work-time of staff assigned to other organizational units in the Compliance Unit as two strategies to make up for the resource shortfall.

Implementation Progress Summary

For implementation delegation and tracking purposes, Agreement reform provisions were separated into 52 tasks.

TASK STATUS	NUMBER OF TASKS*
Progressing With Concern	22
Progressing Without Concern	12
Not in Compliance	3
Not in Full Compliance	9
In Full Compliance	4

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

The provisions of four (4) tasks have been implemented, and nine (9) tasks have been partially completed. Twelve tasks are progressing without concern, but progress on many tasks is behind schedule. Three (3) tasks due were not in compliance in policy, training, or implementation as of December 31, 2003. Of the tasks with compliance dates upcoming, 22 are progressing with concern.

As of the publication of this report, none of the tasks are considered Not in Compliance. Policy addressing span of control (Task 20) has been completed and published; training was scheduled to begin January 27, 2004. Two of three policies covering community policing (Task 47) have been completed and published. The third is under review by the stakeholders. Plaintiffs' attorneys have granted the department an extension on Task 44, Performance Appraisal. Additional detail for each of these SA provisions is provided in the task section of this report.

The first Semi-Annual Report indicated that the Department put into practice several strategies to better track implementation progress and identify tasks that are falling behind early enough to apply corrective measures. These strategies were put into practice and, along with other measures taken, contributed to the progress made in catching up on tasks that were Progressing With Concern or past their due dates.

As production of Settlement Agreement related policy increased, however, the existing policy review process became ineffective. During the first part of the first six months of the Agreement, policy was distributed, and discussed at the monthly meetings. As the number of policies being presented for review increased, the monthly meeting time became insufficient to review and discuss each policy. At first, the monthly meeting time was extended, then policies were held over for discussion at the next monthly meeting. This quickly created a backlog of policy to be reviewed and discussed as Settlement Agreement related activity continued to increase. As a result, several policies were not reviewed, revised, and published in time to meet the specified compliance dates. Since the time of the first Semi-Annual report, however, the Department has put into practice several additional strategies to facilitate policy review, revision, and publication. Many of these are codified through a stipulation to the Settlement Agreement that specifically addresses the policy review process.

- Draft policy is submitted for review by the plaintiffs' attorneys, IMT, and OPOA via e-mail as soon as it is ready for review, rather than waiting for the monthly meeting;
- Comments from the IMT, plaintiffs' attorneys, and OPOA are returned to the OIG within fifteen working days of receipt of the draft policy, rather than waiting for the monthly meeting;
- Any member of the parties may request that a draft policy be agendaized for discussion at a monthly meeting. This puts a stay on the review time so the policy can be discussed, then finalized. This also avoids discussion of points that do not need to be heard by the group (e.g., minor changes in language, specific content-related questions); and
- Final draft policy is submitted to the IMT for a three-day compliance review. The OIG provides the IMT with a red-lined version of the policy, indicating the changes from the first draft reviewed by all parties, and the changes made up until the compliance review.
- All Task Managers completed and submitted Milestone Tracking Sheets delineating the timeline for completion of each assigned task.
- Task Managers continue to submit Settlement Agreement 6-Week Progress Reports.

BACKGROUND

Purpose of the Settlement Agreement

The purpose of the Settlement Agreement (“Agreement” or “SA”) is to promote police integrity and prevent conduct that deprives persons of the rights, privileges and immunities secured or protected by the Constitution or laws of the United States. The overall objectives of the Agreement are to provide for the expeditious implementation, initially with the oversight of an outside monitoring body, of the best available practices and procedures for police management in the areas of supervision, training and accountability mechanisms, and to enhance the ability of the Oakland Police Department to protect the lives, rights, dignity and property of the community it serves.

Focus of the Settlement Agreement

The Agreement places emphasis on the following eight (8) core areas:

- Internal Affairs Investigations
- Discipline
- Field Supervision
- Management Oversight
- Use of Force, Reporting
- Personnel Information Management System (PIMS)
- Training
- Auditing and Review Systems

Stakeholders

First and foremost, the people of Oakland are stakeholders in the Agreement. There are numerous other stakeholders including, at the federal level, the Court and the Independent Monitoring Team. Although not parties to the Agreement, the Oakland Police Officers’ Association (OPOA) was a party to the litigation. The OPOA and other employee representation units are also stakeholders. Finally, as the Agreement is between the City and the Plaintiffs, the following City entities are also key stakeholders:

- Office of the Mayor
- City Council
- Office of the City Manager
- Office of the City Attorney
- Police Department

Commitment to Reform

The first Semi-Annual report noted concerns about the potential negative impact of the reforms on the quality and quantity of police work. Many of the staff thought the SA was somewhat restrictive and would consequently discourage proactive policing. Since the last semi-annual report, however, the Department has implemented several proactive programs, such as Operation Impact and Operation SAFE, which have had positive effects on crime and violence in Oakland. While concerns that the reforms may be counter to effective policing have not been realized, the Department remains guarded about negative perceptions with regard to the SA. It recognizes that the reforms outlined in the Agreement will, in the end, improve both the quality and quantity of police activities in Oakland, and is committed to continuing efforts to communicate the positive aspects of the SA and its intended effect on the Department.

The Office of Inspector General does have concern with regard to policy implementation and compliance. Although this reporting period has seen extensive work toward compliance, most of that work has been limited to policy development by the Task Managers. Audits and reviews conducted by the OIG reveal that overall compliance with newly published policies fall notably short of substantial compliance with the SA. Accordingly, the OIG has discussed its concern with the Chief of Police, and made the following recommendations:

- Continue weekly meetings between the Chief and the OIG to provide updates on compliance efforts.
- Formation of a Compliance Monitoring Team (CMT) to assist Task Managers and division commanders with compliance. The CMT will be comprised of varied internal stakeholders, including rank and file.
- Incorporate SA compliance efforts into the monthly CrimeStop meetings and require commanders to outline their compliance efforts and explain any deficiencies. In lieu of incorporation into CrimeStop, the OIG recommends a monthly command meeting in which each Task Manager and division commander outlines their efforts to obtain and maintain compliance.
- Assign compliance coordinators to each division to coordinate with the OIG on all SA issues and compliance audits.
- Require the commander of any division and/or watch that fails an audit to provide a written report explaining their deficiencies and outlining an improvement plan to achieve compliance.
- Conduct a supervisory and command retreat to review each provision of the SA, and reinforce the Chief's zero tolerance philosophy toward non-compliance.

The Chief has agreed to the recommendations provided by the OIG. During the next six-month reporting period, the Department will implement these recommendations.

BUSINESS PLAN

Implementation Tasks

Each task is assigned to one of the following organizational units:

- Office of Chief of Police – two (2) tasks
- Bureau of Field Operations - six (6) tasks
- Bureau of Services – eleven (11) tasks
- Bureau of Investigation - eleven (11) tasks
- Internal Affairs Division - seventeen (17) tasks
- Office of Inspector General - three (3) tasks

Several tasks (e.g., Complaint Procedures, Use of Force Reporting, Personnel Information Management System, and Field Training Officer Program) require significant operational changes in multiple bureaus or divisions. In these cases the designated responsible unit shall consult with and coordinate implementation with all affected organizational units.

Finally, implementation responsibility has been fixed for each task based upon the task's subject matter. Each task has been assigned by the responsible Bureau Deputy Chief or unit commander to an appropriate Department staff person in their unit, who functions as the Task Manager.

Implementation Tracking and Reporting

Six-Week Progress Reports for each of the tasks continue to document progress and deliverables, detail development or implementation problems, request assistance for resources needed to complete the task, etc. Reports on each task are prepared every six (6) weeks by the respective Task Manager detailing:

- the status of the task;
- progress towards completion of the task over the last six-week period;
- expected progress over the next six-week period; and
- budgetary or organizational challenges affecting task completion.

The report is forwarded to the appropriate Deputy Chief or IAD commander, who reviews, approves, and forwards the report to the Compliance Unit. The Six-Week Progress Reports are compiled by the Compliance Unit into a Settlement Agreement Status Report which documents overall Department implementation efforts. Due to staffing changes within OIG and resource demands within the Department, a Status report for the six-week period ending November 14 was not issued. Due to the timing of the Semi-Annual Report, the Status Report for the period ending December 26, 2003 will not be issued. The Progress Reports provided during the six-week periods covered in this Semi-Annual Report, including those submitted for the period ending December 26, 2003, have been integrated into this report.

Administrative**Personnel, Office of Inspector General (OIG)**

As of December 31, the Office of Inspector General (OIG)/Compliance Unit consisted of ten (10) persons, with two (2) of those positions being vacant, due to changes in assignment. The OIG staff include: one (1) captain, one (1) lieutenant, two (2) sergeants, two (2) officers, one (1) Police Program and Performance Auditor, two (2) Administrative Analysts II, and one (1) Personnel Records Specialist (PRS). As of December 31, the lieutenant position and one (1) officer position were temporarily vacant, with replacements identified. The replacements are due to join the OIG as of January 15, 2004. An additional PRS will also join OIG at that time, bringing the staffing to the approved total of 11.

CLASSIFICATION	NO. OF POSITIONS	FUNCTION
Captain of Police	1	Inspector General and Unit Commander
Lieutenant of Police	1	Compliance Coordinator
Sergeant of Police	1	Policy and Publication Development Unit Supervisor
Sergeant of Police	1	Audits and Inspections Unit Supervisor
Police Officer	2	Auditor
Police Program and Performance Auditor	1	Audit Planning and Reporting
Administrative Analyst II	2	Auditor
Police Records Specialist	1	Office Management and Administration
Police Records Specialist	1	Administrative Support
Total Staffing	11	

A number of changes in the OIG staffing have occurred since the last reporting period. As a result of retirements, organizational restructuring, City Budget and Classification requirements, and resource needs, the following changes have occurred:

- Change in Unit Commander
- Change in Lieutenant, Compliance Coordinator
- Change in Sergeant, Audit and Inspections Unit Supervisor
- Change in both Police Officers, Auditors
- Compliance Analyst position eliminated
- Police Program and Performance Auditor position filled
- Police Records Specialist added

Facilities and Equipment

As of December 31, 2003, all OIG staff is located on the 8th floor of the Police Administration Building.

Office space for the Independent Monitoring Team was secured and set up in Room 103 of the Police Administration Building. At the request of the IMT, the office was relocated to 250 Frank Ogawa Plaza, Suite 6306.

Reporting

This Semi-Annual Report is based largely on the following:

- Six (6) sets of Settlement Agreement Six-Week Progress Reports prepared by the Task Managers assigned to develop policies and procedures required by the terms of the Agreement.
- Four (4) Settlement Agreement Status Reports submitted by the OIG to the Chief of Police summarizing Six-Week Progress Reports and implementation concerns noted during OIG meetings with subject matter experts, the plaintiffs counsel, Office of the City Attorney, OPOA, etc.

The Office of Inspector General continues to issue reminder emails one (1) week prior to the Settlement Agreement Six-Week Progress Report due date in order to maintain compliance with the timely submission of Settlement Agreement Six-Week Progress Reports.

IMPLEMENTATION PROGRESS

Timelines

As described above, the provisions of the Agreement were consolidated into tasks and assigned to Task Managers. Each Task has a Compliance Date for policy development and implementation. An overall assessment of each task's status is also provided as follows:

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

The status of each Task is reported here as of December 31, 2003. In general, most tasks are progressing with concern.

TASK STATUS	NUMBER OF TASKS
Progressing With Concern	22
Progressing Without Concern	12
Not in Compliance	3
Not in Full Compliance	9
In Full Compliance	4

1. Progressing with Concern

The following 22 tasks have compliance dates that have not yet occurred, and are behind schedule, per the Task Manager's work plan:

- Task 02: Timeliness Standards and Compliance with IAD Investigations
- Task 04: Complaint Control System for IAD
- Task 05: Complaint Procedures for IAD
- Task 07: Methods for Receiving Citizen Complaints
- Task 08: Classifications of Citizen Complaints
- Task 09: Contact of Citizen Complainant
- Task 11: Summary of Citizen Complaints Provided to OPD Personnel
- Task 12: Disclosure of Possible Investigator Bias
- Task 14: Investigation of Allegations of *Manual of Rules* Violations Resulting from Lawsuits and Legal Claims
- Task 15: Reviewing Findings and Disciplinary Recommendations
- Task 16: Supporting IAD Process – Supervisor/Managerial Accountability
- Task 18: Approval of Field-Arrest by Supervisor
- Task 19: Unity of Command
- Task 21: Members', Employees' and Supervisors' Performance Review
- Task 24: Use of Force Reporting Policy
- Task 25: Use of Force Investigation and Report Responsibilities
- Task 26: Use of Force Review Board (UFRB)
- Task 28: Use of Force — Investigation of Criminal Misconduct
- Task 29: IAD Investigation Priority
- Task 30: Firearms-Discharge Board of Review
- Task 40: Personnel Information Management System (PIMS)
- Task 41: Use of Personnel Information Management System (PIMS)

2. Progressing without Concern

The following 12 tasks have compliance dates that have not yet occurred, and are considered on or ahead of schedule per the Task Manager's progress plan:

- Task 01: IAD Staffing and Resources
- Task 03: IAD Integrity Tests
- Task 06: Refusal to Accept or Refer Citizen Complaint
- Task 10: Procedure Manual for Investigations of Citizen Complaints
- Task 13: Documentation of Pitchess Responses
- Task 27: Oleoresin Capsicum Log and Checkout Procedures

- Task 31: Officer-Involved Shooting Investigation
- Task 42: Field Training Program
- Task 43: Academy Training Plan
- Task 45: Consistency-of-Discipline Policy
- Task 46: Promotional Consideration
- Task 51: Compliance Audits and Integrity Tests

4. Not in Compliance

The following three (3) tasks are beyond their respective compliance dates, and did not have policy, training, or implementation in compliance as of December 31, 2003:

- Task 20: Span of Control for Supervisors
- Task 44: Performance Appraisal Policy
- Task 47: Community Policing Plan

5. Not in Full Compliance

The following nine (9) tasks have compliance dates that have come due and have policy, training, and/or implementation that the Office of Inspector General has determined to be in compliance.

- Task 22: OPD/DA Liaison Commander
- Task 33: Misconduct
- Task 34: Vehicle Stops, Field Investigation and Detentions
- Task 35: Use of Force Reports – Witness Identification
- Task 36: Procedures for Transporting Detainees and Citizens
- Task 37: Internal Investigations – Retaliation Against Witnesses
- Task 38: Citizens Signing Police Forms
- Task 39: Personnel Arrested, Sued and/or Served with Civil or Administrative Process
- Task 48: Departmental Management and Annual Management Report

4. In Full Compliance

The following four (4) tasks have compliance dates that have come due and have been determined by the OIG to be in compliance in all required areas, including policy, training, and implementation:

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

Details on each of the tasks listed above may be found in the Task Implementation section of this report.

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

The Bureaus and Internal Affairs Division Task Managers all submitted Task Milestone Tracking Worksheets to the OIG reflecting their plans for managing their assigned Agreement tasks. Essentially, they are business plan outlines with specific dates (milestones) for each relevant sub-task needed to develop policies for and to implement the provision of each Agreement task. The expected completion dates they provide are being used as milestones against which the progress of tasks are measured and reported on each Settlement Agreement Status Report and in the Semi-Annual Report.

Training

In order to document training on new directives, the Department now requires that training rosters be completed, indicating the topic, date of training, and individuals trained.

The first policy trained, and documented through the rosters, was the Information Bulletin, Citizens Signing Police Forms (Task 38). As noted in the task detail section, it was already required by General Order that citizen statements be completed by drawing a diagonal line from the end of the statement to the end of the page, with the citizen's signature and the date along that diagonal line. The Information Bulletin was, in effect, a refresher training to reinforce this existing policy. The Information Bulletin was distributed to all Department members upon publication. A second copy was also given, along with the training roster, to all supervisors. Supervisors were told to ensure members reporting to them received training on the policy, complete the roster with the appropriate information, and return the completed roster to the Training Section. In an effort to enhance record-keeping and accountability, the training roster requires that each trainee sign the roster him or herself.

The Training Section reports that return on rosters has been slow. Current records may therefore under-represent the number of individuals trained. In response, the Training Section commander issued a reminder to supervisors to turn in their rosters. Based on the rosters completed, the Training Section also identified those members who it appeared had not yet received training, and followed up to ensure that supervisors provided training to those individuals.

The Department has also developed temporary procedures to decrease the time it takes to train personnel on newly-published policies. Although there have been several glitches in the implementation of the new system, such as miscommunication and scheduling conflicts, overall the system has reduce training time from 30 days to schedule training to 30 days to schedule and complete training. As we further enhance this system with the use of technology, the number of glitches should decrease and the consistency in training should improve. This area will be closely monitored with updates provided in the next semi-annual report.

Audits and Reviews

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

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

The first three reviews (Tasks, 20, 38, 34) were conducted to determine compliance with Settlement-Agreement related policy that had been drafted and/or published. The September 2003 audit of Span of Control (Task 20) showed non-compliance with the Settlement Agreement requirements. Although a second formal audit has not yet been conducted, the Department reports that the January 10, 2004 patrol draw has put the Department in compliance with this SA provision. Eleven (11) of forty-two (42) Patrol Sergeants had more than eight (8) members assigned to their squads. Reviews of Tasks 38 and 34 revealed that although the policies were published and training had been implemented, though not completed, the related Settlement Agreement requirements were not being practiced to a level that the department would consider substantially compliant. In particular, Task 34, involving the completion of Stop-Data forms, was trained, but showed a very low rate of compliance.

The two additional reviews on timeliness of Internal Affairs investigations and use of force reporting and investigation were conducted as a preliminary exploration of two of the more complex areas of the Settlement Agreement. The purpose of these reviews was to gather information that might be helpful in the current development of policies in these areas and in the development of audit plans and methodology for the Office of Inspector General.

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

Additional detail on these audits may be found in the detailed reports on the particular related tasks, later in this report.

Monthly Meetings

The Agreement calls for the Monitor to “conduct monthly meetings that shall include representatives of OPD, the City Attorney’s Office, the City Manager’s Office, the Oakland Police Officers’ Association, and plaintiffs’ counsel. The purpose of these meetings is to ensure effective and timely communication between the Monitor, OPD, the City Attorney’s Office, the City Manager’s Office, the Oakland Police Officers’ Association and plaintiffs’ counsel regarding the development of procedures and policies under the Agreement, implementation,

compliance and information-access issues.”¹ In March 2003, the Police Department initiated monthly meetings to facilitate implementation progress and communication with the specified stakeholders in advance of the Monitor’s selection and arrival.

Monthly meetings continue to be held discussing primarily the following issues:

- Settlement Agreement language changes, and clarifications;
- Labor management issues;
- Implementation progress and timelines; and
- Publication drafts.

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

Labor / Management Concerns

Through discussions between the OPOA and City Attorneys’ Office, labor management concerns that were raised during the first half of 2003 have since been resolved. The policy area that is currently under discussion is shown below.

TASK NO.	TASK TITLE	RELATED POLICE DEPARTMENT PUBLICATION
39	Personnel Arrested, Sued and/or Served with Civil or Administrative Process	Special Order 8064, Reporting of Civil Actions Served on Personnel in Specialized Units

Risk Management Measures

The first Semi-Annual report delineated a number of risk management programs put in place to improve officer safety, increase the quality of service to the community, minimize financial losses to the City, and improve the integrity of the Police Department. Unless noted otherwise, those programs remain in place. Updates are provided below on those programs that are ongoing or changing, as well as any new programs:

¹ SA reference XIII. J. 1. (page 48, line 9)

Chief's Attendance at Sessions of the Professional Development Academy

To provide increased leadership, the Chief of Police continues to attend sessions of the Professional Development Academy to discuss his policies on numerous issues of concern. Issues include: Internal Affairs Division (IAD) complaint trends, community policing, the status of contract negotiations with the Oakland Police Officers' Association, the Agreement, and pending changes within the Department.

Complaint and Discipline Review

A review of the complaint and discipline records of all Patrol and Crime Reduction Team officers is conducted annually during each member's performance evaluation to see if patterns are present that may indicate the potential for misconduct.

Increased Field Supervision

During the period that the "Riders" incident occurred, the "Riders" sergeant supervised two (2) squads, a practice known as a "double-stacked squad." In early 2001, and in conjunction with the adoption of Police Service Areas (PSA) throughout the City, this practice was reduced to only three (3) "double-stacked" Day-Watch squads. The Patrol Draw that took effect January 10, 2004 established a span-of-control of 1:8, and eliminated any remaining double-stacked squads.

Research and Planning Division

In addition to researching and reporting on pertinent law enforcement topics and risk management issues, the Research and Planning Division has been assisting with Best Practices research related to the SA provisions. The Division is currently assisting the Department with the development of the new discipline matrix being developed to ensure that discipline is imposed in a fair and consistent manner.

Revision of *Manual of Rules*

New sections of the *Manual of Rules* (MOR) have been added to address confidential reporting of alleged police misconduct and to specifically prohibit retaliation against witnesses

Select Indicator Reports

Quarterly Select Indicator Reports are provided to supervisors and commanders to alert them of officer and/or employee performance patterns that may require additional intervention, beyond the completion of a misconduct investigation. A review of the First Quarter Select Indicator Report for 2002 identified 15 officers with potential complaint issues. The Deputy Chief of Field Operations thoroughly reviewed each case history and made several referrals to the Early Intervention System (EIS)².

² The Early Intervention System (EIS) is a pro-active, non-disciplinary program designed to identify and positively influence conduct or performance-related problems exhibited by individual officers.

Timeliness of Internal Investigation

Timelines and procedures for internal investigations have been revised by the Chief of Police, and are currently being incorporated into new General Order M-3, Complaints Against Department Personnel.

Personnel Actions

In addition to the programs listed above, the Department has taken the following personnel actions to further mitigate preventable risk:

- Internal Investigations - One hundred and seventy-nine (179) misconduct complaints were filed from July 1, 2002 through December 31, 2002. From January 1, 2003 through June 30, 2003, there were one hundred sixty-five (165) complaints filed in Internal Affairs Division. One hundred and sixty-eight (168) complaints were filed between July 1, 2003 and December 31, 2003.
- Early Intervention System Referrals- During the last six (6) months, two (2) members have been referred (or directed) to the Early Intervention System program.

Auditor Training

The Department contracted with a vendor to provide performance audit training to 33 members of the City of Oakland, including the Police Department's OIG staff, Deputy Chiefs, and representative staff from each bureau. The training uses Government Auditing Standards as its foundation, with examples and exercises focused on the objectives of the Police Department with respect to implementation and review of the SA provisions. Bureau commanders and additional representatives are included in training to promote an understanding of the audit process that will impact them in the near future, and to facilitate the execution of the SA audits by forming cooperative and effective working relationships with the units that will be audited. The seven-day training course began January 6, 2004. As of the publication of this report, four (4) of the seven (7) days of training have been conducted. Training is scheduled to be completed by February 26, 2004.

The Department is confident that the risk management strategies initiated or modified since the discovery of the "Riders" incident are steps toward modeling the best practices and procedures for law enforcement, including supervisory and management oversight, and delivery of police services to the community.

TASK IMPLEMENTATION

Implementation activities for each specific Task are detailed on the following pages. In some tasks, lead-in language is provided and referenced for clarity.

Task 01: IAD Staffing and Resources

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

Assigned Unit: IAD

Compliance Date: June 1, 2005

Settlement Agreement Language:

"Within 616 days from the effective date of this Agreement, the Chief of Police shall revise Departmental policy and procedures and develop a manual for conducting complaint investigations. Training shall be provided to ensure all personnel have received, understand, and comply with new and revised Departmental policies and procedures. The IAD Procedural Manual shall include, at a minimum, the following provisions of this Section:

A. IAD Staffing and Resources

1. Assignment;
2. Rotation;
3. Training and qualifications of members and other personnel in IAD;
4. Appropriate background checks on IAD personnel;
5. Confidentiality of IAD information."

Status: Progressing Without Concern

Deliverables:

- Revised Departmental General Order M-3, Complaints Against Department Personnel
- Internal Affairs Division Policy and Procedures Manual

Implementation Activities: The current Settlement Agreement Six-Week Report for this Task indicates that the task is 75% complete. IAD staffing has undergone an increase. Departmental General Order M-3, Complaints Against Department Personnel has been drafted. The draft has been shared with the plaintiffs' attorneys and the Independent Monitoring Team, and is undergoing an internal review by Department command staff. The Internal Affairs Division Procedural Manual is being created, as new and revised policies concerning citizen complaint policies, integrity check policy, rotation, training, and qualifications and background checks for IAD personnel are developed.

*Update Note: It was agreed at the January Monthly Settlement Agreement meeting that because they are linked, the new DGO M-3 would be trained along with the new discipline matrix. This training would take place by July 1, 2004.

Task 02: Timeliness Standards and Compliance with IAD Investigations

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

Assigned Unit: IAD

Compliance Date: April 15, 2003

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

Settlement Agreement Language:

“Within 616 days from the effective date of this Agreement, the Chief of Police shall revise Departmental policy and procedures and develop a manual for conducting complaint investigations. Training shall be provided to ensure all personnel have received, understand, and comply with new and revised Departmental policies and procedures. The IAD Procedural Manual shall include, at a minimum, the following provisions of this Section:

B. Timeliness Standards and Compliance with IAD Investigations

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

- 1. Within 60 days from the effective date of this Agreement, the Chief of Police shall develop and implement timeliness standards for the completion of Internal Affairs investigations, administrative findings and recommended discipline.*
- 2. Compliance with these timeliness standards shall be regularly monitored by IAD command and the Department’s command staff. If IAD experiences an unusual proliferation of cases and/or workload, IAD staffing shall be increased to maintain timeliness standards.”*

Status: Progressing With Concern*

Deliverables:

- Departmental General Order M-3, Complaints Against Department Personnel

Implementation Activities: Departmental Special Order 8026, Timeliness Standards for Internal Affairs Investigations was drafted but not completed within the required time frame.

At the June 19, 2003 meeting with the plaintiffs’ counsel, IAD proposed creating one cohesive policy that would satisfy a number of related tasks, with a new Target Date of December 1, 2003. The policy would be revised Departmental General Order M-3, Complaints Against Department Personnel. Incorporating Task 02 into General Order M-3 would involve extending the Compliance Date for this task, as well as Tasks 04 and 05, and moving the Target Dates up for Tasks 07, 08, 09, 11, 12, 14, 15, and 16.

At the August 21, 2003 meeting, the Task Manager also requested that the task compliance dates, including training on the policy developed, be set at June 1, 2004. The plaintiffs’ counsel accepted the requests to have the compliance dates for the tasks set as June 1, 2004, with the policy development date set at December 1, 2003,

The provisions of this task were included in the draft revision of Departmental General Order M-3, Complaints Against Department Personnel. The draft was shared with the plaintiffs’ attorneys and Independent Monitoring Team as it went to internal staffing. Comments from the Department’s command staff indicated a need for significant revisions to M-3. The comments

were shared with the subject matter expert to consider in the redrafting of this policy.

*Update Note: As of the publication of this report, the Department presented a revised timeline for the development of General Order M-3 which was accepted by the plaintiffs' attorneys. The revised draft of Departmental General Order is scheduled to be presented to the parties for their primary review no later than February 1, 2004. The directive is scheduled to be published by March 15. Informational training for all members and employees is scheduled to be completed by April 15, 2004, and specialized training for sergeants and lieutenants will be delivered on or before July 1, 2004.

Full implementation of this task will not be complete until the revised Departmental General Order is published and adequate training has been provided to all members and employees. Once the revised Departmental General Order is published, the Office of Inspector General's Audit Unit will once again review this task to ascertain if all the provisions listed in Task 2 have been addressed and adequate training has been provided.

An implementation review by OIG recommended that a training plan be established for this task, as well as others within the Agreement. Training Section should formulate a plan, which will address in-service training for each of these tasks. Many of these tasks, such as Task 02, can be consolidated with other similar tasks into a single training session. The retention of all training records pertaining to the Agreement will be necessary to demonstrate compliance.

Staffing: Task 02, Section III.B.2. states, in part, *If IAD experiences an unusual proliferation of cases and/or workload, IAD staffing shall be increased to maintain timeliness standards.* Although the staffing policy and procedures is not codified in writing, the Chief increased the IAD staffing and procedures to monitor IAD staffing levels and workload are being included in the revised Departmental General Order M-3 to maximize the timeliness of personnel complaints.

OIG Review

Scope and Method:

- The section of the SA addressed in this review requires that the Chief of Police develop and implement timeliness standards for the completion of Internal Affairs investigations, administrative findings and recommended discipline.
- The review was conducted in support of the development of Departmental General Order M-3, Complaints Against Department Personnel or Procedures.
- The review included the following
 - The number of complaints received
 - The average time it takes to complete complaints
 - The duration and number of cases that are not completed
 - The most common types of violations
 - The average time it takes to complete complaints involving the common types of violations
- Data reviewed included complaints retrieved from the IAD database spanning from January 22, 2003 through October 28, 2003.
- A total of 261 complaints, with 630 allegations were reviewed.

Findings:

- 59% of the complaints were still open at the time of the review; 49% had been completed
- The investigations of those complaints that were completed took an average of seven (7) months to complete
- The average duration of those investigations that were still open was four (4) months.
- As of the time of the review, 3% of the open complaints had been open for nine (9) months.

Recommendations and Responses:

- Establish misconduct investigation timelines in DGO M-3 that are consistent with average completion times noted in this report:
 - All investigations should be completed within six (6) months
 - The IAD commander can provide extensions up to nine (9) months
 - The Chief of Police can provide extensions exceeding nine (9) monthsDGO M-3 is currently being drafted with this recommendation in consideration
- Coordinate with the Training Section to identify “common themes” within the three most common allegations in order to identify potential trends and/or patterns of problematic behavior.
- For the three most common allegations, evaluate all relevant policies, operational programs and training courses to identify corrective measures and develop strategies to prevent future violations.
- Prioritize the four (4) open cases that exceed nine (9) months to ensure that no cases extend beyond the one-year timelines established in Government Code 3304. .

Recommendations from the review have been implemented as noted, or are otherwise under advisement. The OIG will continue to conduct audits and reviews on this SA provision and provide updates on the implementation of the SA requirements and the review recommendations.

Task 03: IAD Integrity Tests

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

Assigned Unit: IAD

Compliance Date: June 1, 2005

Settlement Agreement Language:

"Within 616 days from the effective date of this Agreement, the Chief of Police shall revise Departmental policy and procedures and develop a manual for conducting complaint investigations. Training shall be provided to ensure all personnel have received, understand, and comply with new and revised Departmental policies and procedures. The IAD Procedural Manual shall include, at a minimum, the following provisions of this Section:

C. IAD Integrity Tests

IAD shall be proactive as well as reactive.

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

Status: Progressing Without Concern

Deliverables:

- Internal Affairs Division Policy and Procedures Manual

Implementation Activities: The current Task Progress Report indicates that work on this task has not yet begun.

The provisions of this task will be included in the Internal Affairs Division Policy and Procedures Manual.

Task 04: Complaint Control System for IAD

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

Assigned Unit: IAD

Compliance Date: May 27, 2003

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

Settlement Agreement Language:

"Within 616 days from the effective date of this Agreement, the Chief of Police shall revise Departmental policy and procedures and develop a manual for conducting complaint investigations. Training shall be provided to ensure all personnel have received, understand, and comply with new and revised Departmental policies and procedures. The IAD Procedural Manual shall include, at a minimum, the following provisions of this Section:

D. Complaint Control System for IAD

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

Status: Progressing With Concern*

Deliverables:

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

Implementation Activities:

At the June 19, 2003 meeting with the plaintiffs' counsel, IAD proposed creating one cohesive policy that would satisfy a number of related tasks, with a new Target Date of December 1, 2003.

The policy would be revised Departmental General Order M-3, Complaints Against Department Personnel. Incorporating Task 02 into General Order M-3 would involve extending the Compliance Date for this task, as well as Tasks 02 and 05, and moving the Target Dates up for Tasks 07, 08, 09, 11, 12, 14, 15, and 16.

At the August 21, 2003 meeting, the Task Manager also requested that the task compliance dates, including training on the policy developed, be set at June 1, 2004. The plaintiffs' counsel accepted the requests to have the compliance dates for the tasks set as June 1, 2004, with the policy development date set at December 1, 2003.

The provisions of this task were included in the draft revision of Departmental General Order M-3, Complaints Against Department Personnel. The draft was shared with the plaintiffs' attorneys and Independent Monitoring Team as it went to internal staffing. Comments from the Department's command staff indicated a need for significant revisions to M-3. The comments were shared with the subject matter expert to consider in the redrafting of this policy.

*Update Note: As of the publication of this report, the Department presented a revised timeline for the development of General Order M-3 which was accepted by the plaintiffs' attorneys. The revised draft of Departmental General Order is scheduled to be presented to the parties for their primary review no later than February 1, 2004. The directive is scheduled to be published by March 15. Informational training for all members and employees is scheduled to be completed by April 15, 2004, and specialized training for sergeants and lieutenants will be delivered on or before July 1, 2004.

Special Order 8071 has been drafted, and reviewed by OIG. Comments on the policy were returned to the SME for revisions. A second draft is currently under review by OIG.

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

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

Task 05: Complaint Procedures for IAD

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

Assigned Unit: BOS

Compliance Date: August 19, 2003

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

Settlement Agreement Language:

“Within 616 days from the effective date of this Agreement, the Chief of Police shall revise Departmental policy and procedures and develop a manual for conducting complaint investigations. Training shall be provided to ensure all personnel have received, understand, and comply with new and revised Departmental policies and procedures. The IAD Procedural Manual shall include, at a minimum, the following provisions of this Section:

E. Complaint Procedures for IAD

1. *With the exception of the provisions listed in paragraph E (2), below, OPD personnel who become aware that a citizen wishes to file a complaint shall bring such citizen immediately, or as soon as circumstances permit, to a supervisor or IAD or summon a supervisor to the scene. If there is a delay of greater than three (3) hours, the reason for such delay shall be documented by the person receiving the complaint. In the event that such a complainant refuses to travel to a supervisor or to wait for one, the member/employee involved shall make all reasonable attempts to obtain identification, including address and phone number, as well as a description of the allegedly wrongful conduct and offending personnel, from the complainant and any witnesses. This information, as well as a description of the complaint, shall immediately, or as soon as circumstances permit, be provided, in writing, to the unit commander or, in his/her absence, the Watch Commander, and shall be treated as a complaint, as specified in this paragraph. The commander notified of the complaint shall ensure that IAD is notified.*
2. *Except for complaints being handled by the informal complaint resolution process in Section III, paragraph D (1), inmates being processed at or held in the Oakland City Jail shall have the opportunity to file a complaint against an arresting officer or any other member/employee of OPD.*
 - a. *Within 150 days from the effective date of this Agreement, a police complaint form shall be developed, and copies of that form shall be available at the Jail on a 24-hour basis. Any inmate requesting a complaint form from any member/employee shall be given a copy of the form immediately, or as soon as circumstances permit. If the delay is greater than three (3) hours, the reason for such delay shall be documented by the person or Watch Supervisor delivering the form. The complaint form shall be printed on three-part carbonless paper. The three (3) parts to be completed and distributed as follows:*
 - 1) *The white copy (original) shall be given to the shift supervisor at the Jail, who shall call IAD with the complaint information and then send the original form to IAD. The phone call shall be documented on the form, by the shift supervisor.*
 - 2) *The canary copy shall be forwarded to the Jail Commander, who shall ensure that any such written complaint received is delivered and logged with IAD.*
 - 3) *The pink copy shall be given to the inmate completing the form, for his or her records.*
 - b. *OPD personnel who become aware that an inmate wishes to file a complaint shall inform the inmate about the complaint process and provide the individual with a copy of the complaint form.*
3. *In each complaint investigation, OPD shall consider all relevant evidence, including circumstantial, direct and physical evidence, and make credibility determinations, if feasible. OPD shall make efforts to resolve, by reference to physical evidence, and/or use of follow-up interviews and other objective indicators, inconsistent statements among witnesses.*
4. *OPD shall develop provisions for the permanent retention of all notes, generated and/or received by OPD personnel in the case file.*

5. *OPD shall resolve each allegation in a complaint investigation using the "preponderance of the evidence" standard. Each allegation shall be resolved by making one of the following dispositions: Unfounded, Sustained, Exonerated, Not Sustained, or Filed. The Department shall use the following criteria for determining the appropriate disposition:*
 - b. *Unfounded: The investigation disclosed sufficient evidence to determine that the alleged conduct did not occur. This finding shall also apply when individuals named in the complaint were not involved in the alleged act.*
 - c. *Sustained: The investigation disclosed sufficient evidence to determine that the alleged conduct did occur and was in violation of law and/or Oakland Police Department rules, regulations, or policies.*
 - d. *Exonerated: The investigation disclosed sufficient evidence to determine that the alleged conduct did occur, but was in accord with law and with all Oakland Police Department rules, regulations, or policies.*
 - e. *Not Sustained: The investigation did not disclose sufficient evidence to determine whether or not the alleged conduct occurred.*
 - f. *Filed: The investigation cannot be completed due to the unavailability of a witness or victim, or, the administrative investigation has been held in abeyance pending the outcome of criminal charges against the member or employee. "Filed" is not a final disposition, but an indication that a case is pending further developments that all allow the completion of investigation. All "Filed" cases shall be reviewed quarterly, by the IAD Commander or his/her designee, to determine whether the conditions that prevented investigation and final disposition have changed.*
6. *Any member or employee who is a subject of an internal investigation, as well as any other member or employee on the scene of an incident at which misconduct has been alleged by a complainant, shall be interviewed."*

Status: Progressing With Concern*.

Deliverables:

- Jail Division Policies and Procedures 05.01, Reporting Incidents, Citizen Complaint Reporting
- Jail Divisions Citizen's Complaint Form
- Revised Departmental General Order M-3, Complaints Against Department Personnel

Implementation Activities:

Jail Division: The most recent report submitted by the assigned unit indicates that the task is 90% complete. A progress report from the assigned unit indicates that a Jail Division Citizen's Complaint Form has been completed. Research has been conducted on the procedures used by other local city police departments with jails, and a draft of Jail Division Policies and Procedures has been completed and approved by the Jail Commander. The draft policy is currently under review by OIG.

Internal Affairs: At the June 19, 2003 meeting with the plaintiffs' counsel, IAD proposed creating one cohesive policy that would satisfy a number of related tasks, with a new Target Date of December 1, 2003. The policy would be revised Departmental General Order M-3, Complaints Against Department Personnel. Incorporating Task 02 into General Order M-3 would involve extending the Compliance Date for this task, as well as Tasks 02 and 04, and moving the Target Dates up for Tasks 07, 08, 09, 11, 12, 14, 15, and 16.

At the August 21, 2003 meeting, the Task Manager also requested that the task compliance dates, including training on the policy developed, be set at June 1, 2004. The plaintiffs' counsel accepted the requests to have the compliance dates for the tasks set as June 1, 2004, with the policy development date set at December 1, 2003.

The provisions of this task were included in the draft revision of Departmental General Order M-3, Complaints Against Department Personnel. The draft was shared with the plaintiffs' attorneys and Independent Monitoring Team as it went to internal staffing. Comments from the Department's command staff indicated a need for significant revisions to M-3. The comments were shared with the subject matter expert to consider in the redrafting of this policy.

*Update Note: As of the publication of this report, the Department presented a revised timeline for the development of General Order M-3 which was accepted by the plaintiffs' attorneys. The revised draft of Departmental General Order is scheduled to be presented to the parties for their primary review no later than February 1, 2004. The directive is scheduled to be published by March 15. Informational training for all members and employees is scheduled to be completed by April 15, 2004, and specialized training for sergeants and lieutenants will be delivered on or before July 1, 2004.

Full implementation of this task will not be complete until the revised Departmental General Order is published and adequate training has been provided to all members and employees. Once the revised Departmental General Order is published, the Office of Inspector General's Audit Unit will once again review this task to ascertain if all the provisions listed in Task 2 have been addressed and adequate training has been provided.

An implementation review by OIG recommended that a training plan be established for this task, as well as others within the Agreement. Training Section should formulate a plan, which will address in-service training for each of these tasks. Many of these tasks can be consolidated with other similar tasks into a single training session. The retention of all training records pertaining to the Agreement will be necessary to demonstrate compliance.

Task 06: Refusal to Accept or Refer Citizen Complaint

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

Assigned Unit: IAD

Compliance Date: June 1, 2005

Settlement Agreement Language:

“Within 616 days from the effective date of this Agreement, the Chief of Police shall revise Departmental policy and procedures and develop a manual for conducting complaint investigations. Training shall be provided to ensure all personnel have received, understand, and comply with new and revised Departmental policies and procedures. The IAD Procedural Manual shall include, at a minimum, the following provisions of this Section:

F. Refusal to Accept or Refer Citizen Complaint

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

Status: Policy in compliance. Progressing Without Concern

Deliverables:

- *Manual of Rules* Section 398.76, Refusal to Accept or Refer Citizen Complaint

Implementation Activities: The new Manual of Rules section was drafted, staffed, reviewed by the parties, and determined to meet the provisions of this SA task. Pending the 2004 revision of the Manual of Rules, this MOR Section was published as part of Special Order 8092, Update of Department Manual of Rules, on November 14, 2003.

Training on the new MOR Section is scheduled to begin January 19, 2004.

Task 07: Methods for Receiving Citizen Complaints

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

Assigned Unit: IAD

Compliance Date: June 1, 2005

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

Settlement Agreement Language:

“Within 616 days from the effective date of this Agreement, the Chief of Police shall revise Departmental policy and procedures and develop a manual for conducting complaint investigations. Training shall be provided to ensure all personnel have received, understand, and comply with new and revised Departmental policies and procedures. The IAD Procedural Manual shall include, at a minimum, the following provisions of this Section:

G. Methods for Receiving Citizen Complaints

OPD shall take the following steps to strengthen procedures for receiving citizen complaints:

- 1. A recordable, toll-free complaint hotline shall be established. The hotline, staffed by OPD personnel, shall have an advisement that the call is being recorded.*
 - 2. Guidelines for filing a citizen's complaint shall be prominently posted and informational brochures shall be made available in key Departmental and municipal locations.*
 - 3. OPD shall accept anonymous complaints. To the extent possible, OPD shall ask anonymous complainants for corroborating evidence. OPD shall investigate anonymous complaints to the extent reasonably possible to determine whether the allegation can be resolved.*
 - 4. OPD personnel shall have available complaint forms and informational brochures on the complaint process in their vehicles at all times while on duty. Members/employees shall distribute these complaint forms and informational brochures when a citizen wishes to make a complaint, or upon request.*
 - 5. IAD shall be located in a dedicated facility removed from the Police Administration Building.*
 - 6. Complaint forms and informational brochures shall be translated consistent with City policy.*
 - 7. Complaint forms shall be processed in accordance with controlling state law.”*
-

Status: Progressing With Concern*

Deliverables:

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

Implementation Activities: The first Six-Week Report indicated that anonymous complaints were being accepted. Revisions of IA complaint forms have begun. Although, a toll-free line has not yet been established, the project is in the final stages with the City's Office of Information Technology. The Internal Affairs Division had also relocated their offices to City Hall Plaza.

At the June 19, 2003 meeting with the plaintiffs' counsel, IAD proposed creating one cohesive policy that would satisfy a number of related tasks, with a new Target Date of December 1, 2003. The policy would be revised Departmental General Order M-3, Complaints Against Department Personnel. Incorporating Task 02 into General Order M-3 would involve extending the

Compliance Date for Tasks 02, 04 and 05, and moving the Target Dates up for this task, as well as tasks 08, 09, 11, 12, 14, 15, and 16.

At the August 21, 2003 meeting, the Task Manager also requested that the task compliance dates, including training on the policy developed, be set at June 1, 2004. The plaintiffs' counsel accepted the requests to have the compliance dates for the tasks set as June 1, 2004, with the policy development date set at December 1, 2003.

The provisions of this task were included in the draft revision of Departmental General Order M-3, Complaints Against Department Personnel. The draft was shared with the plaintiffs' attorneys and Independent Monitoring Team as it went to internal staffing. Comments from the Department's command staff indicated a need for significant revisions to M-3. The comments were shared with the subject matter expert to consider in the redrafting of this policy.

*Update Note: As of the publication of this report, the Department presented a revised timeline for the development of General Order M-3 which was accepted by the plaintiffs' attorneys. The revised draft of Departmental General Order is scheduled to be presented to the parties for their primary review no later than February 1, 2004. The directive is scheduled to be published by March 15. Informational training for all members and employees is scheduled to be completed by April 15, 2004, and specialized training for sergeants and lieutenants will be delivered on or before July 1, 2004.

Full implementation of this task will not be complete until the revised Departmental General Order is published and adequate training has been provided to all members and employees. Once the revised Departmental General Order is published, the Office of Inspector General's Audit Unit will once again review this task to ascertain if all the provisions listed in Task 2 have been addressed and adequate training has been provided.

An implementation review by OIG recommended that a training plan be established for this task, as well as others within the Agreement. Training Section should formulate a plan, which will address in-service training for each of these tasks. Many of these tasks can be consolidated with other similar tasks into a single training session. The retention of all training records pertaining to the Agreement will be necessary to demonstrate compliance.

Task 08: Classifications of Citizen Complaints

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

Assigned Unit: IAD

Compliance Date: June 1, 2005

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

Settlement Agreement Language:

“Within 616 days from the effective date of this Agreement, the Chief of Police shall revise Departmental policy and procedures and develop a manual for conducting complaint investigations. Training shall be provided to ensure all personnel have received, understand, and comply with new and revised Departmental policies and procedures. The IAD Procedural Manual shall include, at a minimum, the following provisions of this Section:

H. Classifications of Citizen Complaints

Misconduct complaints shall be categorized according to “Class I” or “Class II” offenses.

1. Class I offenses are the most serious allegations of misconduct, which, if proven, might serve as the basis for a criminal prosecution and/or for dismissal from OPD.

a. The Class I offenses are:

- 1) Use of excessive force;*
- 2) Fabrication of evidence, including the planting of inculpatory evidence;*
- 3) Untruthfulness;*
- 4) Knowingly and intentionally filing a false police report;*
- 5) Insubordination;*
- 6) Commission of a felony or serious misdemeanor;*
- 7) Exhibition of bias or harassment, actions of a retaliatory nature, or failure to take reasonable steps to prevent retaliation;*
- 8) Solicitation or acceptance of gifts or gratuities;*
- 9) Willful false arrest, made knowingly without probable cause;*
- 10) Failing to report others who commit any Class I offense.*

b. Unless otherwise directed by the Chief of Police, Class I offenses shall be investigated by IAD investigators. Statements and interviews in Class I investigations shall be tape recorded, but not transcribed except at the request of the subject member/employee, complainant, command staff, Monitor, or the OIG.

2. Class II offenses shall include all other misconduct situations, such as rudeness, use of obscenities, lack of attention, timeliness of response, or other performance deficiencies. Class II investigations shall be conducted by the appropriate supervisor or manager, unless otherwise directed by the Chief of Police. Statements and interviews from OPD personnel in Class II investigations shall be tape recorded, but not transcribed except at the request of the subject member/employee, complainant, command staff, Monitor, or the OIG. When a unit commander or the assigned investigator encounters a Class I violation during a Class II, division-level investigation, he/she shall contact the IAD Commander. The IAD Commander shall consult with the Chief of Police to determine whether the investigation shall be forwarded to IAD or remain in the unit in which the Class II violation was originally assigned.”

Status: Progressing With Concern.

Deliverables:

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

Implementation Activities: This task has not yet been started.

At the June 19, 2003 meeting with the plaintiffs' counsel, IAD proposed creating one cohesive policy that would satisfy a number of related tasks, with a new Target Date of December 1, 2003. The policy would be revised Departmental General Order M-3, Complaints Against Department Personnel. Incorporating Task 02 into General Order M-3 would involve extending the Compliance Date for Tasks 02; 04 and 05, and moving the Target Dates up for this task, as well as tasks 07, 09, 11, 12, 14, 15, and 16.

At the August 21, 2003 meeting, the Task Manager also requested that the task compliance dates, including training on the policy developed, be set at June 1, 2004. The plaintiffs' counsel accepted the requests to have the compliance dates for the tasks set as June 1, 2004, with the policy development date set at December 1, 2003,

The provisions of this task were included in the draft revision of Departmental General Order M-3, Complaints Against Department Personnel. The draft was shared with the plaintiffs' attorneys and Independent Monitoring Team as it went to internal staffing. Comments from the Department's command staff indicated a need for significant revisions to M-3. The comments were shared with the subject matter expert to consider in the redrafting of this policy.

*Update Note: As of the publication of this report, the Department presented a revised timeline for the development of General Order M-3 which was accepted by the plaintiffs' attorneys. The revised draft of Departmental General Order is scheduled to be presented to the parties for their primary review no later than February 1, 2004. The directive is scheduled to be published by March 15. Informational training for all members and employees is scheduled to be completed by April 15, 2004, and specialized training for sergeants and lieutenants will be delivered on or before July 1, 2004.

Full implementation of this task will not be complete until the revised Departmental General Order is published and adequate training has been provided to all members and employees. Once the revised Departmental General Order is published, the Office of Inspector General's Audit Unit will once again review this task to ascertain if all the provisions listed in Task 2 have been addressed and adequate training has been provided.

An implementation review by OIG recommended that a training plan be established for this task, as well as others within the Agreement. Training Section should formulate a plan, which will address in-service training for each of these tasks. Many of these tasks can be consolidated with other similar tasks into a single training session. The retention of all training records pertaining to the Agreement will be necessary to demonstrate compliance.

Task 09: Contact of Citizen Complainant

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

Assigned Unit: IAD

Compliance Date: June 1, 2005

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

Settlement Agreement Language:

"Within 616 days from the effective date of this Agreement, the Chief of Police shall revise Departmental policy and procedures and develop a manual for conducting complaint investigations. Training shall be provided to ensure all personnel have received, understand, and comply with new and revised Departmental policies and procedures. The IAD Procedural Manual shall include, at a minimum, the following provisions of this Section:

I. Contact of Citizen Complainant

Citizen complainants shall be contacted, as soon as possible, by IAD or the investigator assigned to the investigation, to determine the nature, scope and severity of the complaint, as well as to identify potential witnesses and/or evidence as quickly as possible."

Status: Progressing With Concern*

Deliverables:

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

Implementation Activities: This task is in progress. The first Six-Week Report on this task indicated that the appropriate procedures are being implemented.

At the June 19, 2003 meeting with the plaintiffs' counsel, IAD proposed creating one cohesive policy that would satisfy a number of related tasks, with a new Target Date of December 1, 2003. The policy would be revised Departmental General Order M-3, Complaints Against Department Personnel. Incorporating Task 02 into General Order M-3 would involve extending the Compliance Date for Tasks 02, 04 and 05, and moving the Target Dates up for this task, as well as tasks 07, 08, 11, 12, 14, 15, and 16.

At the August 21, 2003 meeting, the Task Manager also requested that the task compliance dates, including training on the policy developed, be set at June 1, 2004. The plaintiffs' counsel accepted the requests to have the compliance dates for the tasks set as June 1, 2004, with the policy development date set at December 1, 2003.

The provisions of this task were included in the draft revision of Departmental General Order M-3, Complaints Against Department Personnel. The draft was shared with the plaintiffs' attorneys and Independent Monitoring Team as it went to internal staffing. Comments from the Department's command staff indicated a need for significant revisions to M-3. The comments were shared with the subject matter expert to consider in the redrafting of this policy.

*Update Note: As of the publication of this report, the Department presented a revised timeline

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for the development of General Order M-3 which was accepted by the plaintiffs' attorneys. The revised draft of Departmental General Order is scheduled to be presented to the parties for their primary review no later than February 1, 2004. The directive is scheduled to be published by March 15. Informational training for all members and employees is scheduled to be completed by April 15, 2004, and specialized training for sergeants and lieutenants will be delivered on or before July 1, 2004.

Full implementation of this task will not be complete until the revised Departmental General Order is published and adequate training has been provided to all members and employees. Once the revised Departmental General Order is published, the Office of Inspector General's Audit Unit will once again review this task to ascertain if all the provisions listed in Task 2 have been addressed and adequate training has been provided.

An implementation review by OIG recommended that a training plan be established for this task, as well as others within the Agreement. Training Section should formulate a plan, which will address in-service training for each of these tasks. Many of these tasks can be consolidated with other similar tasks into a single training session. The retention of all training records pertaining to the Agreement will be necessary to demonstrate compliance.

Task 10: Procedure Manual for Investigations of Citizen Complaints

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

Assigned Unit: IAD

Compliance Date: June 1, 2005

Settlement Agreement Language:

“III. INTERNAL AFFAIRS DIVISION (IAD)

Within 616 days from the effective date of this Agreement, the Chief of Police shall revise Departmental policy and procedures and develop a manual for conducting complaint investigations. Training shall be provided to ensure all personnel have received, understand, and comply with new and revised Departmental policies and procedures. The IAD Procedural Manual shall include, at a minimum, the following provisions of this Section:”

Status: Progressing Without Concern

Deliverables:

- Internal Affairs Division Policy and Procedures Manual
- Training Delivery System
- Training of appropriate staff

Implementation Activities: The current Settlement Agreement Six-Week Report for this Task indicates that the task is 75% complete. This task cannot be completed until the Internal Affairs Investigation Manual and Department General Order M-3, Complaints Against Department Personnel are published. A new Target Date of December 1, 2003 was proposed by IAD and accepted by the plaintiffs' counsel on June 19, 2003 for completion of the revised Departmental General Order. Departmental General Order M-3 has been drafted. The draft has been shared with the plaintiffs' attorneys and the Independent Monitoring Team, and is undergoing an internal review by Department command staff. The Internal Affairs Division Procedural Manual is being created, as new and revised policies concerning citizen complaint policies, integrity check policy, rotation, training, and qualifications and background checks for IAD personnel are developed..

Task 11: Summary of Citizen Complaints Provided to OPD Personnel

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

Assigned Unit: IAD

Compliance Date: June 1, 2005

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

Settlement Agreement Language:

"Within 616 days from the effective date of this Agreement, the Chief of Police shall revise Departmental policy and procedures and develop a manual for conducting complaint investigations. Training shall be provided to ensure all personnel have received, understand, and comply with new and revised Departmental policies and procedures. The IAD Procedural Manual shall include, at a minimum, the following provisions of this Section:

J. Summary of Citizen Complaints Provided to OPD Personnel

1. *The investigator shall provide the member/employee with a brief synopsis of any complaint alleged against them, but shall not allow the member/ employee to read the complaint itself or to review citizen or other witness statements prior to the member/employee's interview. Such synopses shall be preserved within the IAD file.*
2. *When notifying a member/employee that a complaint has been filed against him or her, IAD shall also notify the subject's immediate supervisor and commander.*
3. *Upon completion of the IAD investigation and issuance of a final report by IAD, the subject member/employee shall have access to the underlying data on which the report is based, including all tape-recorded interviews, transcripts and investigator's notes."*

Status: Progressing With Concern*

Deliverables:

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

Implementation Activities: The first Six-Week Report indicated that the appropriate procedures are in place.

At the June 19, 2003 meeting with the plaintiffs' counsel, IAD proposed creating one cohesive policy that would satisfy a number of related tasks, with a new Target Date of December 1, 2003. The policy would be revised Departmental General Order M-3, Complaints Against Department Personnel. Incorporating Task 02 into General Order M-3 would involve extending the Compliance Date for Tasks 02, 04 and 05, and moving the Target Dates up for this task, as well as tasks 07, 08, 09, 12, 14, 15, and 16.

At the August 21, 2003 meeting, the Task Manager also requested that the task compliance dates, including training on the policy developed, be set at June 1, 2004. The plaintiffs' counsel accepted the requests to have the compliance dates for the tasks set as June 1, 2004, with the policy development date set at December 1, 2003,

The provisions of this task were included in the draft revision of Departmental General Order M-3, Complaints Against Department Personnel. The draft was shared with the plaintiffs' attorneys and Independent Monitoring Team as it went to internal staffing. Comments from the

Department's command staff indicated a need for significant revisions to M-3. The comments were shared with the subject matter expert to consider in the redrafting of this policy.

**Update Note: As of the publication of this report, the Department presented a revised timeline for the development of General Order M-3 which was accepted by the plaintiffs' attorneys. The revised draft of Departmental General Order is scheduled to be presented to the parties for their primary review no later than February 1, 2004. The directive is scheduled to be published by March 15. Informational training for all members and employees is scheduled to be completed by April 15, 2004, and specialized training for sergeants and lieutenants will be delivered on or before July 1, 2004.*

Full implementation of this task will not be complete until the revised Departmental General Order is published and adequate training has been provided to all members and employees. Once the revised Departmental General Order is published, the Office of Inspector General's Audit Unit will once again review this task to ascertain if all the provisions listed in Task 2 have been addressed and adequate training has been provided.

An implementation review by OIG recommended that a training plan be established for this task, as well as others within the Agreement. Training Section should formulate a plan, which will address in-service training for each of these tasks. Many of these tasks can be consolidated with other similar tasks into a single training session. The retention of all training records pertaining to the Agreement will be necessary to demonstrate compliance.

Task 12: Disclosure of Possible Investigator Bias

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

Assigned Unit: IAD

Compliance Date: June 1, 2005

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

Settlement Agreement Language:

“Within 616 days from the effective date of this Agreement, the Chief of Police shall revise Departmental policy and procedures and develop a manual for conducting complaint investigations. Training shall be provided to ensure all personnel have received, understand, and comply with new and revised Departmental policies and procedures. The IAD Procedural Manual shall include, at a minimum, the following provisions of this Section:

K. Disclosure of Possible Investigator Bias

OPD shall establish a policy requiring that investigators (this covers IAD and field investigators) disclose relationships which might lead to a perception of bias regarding the subject(s) of any investigation, including such as family relationships, outside business relationships, romantic relationships, close work or personal friendships. In cases where it is clear that the nature of the relationship could be perceived to compromise the investigative process, the involved investigator(s) shall recuse him/herself from the investigation. In more ambiguous situations, the investigator(s) involved shall make full disclosure, in writing, to his/her supervisor. In the case of a Class I investigation, that supervisor shall then make a recommendation to the IAD or, in the case of a division-level investigation, the unit commander. The IAD, unit commander or, as appropriate, his/her superior, shall replace the investigator in question with another investigator.”

Status: Progressing With Concern*

Deliverables:

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

Implementation Activities: At the June 19, 2003 meeting with the plaintiffs’ counsel, IAD proposed creating one cohesive policy that would satisfy a number of related tasks, with a new Target Date of December 1, 2003. The policy would be revised Departmental General Order M-3, Complaints Against Department Personnel. Incorporating Task 02 into General Order M-3 would involve extending the Compliance Date for Tasks 02, 04 and 05, and moving the Target Dates up for this task, as well as tasks 07, 08, 09, 11, 14, 15, and 16.

At the August 21, 2003 meeting, the Task Manager also requested that the task compliance dates, including training on the policy developed, be set at June 1, 2004. The plaintiffs’ counsel accepted the requests to have the compliance dates for the tasks set as June 1, 2004, with the policy development date set at December 1, 2003,

The provisions of this task were included in the draft revision of Departmental General Order M-3, Complaints Against Department Personnel. The draft was shared with the plaintiffs’ attorneys and Independent Monitoring Team as it went to internal staffing. Comments from the Department’s command staff indicated a need for significant revisions to M-3. The comments were shared with the subject matter expert to consider in the redrafting of this policy.

*Update Note: As of the publication of this report, the Department presented a revised timeline for the development of General Order M-3 which was accepted by the plaintiffs' attorneys. The revised draft of Departmental General Order is scheduled to be presented to the parties for their primary review no later than February 1, 2004. The directive is scheduled to be published by March 15. Informational training for all members and employees is scheduled to be completed by April 15, 2004, and specialized training for sergeants and lieutenants will be delivered on or before July 1, 2004.

Full implementation of this task will not be complete until the revised Departmental General Order is published and adequate training has been provided to all members and employees. Once the revised Departmental General Order is published, the Office of Inspector General's Audit Unit will once again review this task to ascertain if all the provisions listed in Task 2 have been addressed and adequate training has been provided.

An implementation review by OIG recommended that a training plan be established for this task, as well as others within the Agreement. Training Section should formulate a plan, which will address in-service training for each of these tasks. Many of these tasks can be consolidated with other similar tasks into a single training session. The retention of all training records pertaining to the Agreement will be necessary to demonstrate compliance.

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Task 13: Documentation of Pitchess Responses

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

Assigned Unit: IAD

Compliance Date: June 1, 2005

Settlement Agreement Language:

“Within 616 days from the effective date of this Agreement, the Chief of Police shall revise Departmental policy and procedures and develop a manual for conducting complaint investigations. Training shall be provided to ensure all personnel have received, understand, and comply with new and revised Departmental policies and procedures. The IAD Procedural Manual shall include, at a minimum, the following provisions of this Section:

L. Documentation of Pitchess Responses

OPD shall implement an additional check on responses to Pitchess discovery motion responses.”

Status: Progressing Without Concern

Deliverables:

- Internal Affairs Division Policy and Procedures Manual

Implementation Activities: The policy and procedures for this task will be incorporated into the IAD policy and procedures manual. The first Six-Week Report indicated that the appropriate procedures are in place. The current Settlement Agreement Six-Week Report for this Task indicates that the task is 75% complete. The Internal Affairs Division Policy and Procedures Manual is being created, as new and revised policies concerning citizen complaint policies, integrity check policy, rotation, training, and qualifications and background checks for IAD personnel are developed.

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

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

Assigned Unit: IAD

Compliance Date: June 1, 2005

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

Settlement Agreement Language:

"Within 616 days from the effective date of this Agreement, the Chief of Police shall revise Departmental policy and procedures and develop a manual for conducting complaint investigations. Training shall be provided to ensure all personnel have received, understand, and comply with new and revised Departmental policies and procedures. The IAD Procedural Manual shall include, at a minimum, the following provisions of this Section:

*M. Investigation of Allegations of Manual of Rules Violations Resulting from Lawsuits and Legal Claims
OPD shall investigate allegations of Manual of Rules violations resulting from lawsuits involving misconduct and legal claims, and/or tort claims involving Class I and Class II violations, treating them in the same manner as other citizens' complaints.*

- 1. The litigation and IA processes shall be handled separately to avoid either process being unnecessarily compromised should a personnel investigation be delayed, halted, not undertaken, or in any way modified because the underlying matter is in litigation.*
- 2. Personnel investigations shall not be delayed in any manner because the underlying incident has resulted in litigation."*

Status: Progressing With Concern*

Deliverables:

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

Implementation Activities: The first Six-Week Report indicated that the appropriate procedures are in place.

At the June 19, 2003 meeting with the plaintiffs' counsel, IAD proposed creating one cohesive policy that would satisfy a number of related tasks, with a new Target Date of December 1, 2003. The policy would be revised Departmental General Order M-3, Complaints Against Department Personnel. Incorporating Task 02 into General Order M-3 would involve extending the Compliance Date for Tasks 02, 04 and 05, and moving the Target Dates up for this task, as well as tasks 07, 08, 09, 11, 12, 15, and 16.

At the August 21, 2003 meeting, the Task Manager also requested that the task compliance dates, including training on the policy developed, be set at June 1, 2004. The plaintiffs' counsel accepted the requests to have the compliance dates for the tasks set as June 1, 2004, with the policy development date set at December 1, 2003,

The provisions of this task were included in the draft revision of Departmental General Order M-3, Complaints Against Department Personnel. The draft was shared with the plaintiffs' attorneys

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and Independent Monitoring Team as it went to internal staffing. Comments from the Department's command staff indicated a need for significant revisions to M-3. The comments were shared with the subject matter expert to consider in the redrafting of this policy.

*Update Note: As of the publication of this report, the Department presented a revised timeline for the development of General Order M-3 which was accepted by the plaintiffs' attorneys. The revised draft of Departmental General Order is scheduled to be presented to the parties for their primary review no later than February 1, 2004. The directive is scheduled to be published by March 15. Informational training for all members and employees is scheduled to be completed by April 15, 2004, and specialized training for sergeants and lieutenants will be delivered on or before July 1, 2004.

Full implementation of this task will not be complete until the revised Departmental General Order is published and adequate training has been provided to all members and employees. Once the revised Departmental General Order is published, the Office of Inspector General's Audit Unit will once again review this task to ascertain if all the provisions listed in Task 2 have been addressed and adequate training has been provided.

An implementation review by OIG recommended that a training plan be established for this task, as well as others within the Agreement. Training Section should formulate a plan, which will address in-service training for each of these tasks. Many of these tasks can be consolidated with other similar tasks into a single training session. The retention of all training records pertaining to the Agreement will be necessary to demonstrate compliance.

Task 15: Reviewing Findings and Disciplinary Recommendations

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

Assigned Unit: IAD

Compliance Date: June 1, 2005

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

Settlement Agreement Language:

“Within 616 days from the effective date of this Agreement, the Chief of Police shall revise Departmental policy and procedures and develop a manual for conducting complaint investigations. Training shall be provided to ensure all personnel have received, understand, and comply with new and revised Departmental policies and procedures. The IAD Procedural Manual shall include, at a minimum, the following provisions of this Section:

N. Reviewing Findings and Disciplinary Recommendations

Except upon written authorization from the Chief of Police, the operational chain of command, from lieutenant up, shall be responsible for reviewing recommended findings and making disciplinary recommendations in sustained internal investigations”

Status: Progressing With Concern*

Deliverables:

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

Implementation Activities: At the June 19, 2003 meeting with the plaintiffs’ counsel, IAD proposed creating one cohesive policy that would satisfy a number of related tasks, with a new Target Date of December 1, 2003. The policy would be revised Departmental General Order M-3, Complaints Against Department Personnel. Incorporating Task 02 into General Order M-3 would involve extending the Compliance Date for Tasks 02, 04 and 05, and moving the Target Dates up for this task, as well as tasks 07, 08, 09, 11, 12, 14, and 16.

At the August 21, 2003 meeting, the Task Manager also requested that the task compliance dates, including training on the policy developed, be set at June 1, 2004. The plaintiffs’ counsel accepted the requests to have the compliance dates for the tasks set as June 1, 2004, with the policy development date set at December 1, 2003,

The provisions of this task were included in the draft revision of Departmental General Order M-3, Complaints Against Department Personnel. The draft was shared with the plaintiffs’ attorneys and Independent Monitoring Team as it went to internal staffing. Comments from the Department’s command staff indicated a need for significant revisions to M-3. The comments were shared with the subject matter expert to consider in the redrafting of this policy.

*Update Note: As of the publication of this report, the Department presented a revised timeline for the development of General Order M-3 which was accepted by the plaintiffs’ attorneys. The revised draft of Departmental General Order is scheduled to be presented to the parties for their primary review no later than February 1, 2004. The directive is scheduled to be published by March 15. Informational training for all members and employees is scheduled to be completed

by April 15, 2004, and specialized training for sergeants and lieutenants will be delivered on or before July 1, 2004.

Full implementation of this task will not be complete until the revised Departmental General Order is published and adequate training has been provided to all members and employees. Once the revised Departmental General Order is published, the Office of Inspector General's Audit Unit will once again review this task to ascertain if all the provisions listed in Task 2 have been addressed and adequate training has been provided.

An implementation review by OIG recommended that a training plan be established for this task, as well as others within the Agreement. Training Section should formulate a plan, which will address in-service training for each of these tasks. Many of these tasks can be consolidated with other similar tasks into a single training session. The retention of all training records pertaining to the Agreement will be necessary to demonstrate compliance.

Task 16: Supporting IAD Process – Supervisor/Managerial Accountability

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

Assigned Unit: IAD

Compliance Date: June 1, 2005

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

Settlement Agreement Language:

“Within 616 days from the effective date of this Agreement, the Chief of Police shall revise Departmental policy and procedures and develop a manual for conducting complaint investigations. Training shall be provided to ensure all personnel have received, understand, and comply with new and revised Departmental policies and procedures. The IAD Procedural Manual shall include, at a minimum, the following provisions of this Section:

O. Supporting IAD Process – Supervisor/Managerial Accountability

Supervisors and commanders, as well as other managers in the chain of command, shall be held accountable for supporting the IAD process. If an IAD investigation finds that a supervisor or manager should have reasonably determined that a member/employee committed or violated a Class I offense, then that supervisor or manager shall be held accountable, through the Department's administrative discipline process, for failure to supervise, failure to review, and/or failure to intervene.”

Status: Progressing With Concern*

Deliverables:

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

Implementation Activities: At the June 19, 2003 meeting with the plaintiffs' counsel, IAD proposed creating one cohesive policy that would satisfy a number of related tasks, with a new Target Date of December 1, 2003. The policy would be revised Departmental General Order M-3, Complaints Against Department Personnel. Incorporating Task 02 into General Order M-3 would involve extending the Compliance Date for Tasks 02, 04 and 05, and moving the Target Dates up for this task, as well as tasks 07, 08, 09, 11, 12, 14, and 15.

At the August 21, 2003 meeting, the Task Manager also requested that the task compliance dates, including training on the policy developed, be set at June 1, 2004. The plaintiffs' counsel accepted the requests to have the compliance dates for the tasks set as June 1, 2004, with the policy development date set at December 1, 2003,

The provisions of this task were included in the draft revision of Departmental General Order M-3, Complaints Against Department Personnel. The draft was shared with the plaintiffs' attorneys and Independent Monitoring Team as it went to internal staffing. Comments from the Department's command staff indicated a need for significant revisions to M-3. The comments were shared with the subject matter expert to consider in the redrafting of this policy.

*Update Note: As of the publication of this report, the Department presented a revised timeline for the development of General Order M-3 which was accepted by the plaintiffs' attorneys. The

revised draft of Departmental General Order is scheduled to be presented to the parties for their primary review no later than February 1, 2004. The directive is scheduled to be published by March 15. Informational training for all members and employees is scheduled to be completed by April 15, 2004, and specialized training for sergeants and lieutenants will be delivered on or before July 1, 2004.

Full implementation of this task will not be complete until the revised Departmental General Order is published and adequate training has been provided to all members and employees. Once the revised Departmental General Order is published, the Office of Inspector General's Audit Unit will once again review this task to ascertain if all the provisions listed in Task 2 have been addressed and adequate training has been provided.

An implementation review by OIG recommended that a training plan be established for this task, as well as others within the Agreement. Training Section should formulate a plan, which will address in-service training for each of these tasks. Many of these tasks can be consolidated with other similar tasks into a single training session. The retention of all training records pertaining to the Agreement will be necessary to demonstrate compliance.

Task 17: Supervisory Span of Control and Unity of Command

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

Assigned Unit: N/A

Compliance Date: January 20, 2004

Settlement Agreement Language:

“IV. SUPERVISORY SPAN OF CONTROL AND UNITY OF COMMAND

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

Status: This task covers the overall timelines for Tasks 18, 19, 21, 23. There are no specific provisions covered by this task.

Deliverables: N/A

Implementation Activities: N/A

Task 18: Approval of Field-Arrest by Supervisor

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

Assigned Unit: BFO

Compliance Date: January 20, 2004

Settlement Agreement Language:

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

A. Approval of Field-Arrest by Supervisor

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

Status: Progressing With Concern

Deliverables:

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

Implementation Activities: A March 5, 2003 draft Special Order 8033, Release of Arrested Persons in Field, was developed, reviewed by OIG, and returned to the assigned unit with comments. This draft Special Order was then incorporated into a Departmental General Order.

Departmental General Order M-18, Arrest Approval and Report Review in the Field was reviewed, revised, and is being prepared for publication.

A Field Detention Certificate and Order to Field Release Prisoner were also developed and approved in order to meet compliance.

Task 19: Unity of Command

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

Assigned Unit: BFO

Compliance Date: January 20, 2004

Settlement Agreement Language:

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

B. Unity of Command

1. *With rare exceptions (justified on a case-by-case basis), each member or employee of the Department shall have a single, clearly identified supervisor or manager.*
2. *In general, sergeants should work the same schedule and have the same days off as the individuals they supervise."*

Status: Progressing With Concern*

Deliverables: New Departmental General Order A-3, Department Organization

Implementation Activities: The current Task Progress Report indicates that this task is 75% complete.

Departmental General Order A-3 was drafted and staffed to the Chief of Police. The OIG has requested clarification on the organizational chart of the first and third watches from those commanders before finalizing the draft policy.

*Update Note: As of the publication of this report, DGO A-3 has been completed and submitted to the parties for review.

Task 20: Span of Control for Supervisors

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

Assigned Unit: BFO

Compliance Date: May 27, 2003

Extension Granted: August 14, 2003

Settlement Agreement Language:

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

C. Span of Control for Supervisors

Within 90 days from the effective date of this Agreement, OPD shall develop and implement a policy to ensure appropriate supervision of its Area Command Field Teams. The policy shall provide that:

- 1. Under normal conditions, OPD shall assign one primary sergeant to each Area Command Field Team, and, in general, (with certain exceptions) that supervisor’s span of control shall not exceed eight (8) members.*
- 2. During day-to-day operations, in the absence of the primary supervisor (e.g., due to sickness, vacation, compensatory time off, schools, and other leaves), the Watch Commander shall determine, based on Department policy and operational needs, whether or not to backfill for the absence of the sergeant on leave.*
- 3. If a special operation, (e.g., Beat Feet, Special Traffic Offenders Program (STOP), etc.) requires more than eight (8) members, the Area Commander or Watch Commander shall determine the reasonable span of control for the supervisor.*
- 4. If long-term backfill requires the loan or transfer of a supervisor from another unit, the Chief of Police and/or the Deputy Chief of Police shall make that decision.”*

Status: Not in Compliance*

Deliverables:

- Assignment of one (1) primary sergeant to each Area Command Field Team (under normal conditions)
- A supervisory ratio not exceeding eight (8) members to one (1) Area Command Field Team primary sergeant (with certain exceptions)
- New BFO Policy and Procedure 03-02, Span of Control

Implementation Activities: 10 sergeants were added to Patrol in January 2003 to establish the required supervisory ratio .

New BFO Policy and Procedure has been reviewed, revised, and is in final form. Among other procedures, the policy for the Supervisory Span of Control defines long and short-term vacancies and provides procedures for filling the primary supervisor’s absence by transfer, loan and/or acting positions.

*Update Note: As of the publication of this report, this task is Not in Full Compliance. BFO Policy and Procedures 03-02, Span of Control was completed and published on January 15, 2004. Training is scheduled to begin January 27, 2003. The Department reports that the draw

that went into effect on January 10, 2004 now puts the Department in compliance with regard to the required span of control ratio.

OIG Audit

Scope and Method:

- An audit of the Department's span of control in the patrol division was reported in September 2003. The section of the SA audited requires that under normal conditions, OPD shall assign one (1) primary sergeant to each Area Command Field Team, and, in general, (with certain exceptions) that supervisor's span of control shall not exceed eight (8) members.
- The current staffing chart provided by the Administrative Officer for the Patrol Division was reviewed for current staffing of the forty-two (42) field teams.
- The staffing chart was then compared with a randomly-selected two-week period of Daily Details, also provided by the Administrative Officer for the Patrol Division.

Findings:

- Nine (9) of the forty-two (42) District Sergeant's positions authorized in patrol were vacant.
 - Three (3) were open
 - Five (5) were vacant due to injuries
 - One (1) was vacant due to military leave
- Seven (7) of the nine (9) vacancies are filled with interim sergeants on loan to the Patrol Division
- Two (2) districts are without permanent or interim sergeants assigned.
- Eleven (11) Patrol Sergeants have more than eight (8) members assigned to their squads
- A review of the Patrol Daily Details for the period of 16-29 Aug 03 revealed:
 - Due to double-stacking squads resulting from authorized absences, Patrol Sergeants supervised more than eight (8) members 10% of the time.
 - One (1) or more sergeants were working on overtime five (5) of the fourteen (14) days.
 - Seven (7) sergeants were on loan to the Patrol Division
 - Eight (8) of the nine (9) sergeant vacancies were considered long-term.

Recommendations and Responses:

- Realign the squads to ensure that each squad does not exceed the one (1) sergeant to eight (8) officer ratio. In an effort to avoid any MOU issues with the OPOA, it was recommended that this occur at the next Patrol Division draw. The draw that followed this audit was effected on January 10, 2004. The Department reports that it is now in compliance with the required span of control ratio.
- Transfer supervisory responsibility of the sworn technicians, currently supervised by patrol sergeants, to the Criminalistics Division. This would reduce the number of officers supervised by field sergeants.
- Promote additional sergeants in order to minimize the constant loan of sergeants into patrol for the purpose of complying with the SA.
- Conduct Department-wide assessment of sergeants' positions to determine if there are administrative or investigative positions that can be transferred to Patrol.

February 9, 2004

Negotiated Settlement Agreement
Second Semi-Annual Report

Recommendations from the review have been implemented as noted, or are otherwise under advisement. The OIG will continue to conduct audits and reviews on this SA provision and provide updates on the implementation of the SA requirements and the review recommendations.

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

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

Assigned Unit: BOS

Compliance Date: January 20, 2004*

Settlement Agreement Language:

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

D. Members', Employees' and Supervisors' Performance Review

- 1. Every OPD commander/manager shall meet at least twice per year with each of his/her members, employees and supervisors, to coach them regarding their strengths and weaknesses. These meetings shall be documented. If a member, employee or supervisor exhibits a performance problem, the commander/manager shall meet with him/her in accordance with the provision of Section VII, paragraph B (7)-(8), of this Agreement. Commanders/managers shall meet promptly with affected subordinates regarding complaints or commendations received.*
- 2. Supervisors shall meet individually with members and employees at least twice per month for informal performance reviews. Supervisors shall maintain a record of these informal reviews.*
- 3. Supervisors and commanders/managers shall be responsible for identifying patterns of improper behavior of their subordinates. In particular, Bureau of Field Operations sergeants and lieutenants shall scrutinize arrests and uses of force that have been historically associated with police misconduct, including arrests for very small amounts of drugs, arrests pursuant to searches with no underlying offense leading to the search, and Penal Code §§69, 148 and 243(b)(c) arrests with no underlying offense. Failure to identify such patterns and instances of misconduct when the supervisors or commanders/managers knew or reasonably should have known of the misconduct shall constitute grounds for discipline."*

Status: Progressing With Concern*

Deliverables:

- Revised Departmental General Order B-6, Performance Appraisal

Implementation Activities: The current Task Progress Report indicates that this task is 90% complete.

Special Order 6004, Performance Appraisal was written to outline policies and procedures for completing the new employee performance appraisal system. The Special Order covers most but not all of the provisions of this task. In a March 6, 2003 Progress Report, the assigned unit reported that it was revising Department General Order B-6 to incorporate the provisions of Special Order 6004 and ensure that all provisions of this task are covered.

The draft of Departmental General Order B-6 has been staffed internally. The new Task Manager is reviewing the comments received from commanders, and beginning revisions. He reports that the final draft will be completed in January.

February 9, 2004

Negotiated Settlement Agreement
Second Semi-Annual Report

*Update Note: As of the publication of this report, the Task Manager has submitted a request for extension on this task. The parties agreed that the draft of Departmental General Order B-6 will be presented to the stakeholders for review on February 27, 2004. The policy is scheduled for publication by May 5, 2004, with training completed by July 7, 2004.

Task 22: OPD/DA Liaison Commander

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

Assigned Unit: BOI

Compliance Date: April 15, 2003

Settlement Agreement Language:

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

E. OPD/DA Liaison Commander

Within 60 days from the effective date of this Agreement, OPD shall establish a Management-Level Liaison (MLL) to the courts, the District Attorney’s Office, and the Public Defender’s Office. This unit or person shall ensure that cases which are lost or dropped due to bad reports, defective search warrants, granted ‘Motion to Suppress,’ contradictory evidence or testimony, or any other indication of performance problems or misconduct, are tracked. The OPD MLL shall be required to meet and cooperate with the Monitor. The DA’s and PD’s Offices may attend meetings, as they deem appropriate.

Status: Policy in Compliance; training not yet begun. Not in Full Compliance

Deliverables:

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

Implementation Activities: The most recent report submitted by the assigned unit indicates that the task is 90% complete.

Departmental General Order A-18, Management-Level Liaison, was evaluated against the SA, and determined to adequately address all the points listed in Agreement Task 22. The General Order was also reviewed by the plaintiffs’ attorneys, and the IMT. All feedback was considered, and the final policy was published December 16, 2003.

Departmental General Order A-18, Management-Level Liaison indicates that the MLL shall be the CID Commander. The CID Commander is also the author of the Departmental General Order revision, and as such, no training is required for that individual. A training lesson plan and outline for the remainder of the Department members has been submitted by the Subject Matter Expert to the Task Manager for review. Training is scheduled to begin January 13, 2004.

Implementation of this task continues with the issuance of the monthly reports.

Task 23: Command Staff Rotation

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

Assigned Unit: OCOP

Compliance Date: January 20, 2004

Settlement Agreement Language:

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

F. Command Staff Rotation

The Chief of Police is committed to the regular rotation of Departmental command staff as consistent with best practices in law enforcement agency management, based upon the Department's immediate needs and best interests, including:

- 1. Special skills needed for an assignment;*
- 2. Career development; and*
- 3. Increasing Departmental efficiency and effectiveness."*

Status: In Full Compliance

Deliverables:

- Chief of Police Memorandum, Command Officer Assignment and Rotation Policy (13 Apr 03)

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

The Memorandum reads as follows:

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

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

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

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

OIG Audit

Since the time of the first Semi-Annual Report, the following command staff has changed position*:

- Six (6) of twenty-six (26) lieutenants
- Five (5) of seven (7) captains
- Two (2) of three (3) deputy chiefs

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

Task 24: Use of Force Reporting Policy

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

Assigned Unit: BFO

Compliance Date: July 20, 2004

Settlement Agreement Language:

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

A. Use of Force Reporting Policy

The policy shall require that:

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

Status: Progressing With Concern

Deliverables:

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

Implementation Activities: The current Task Progress Report indicates that this task is 40% complete.

The first draft of revised Departmental General Order K-3, The Use of Force, was drafted and reviewed by the OIG. It not only incorporates the provisions of the Agreement but also

incorporates related Department Special Orders. The Departmental General Order was returned to the subject-matter expert with comments for further revision.

The draft of revised Departmental General Order K-4, Reporting and Investigating the Use of Force, was drafted and reviewed by the OIG. The Departmental General Order was returned to the subject-matter expert with comments for further revision.

To facilitate comprehension and use of General Order K-4, the subject-matter expert decided to divide it into two (2) General Orders. The first, General Order K-4, pertains to reporting the use of force. This policy pertains directly to a large proportion of the Department's members, who would be in a position of being required to report a use of force. The second General Order, K-4.1, focuses on investigating the use of force. This policy should be known by all members, but will be used primarily by those who actually investigate the use of force; command staff and managers. Both General Orders were submitted to OIG for review. The Task Manager called a meeting with the subject matter experts, the Task Manager, the Bureau of Investigations Chief, and OIG to provide feedback on the drafts and discuss the direction for the new drafts. The subject matter experts are currently revising the new General Orders per the feedback from this meeting.

Training Bulletin III-H is pending further development until DGO's K-3 and K-4 are resolved.

OIG Review

Scope and Method:

- The sections of the SA addressed in this review includes use of force reporting policy (Task 24), use of force investigation and report responsibility (Task 25), the use of force review board (Task 26), the firearms discharge board of review (Task 30), and officer involved shooting investigation (Task 31).
- This review consisted of an in-depth analysis of one (1) incident and the level of compliance with established OPD policies and procedures that the officers demonstrated in enforcement of the law during the vehicle pursuit and the use of force.
- Documentation of the incident was reviewed, including:
 - Boards of Review reports
 - Incident, summary and supplemental police reports
 - Communication (purge) log
 - Edited radio transcript
- Interviews were conducted where documents could not be located

Findings:

- The crime reports of the incident were easy to locate
- The incident, supplemental and summary reports were consistently signed, dated and reviewed by supervisors
- Daily detail records of community policing patrols and the Departmental Safety Committee Board of Review report could not be located
- Although the Departmental Safety Committee Board of Review found that the officer in question complied with DGO J-4, it appears from this review that the officer was not in compliance with certain subsections of DGO J-4.

- An evaluation of the documentation of the Discharge of Firearms Board of Review revealed the following areas of concern:
 - Sixteen (16) months elapsed between the incident on 22 Jan 02 and the board review on 13 Apr 03
 - The Board's recommendations did not explain how the recommended training would make a difference in how the officer would perform in the future.
 - A review of the officer's personnel file showed that he attended routine in-service training. It appears that no additional training on this issue was given as recommended by the board.

Recommendations and Responses:

- Revise DGO J-4 to require supervisors or commanding officers that become involved in vehicle pursuits to relinquish responsibility for monitoring the pursuit to another commanding or supervising officer.
- Require the Training Section, as keeper of records, to establish a tracking system for DGO J-4 investigations similar to the system now being established for the IAD investigations.
- Revise DGO J-4 to allow officers to join a single car pursuit for officer safety purposes.
- Conduct a performance audit of records management systems for Daily Details and Boards of Review to identify corrective measures to reduce the frequency of misplaced/missing files.
- Require strict timelines be set for convening a Firearms Discharge Board of Review.
- Establish a system to check that training/disciplinary recommendations of review boards are being compiled within a timely manner.

Recommendations from the review have been implemented as noted, or are otherwise under advisement. The OIG will continue to conduct audits and reviews on this SA provision and provide updates on the implementation of the SA requirements and the review recommendations.

Task 25: Use of Force Investigation and Report Responsibilities

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

Assigned Unit: BFO

Compliance Date: July 20, 2004

Settlement Agreement Language:

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

B. Use of Force Investigation and Report Responsibilities

An on-scene supervisor is responsible for completing an investigated Use of Force Report in accordance with the provisions of Departmental General Order K-4, “Reporting and Investigating the Use of Force.”

1. *OPD shall develop and implement a policy for conducting K-4 investigations that includes, at a minimum:*
 - a. *A statement taken from the member(s)/employee(s) using force;*
 - b. *Separating and separately interviewing all officers at the scene;*
 - c. *A Supplemental Report from other members/employees on the scene or a statement taken, if deemed necessary by the investigating supervisor;*
 - d. *Identification and interviews of witnesses;*
 - e. *Consideration of discrepancies in information obtained from members, employees and witnesses, and statements in the reports filed;*
 - f. *Whether the force used was pursuant to a legitimate law-enforcement objective;*
 - 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;*
 - h. *Whether the member/employee used reasonable verbal means to attempt to resolve the situation without force, if time and circumstances permitted such attempts;*
 - i. *Whether the force used was de-escalated or stopped reasonably when resistance decreased or stopped;*
 - 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”);*
 - k. *Whether, in these and other regards, the use of force was in compliance with OPD use of force policy;*
 - l. *Supervisor’s justification as to why any element of the policy was not documented; and*
 - m. *Documentation of physical evidence and/or photographs.*
2. *All supervisors shall be trained in conducting K-4 investigations and such training shall be part of a supervisory training course.*
3. *Investigated Use of Force Reports by on-scene supervisors shall include:*
 - a. *A description of the use of force incident;*
 - b. *A summary and analysis of all relevant evidence gathered during the investigation;*
 - c. *An analysis and a proposed recommendation. The analysis supporting the recommendation shall include:*
 - 1) *Whether the force used was consistent with OPD policy and training,*
 - 2) *Whether proper tactics were used, and*
 - 3) *Whether lesser force alternatives were available and/or practical.*
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:*
 - a. *Make a recommendation as to whether the use of force was in or out of policy,*
 - b. *Order additional investigation and investigative resources when necessary, and*
 - c. *Comment on any training issue(s) when appropriate.*

5. *Any recommendation that the use of force was out of compliance shall result in the incident being referred to the Internal Affairs Division for investigation.*
 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."*
-

Status: Progressing With Concern

Deliverables:

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

Implementation Activities: The current Task Progress Report indicates that this task is 50% complete.

Special Order 8066, Use of Force – Witness Identification, was published on December 23, 2003, and will be integrated into DGO K-3, as pertains to the act of locating witnesses, and DGO K-4, as pertains to reporting these witnesses. The training outline and lesson plan for SO 8066 have been prepared. Training on the Special Order is scheduled to begin in January.

The first draft of revised Departmental General Order K-3, The Use of Force, was drafted and reviewed by the OIG. It not only incorporates the provisions of the Agreement but also incorporates related Department Special Orders. The Departmental General Order was returned to the subject-matter expert with comments for further revision.

The draft of revised Departmental General Order K-4, Reporting and Investigating the Use of Force, was drafted and reviewed by the OIG. The Departmental General Order was returned to the subject-matter expert with comments for further revision.

To facilitate comprehension and use of General Order K-4, the subject-matter expert decided to divide it into two (2) General Orders. The first, General Order K-4, pertains to reporting the use of force. This policy pertains directly to a large proportion of the Department's members, who would be in a position of being required to report a use of force. The second General Order, K-4.1, focuses on investigating the use of force. This policy should be known by all members, but will be used primarily by those who actually investigate the use of force; command staff and managers. Both General Orders were submitted to OIG for review. The Task Manager called a meeting with the subject matter experts, the Task Manager, the Bureau of Investigations Chief, and OIG to provide feedback on the drafts and discuss the direction for the new drafts. The subject matter experts are currently revising the new General Orders per the feedback from this meeting.

Training Bulletin III-H is pending further development until DGO's K-3 and K-4 are resolved.

OIG Review

Scope and Method:

- The sections of the SA addressed in this review includes use of force reporting policy (Task 24), use of force investigation and report responsibility (Task 25), the use of force review board (Task 26), the firearms discharge board of review (Task 30), and officer involved shooting investigation (Task 31).
- This review consisted of an in-depth analysis of one (1) incident and the level of compliance with established OPD policies and procedures that the officers demonstrated in enforcement of the law during the vehicle pursuit and the use of force.
- Documentation of the incident was reviewed, including:
 - Boards of Review reports
 - Incident, summary and supplemental police reports
 - Communication (purge) log
 - Edited radio transcript
- Interviews were conducted where documents could not be located

Findings:

- The crime reports of the incident were easy to locate
- The incident, supplemental and summary reports were consistently signed, dated and reviewed by supervisors
- Daily detail records of community policing patrols and the Departmental Safety Committee Board of Review report could not be located
- Although the Departmental Safety Committee Board of Review found that the officer in question complied with DGO J-4, it appears from this review that the officer was not in compliance with certain subsections of DGO J-4.
- An evaluation of the documentation of the Discharge of Firearms Board of Review revealed the following areas of concern:
 - Sixteen (16) months elapsed between the incident on 22 Jan 02 and the board review on 13 Apr 03
 - The Board's recommendations did not explain how the recommended training would make a difference in how the officer would perform in the future.
 - A review of the officer's personnel file showed that he attended routine in-service training. It appears that no additional training on this issue was given as recommended by the board.

Recommendations and Responses:

- Revise DGO J-4 to require supervisors or commanding officers that become involved in vehicle pursuits to relinquish responsibility for monitoring the pursuit to another commanding or supervising officer.
- Require the Training Section, as keeper of records, to establish a tracking system for DGO J-4 investigations similar to the system now being established for the IAD investigations.
- Revise DGO J-4 to allow officers to join a single car pursuit for officer safety purposes.

- Conduct a performance audit of records management systems for Daily Details and Boards of Review to identify corrective measures to reduce the frequency of misplaced/missing files.
- Require strict timelines be set for convening a Firearms Discharge Board of Review.
- Establish a system to check that training/disciplinary recommendations of review boards are being compiled within a timely manner.

Recommendations from the review have been implemented as noted, or are otherwise under advisement. The OIG will continue to conduct audits and reviews on this SA provision and provide updates on the implementation of the SA requirements and the review recommendations.

Task 26: Use of Force Review Board (UFRB)

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

Assigned Unit: BFO

Compliance Date: July 20, 2004

Settlement Agreement Language:

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

C. Use of Force Review Board (UFRB)

OPD shall develop and implement a policy to enhance the UFRB. The policy shall:

- 1. Set out procedures, membership and a timetable for UFRB review of use of force investigations, except in those incidents involving the discharge of firearms;*
- 2. Require the UFRB to review all K-4 investigations;*
- 3. Require the UFRB to make a recommendation as to whether the use of force was in policy or out of policy;*
- 4. Require that any UFRB recommendation when the use of force was out of compliance shall be forwarded to the Internal Affairs Division for investigation;*
- 5. Require that the UFRB not review any use of force allegation until the completion of all internal investigations;*
- 6. Authorize the UFRB to recommend to the Chief of Police additional use of force training or changes in policies or tactics, or additional standards, investigatory policies, or training for use of force investigations;*
- 7. Require the UFRB to conduct an annual review of use of force cases examined, so as to identify any patterns of use of force practices (including K-3) that may have policy or training implications, and thereafter, issue a report to the Chief of Police;*
- 8. Require that the UFRB membership include, at a minimum, one member from the Training Division, one member from the Field Training Officer program, and either the Bureau of Field Operations Deputy Chief or his/her designee;*
- 9. Minimally, that one member of the UFRB shall be replaced at least annually.*

Status: Progressing With Concern

Deliverables:

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

Implementation Activities:

The current Task Progress Report indicates that this task is 50% complete.

The draft of revised Departmental General Order K-4, Reporting and Investigating the Use of Force, was drafted, and reviewed by the OIG. The Departmental General Order was returned to the subject-matter expert with comments for further revision.

To facilitate comprehension and use of General Order K-4, the subject-matter expert decided to divide it into two (2) General Orders. The first, General Order K-4, pertains to reporting the use of force. This policy pertains directly to a large proportion of the Department's members, who would be in a position of being required to report a use of force. The second General Order, K-4.1, focuses on investigating the use of force. This policy should be known by all members, but will be used primarily by those who actually investigate the use of force; command staff and managers. Both General Orders were submitted to OIG for review. The Task Manager called a meeting with the subject matter experts, the Task Manager, the Bureau of Investigations Chief, and OIG to provide feedback on the drafts and discuss the direction for the new drafts. The subject matter experts are currently revising the new General Orders per the feedback from this meeting.

Training Bulletin III-H is pending further development until DGO's K-3 and K-4 are resolved.

OIG Review

Scope and Method:

- The sections of the SA addressed in this review includes use of force reporting policy (Task 24), use of force investigation and report responsibility (Task 25), the use of force review board (Task 26), the firearms discharge board of review (Task 30), and officer involved shooting investigation (Task 31).
- This review consisted of an in-depth analysis of one (1) incident and the level of compliance with established OPD policies and procedures that the officers demonstrated in enforcement of the law during the vehicle pursuit and the use of force.
- Documentation of the incident was reviewed, including:
 - Boards of Review reports
 - Incident, summary and supplemental police reports
 - Communication (purge) log
 - Edited radio transcript
- Interviews were conducted where documents could not be located

Findings:

- The crime reports of the incident were easy to locate
- The incident, supplemental and summary reports were consistently signed, dated and reviewed by supervisors
- Daily detail records of community policing patrols and the Departmental Safety Committee Board of Review report could not be located
- Although the Departmental Safety Committee Board of Review found that the officer in question complied with DGO J-4, it appears from this review that the officer was not in compliance with certain subsections of DGO J-4.
- An evaluation of the documentation of the Discharge of Firearms Board of Review revealed the following areas of concern:
 - Sixteen (16) months elapsed between the incident on 22 Jan 02 and the board review on 13 Apr 03
 - The Board's recommendations did not explain how the recommended training would make a difference in how the officer would perform in the future.

- A review of the officer's personnel file showed that he attended routine in-service training. It appears that no additional training on this issue was given as recommended by the board.

Recommendations and Responses:

- Revise DGO J-4 to require supervisors or commanding officers that become involved in vehicle pursuits to relinquish responsibility for monitoring the pursuit to another commanding or supervising officer.
- Require the Training Section, as keeper of records, to establish a tracking system for DGO J-4 investigations similar to the system now being established for the IAD investigations.
- Revise DGO J-4 to allow officers to join a single car pursuit for officer safety purposes.
- Conduct a performance audit of records management systems for Daily Details and Boards of Review to identify corrective measures to reduce the frequency of misplaced/missing files.
- Require strict timelines be set for convening a Firearms Discharge Board of Review.
- Establish a system to check that training/disciplinary recommendations of review boards are being compiled within a timely manner.

Recommendations from the review have been implemented as noted, or are otherwise under advisement. The OIG will continue to conduct audits and reviews on this SA provision and provide updates on the implementation of the SA requirements and the review recommendations.

Task 27: Oleoresin Capsicum Log and Checkout Procedures

Assigned Unit: BOI

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

Compliance Date: July 20, 2004

Settlement Agreement Language:

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

D. Oleoresin Capsicum Log and Checkout Procedures

OPD shall continue to keep a log of Oleoresin Capsicum (OC) spray canisters checked out and used by any member or authorized employee. The log shall be computerized and electronically accessible within one year of entry of this Agreement and regular reports shall be prepared and distributed.”

Status: Policy in compliance; training in progress. Progressing Without Concern.

Deliverables:

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

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

Implementation Activities: The current report submitted by the assigned unit indicates that the task is 95% complete.

The log and checkout procedures implemented July 25, 2001 have been revised, and a computer program replacing the current paper log has been completed. The new program provides electronic data tracking and will feed the PIMS system, once that system has been developed and put into place. The Office of Information Technology has installed a computer for current tracking in the Property and Evidence Unit, and P&EU staff have been trained on the program.

Special Order 8061 has been published and distributed. The Task Manager reports that training on the Special Order is nearly completed.

Task 28: Use of Force — Investigation of Criminal Misconduct

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

Assigned Unit: BOI

Compliance Date: July 20, 2004

Settlement Agreement Language:

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

E. Use of Force — Investigation of Criminal Misconduct

OPD shall develop a policy to report, as soon as possible, any use of force situation, citizen complaint or other member-/employee-involved action in which there is apparent evidence of criminal misconduct by a member/employee to the Alameda County District Attorney’s Office for their review and collaboration.”

Status: Progressing With Concern

Deliverables:

- Revised Departmental General Order M-4, Coordination of Criminal Investigations

Implementation Activities: The current Settlement Agreement Task Progress Report submitted by the assigned unit indicates that the task is 90% complete.

Departmental General Order M-4, Coordination of Criminal Investigations, was drafted and staffed internally to the Department. Comments were returned to the Subject Matter Expert for consideration, and a revised draft was sent for review to the plaintiffs’ attorneys and Oakland Police Officers’ Association for review, with copy provided to the IMT. There were no comments submitted by the parties to the OIG, so the draft was forwarded to the Chief of Police. Final comments from the Chief are now being integrated into General Order M-4.

Task 29: IAD Investigation Priority

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

Assigned Unit: BOI

Compliance Date: July 20, 2004

Settlement Agreement Language:

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

F. IAD Investigation Priority

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

Status: Progressing With Concern*

Deliverables:

- Departmental General Order M-4, Coordination of Criminal Investigations
- Departmental General Order M-3, Complaints Against Department Personnel

Implementation Activities

The current Settlement Agreement Task Progress Report submitted by the assigned unit indicates that the task has been completed.

The provisions of this task were included in the draft revision of Departmental General Order M-3, Complaints Against Department Personnel. The draft was shared with the plaintiffs' attorneys and Independent Monitoring Team as it went to internal staffing. Comments from the Department's command staff indicated a need for significant revisions to M-3. The comments were shared with the subject matter expert to consider in the redrafting of this policy.

*Update Note: As of the publication of this report, the Department presented a revised timeline for the development of General Order M-3 which was accepted by the plaintiffs' attorneys. The revised draft of Departmental General Order is scheduled to be presented to the parties for their primary review no later than February 1, 2004. The directive is scheduled to be published by March 15. Informational training for all members and employees is scheduled to be completed by April 15, 2004, and specialized training for sergeants and lieutenants will be delivered on or before July 1, 2004.

Departmental General Order M-4, Coordination of Criminal Investigations, was drafted and staffed internally to the Department. Comments were returned to the Subject Matter Expert for consideration, and a revised draft was sent for review to the plaintiffs' attorneys and Oakland Police Officers' Association for review, with copy provided to the IMT. There were no

comments submitted by the parties to the OIG, so the draft was forwarded to the Chief of Police. Final comments from the Chief are now being integrated into General Order M-4.

Task 30: Firearms-Discharge Board of Review

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

Assigned Unit: BFO

Compliance Date: July 20, 2004

Settlement Agreement Language:

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

G. Firearms-Discharge Board of Review

1. *A Firearms-Discharge Board of Review shall be convened for every officer-involved firearms discharge, as defined in Departmental General Order K-3. The Board shall have access to tapes and/or transcripts of interviews of all personnel on the scene, including citizen witnesses, and shall be empowered to call in any OPD personnel it believes should testify.*
2. *OPD shall continue the policies and practices for the conduct of Firearms Discharge Boards of Review, as contained in Special Order 5095 (July 13, 2001).”*

Status: Progressing With Concern

Deliverables:

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

Implementation Activities: The current Task Progress Report indicates that this task is 50% complete.

The draft of revised Departmental General Order K-4, Reporting and Investigating the Use of Force, was drafted, and reviewed by the OIG. The Departmental General Order was returned to the subject-matter expert with comments for further revision.

To facilitate comprehension and use of General Order K-4, the subject-matter expert decided to divide it into two (2) General Orders. The first, General Order K-4, pertains to reporting the use of force. This policy pertains directly to a large proportion of the Department’s members, who would be in a position of being required to report a use of force. The second General Order, K-4.1, focuses on investigating the use of force. This policy should be known by all members, but will be used primarily by those who actually investigate the use of force; command staff and managers. Both General Orders were submitted to OIG for review. The Task Manager called a meeting with the subject matter experts, the Task Manager, the Bureau of Investigations Chief, and OIG to provide feedback on the drafts and discuss the direction for the new drafts. The subject matter experts are currently revising the new General Orders per the feedback from this meeting.

OIG Review

Scope and Method:

- The sections of the SA addressed in this review includes use of force reporting policy (Task 24), use of force investigation and report responsibility (Task 25), the use of force

review board (Task 26), the firearms discharge board of review (Task 30), and officer involved shooting investigation (Task 31).

- This review consisted of an in-depth analysis of one (1) incident and the level of compliance with established OPD policies and procedures that the officers demonstrated in enforcement of the law during the vehicle pursuit and the use of force.
- Documentation of the incident was reviewed, including:
 - Boards of Review reports
 - Incident, summary and supplemental police reports
 - Communication (purge) log
 - Edited radio transcript
- Interviews were conducted where documents could not be located

Findings:

- The crime reports of the incident were easy to locate
- The incident, supplemental and summary reports were consistently signed, dated and reviewed by supervisors
- Daily detail records of community policing patrols and the Departmental Safety Committee Board of Review report could not be located
- Although the Departmental Safety Committee Board of Review found that the officer in question complied with DGO J-4, it appears from this review that the officer was not in compliance with certain subsections of DGO J-4.
- An evaluation of the documentation of the Discharge of Firearms Board of Review revealed the following areas of concern:
 - Sixteen months (16) elapsed between the incident on 22 Jan 02 and the board review on 13 Apr 03
 - The Board's recommendations did not explain how the recommended training would make a difference in how the officer would perform in the future.
 - A review of the officer's personnel file showed that he attended routine in-service training. It appears that no additional training on this issue was given as recommended by the board.

Recommendations and Responses:

- Revise DGO J-4 to require supervisors or commanding officers that become involved in vehicle pursuits to relinquish responsibility for monitoring the pursuit to another commanding or supervising officer.
- Require the Training Section, as keeper of records, to establish a tracking system for DGO J-4 investigations similar to the system now being established for the IAD investigations.
- Revise DGO J-4 to allow officers to join a single car pursuit for officer safety purposes.
- Conduct a performance audit of records management systems for Daily Details and Boards of Review to identify corrective measures to reduce the frequency of misplaced/missing files.
- Require strict timelines be set for convening a Firearms Discharge Board of Review.
- Establish a system to check that training/disciplinary recommendations of review boards are being compiled within a timely manner.

February 9, 2004

Negotiated Settlement Agreement
Second Semi-Annual Report

Recommendations from the review have been implemented as noted, or are otherwise under advisement. The OIG will continue to conduct audits and reviews on this SA provision and provide updates on the implementation of the SA requirements and the review recommendations.

Task 31: Officer-Involved Shooting Investigation

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

Assigned Unit: BOI

Compliance Date: July 20, 2004

Settlement Agreement Language:

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

H. Officer-Involved Shooting Investigation

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

Status: Policy in compliance. Training reported to be complete; not yet verified through audit of training rosters. Progressing Without Concern.

Deliverables:

- Training Bulletin V-O, Officer Involved Shooting

Implementation Activities: The current report submitted by the assigned unit indicates that the task has been completed. Training Bulletin V-O, Officer Involved Shooting was published on August 21, 2003, and the Task Manager reports that members have been trained on the directive.

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

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

OIG Review

Scope and Method:

- The sections of the SA addressed in this review includes use of force reporting policy (Task 24), use of force investigation and report responsibility (Task 25), the use of force review board (Task 26), the firearms discharge board of review (Task 30), and officer involved shooting investigation (Task 31).
- This review consisted of an in-depth analysis of one (1) incident and the level of compliance with established OPD policies and procedures that the officers demonstrated in enforcement of the law during the vehicle pursuit and the use of force.
- Documentation of the incident was reviewed, including:

- Boards of Review reports
- Incident, summary and supplemental police reports
- Communication (purge) log
- Edited radio transcript
- Interviews were conducted where documents could not be located

Findings:

- The crime reports of the incident were easy to locate
- The incident, supplemental and summary reports were consistently signed, dated and reviewed by supervisors
- Daily detail records of community policing patrols and the Departmental Safety Committee Board of Review report could not be located
- Although the Departmental Safety Committee Board of Review found that the officer in question complied with DGO J-4, it appears from this review that the officer was not in compliance with certain subsections of DGO J-4.
- An evaluation of the documentation of the Discharge of Firearms Board of Review revealed the following areas of concern:
 - Sixteen months (16) elapsed between the incident on 22 Jan 02 and the board review on 13 Apr 03
 - The Board's recommendations did not explain how the recommended training would make a difference in how the officer would perform in the future.
 - A review of the officer's personnel file showed that he attended routine in-service training. It appears that no additional training on this issue was given as recommended by the board.

Recommendations and Responses:

- Revise DGO J-4 to require supervisors or commanding officers that become involved in vehicle pursuits to relinquish responsibility for monitoring the pursuit to another commanding or supervising officer.
- Require the Training Section, as keeper of records, to establish a tracking system for DGO J-4 investigations similar to the system now being established for the IAD investigations.
- Revise DGO J-4 to allow officers to join a single car pursuit for officer safety purposes.
- Conduct a performance audit of records management systems for Daily Details and Boards of Review to identify corrective measures to reduce the frequency of misplaced/missing files.
- Require strict timelines be set for convening a Firearms Discharge Board of Review.
- Establish a system to check that training/disciplinary recommendations of review boards are being compiled within a timely manner.

Recommendations from the review have been implemented as noted, or are otherwise under advisement. The OIG will continue to conduct audits and reviews on this SA provision and provide updates on the implementation of the SA requirements and the review recommendations.

Task 32: Use of Camcorders

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

Assigned Unit: BFO

Compliance Date: July 20, 2004

Settlement Agreement Language:

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

I. Use of Camcorders

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

Status: In Full Compliance

Deliverables:

- White paper research report

Implementation Activities: The first Settlement Agreement Six-Week Report indicated that the Research and Planning Division had completed their analysis for this task. Their research and recommendations were presented to the Chief of Police in a report dated May 28, 2003

On June 6, 2003, the Chief of Police requested that a report of a funding source study be completed. This request was assigned to the Bureau of Field Operations with a due date of July 7, 2003. The report was provided to the Chief. Based on the funding report, the COP determined that at the present time it is not feasible nor cost-effective to install camcorders in Patrol vehicles.

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

Task 33: Misconduct

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

Assigned Unit: BOS

Compliance Date: August 25, 2003

Settlement Agreement Language:

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

A. Misconduct

OPD personnel shall report misconduct by any other member or employee of the Department to their supervisor and/or IAD. The policy shall state that corrective action and or discipline shall be assessed for failure to report misconduct. OPD shall require every member and employee encountering a use of force that appears inappropriate, or an arrest that appears improper, to report the incident to his/her supervisor and/or IAD. OPD shall establish and maintain a procedure for a member/employee to report police misconduct on a confidential basis.

- 1. Any member/employee of OPD may report a suspected case of police misconduct confidentially to the commander of IAD.*
- 2. The member/employee reporting this conduct shall indicate clearly to the commander of IAD that the report is being made under these confidential provisions.*
- 3. The report may be made in person, by telephone, or in writing. The IAD Commander shall document the report in a confidential file that shall remain accessible only to the IAD Commander.*
- 4. The case shall be investigated without disclosure of the complainant's name, unless and until such disclosure is required by law.*
- 5. This confidential reporting procedure shall be made known to every member/ employee of OPD and to all new members/employees of OPD within two (2) weeks of hiring.”*

Status: Policy in compliance; training not yet begun. Not in Full Compliance.

Deliverables:

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

Implementation Activities: The following two sections were either added or modified in the *Manual of Rules*, and published on September 1, 2002. These *Manual of Rules* sections were evaluated against the Agreement language for Task 33.

Manual of Rules Section 314.48 was modified to read as the follows:

REPORTING VIOLATIONS OF LAWS, ORDINANCES, RULES OR ORDERS Members and employees knowing of other members or employees violating laws, ordinances, rules of the Department, or disobeying orders shall as soon as practical, but in no cases more than 24 hours, report the same, orally or in writing, to the Chief of Police through the chain of command. If the member or employee believes the information is of such gravity that it must be brought to the immediate personal attention of the Chief of Police, the chain of command may be bypassed. Discipline up to and including termination will be assessed for failure to comply with the provisions of this section.

Manual of Rules Section 314.49 was added to read as the follows:

CONFIDENTIAL REPORTING OF POLICE MISCONDUCT Any member of the Department may confidentially report a suspected case of police misconduct directly to the commander of the Internal Affairs Division (IAD). The member reporting the alleged misconduct shall clearly indicate to the IAD commander that the report is being made under these confidential provisions. Confidential reports may be made in person, by telephone or in writing. Confidential reports will be documented by the IAD commander and kept in a secure repository, accessible only to the IAD commander. The case shall be investigated without disclosure of the complainant's name unless and until such disclosure is required by law.

An implementation review by OIG concluded that *Manual of Rules* Section 314.48 and *Manual of Rules* Section 314.49 adequately address provisions listed in Task 33.

Departmental General Order D-16, Check-In and Orientation, was completed and published on December 24, 2003. This General Order was evaluated against the SA, and determined to adequately address the remaining points listed in Agreement Task 33. The General Order addresses the portion of Task 33, which reads as follows:

5) *This confidential reporting procedure shall be made known to every member/employee of OPD and to all new members/employees of OPD within two (2) weeks of hiring.*

Full implementation of this task will be complete when adequate training on all related policy has been provided to all members and employees. Training on this policy is scheduled to begin January 19, 2004.

The retention of all training records pertaining to the Agreement is necessary to demonstrate compliance.

Task 34: Vehicle Stops, Field Investigation and Detentions

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

Assigned Unit: BFO

Compliance Date: August 25, 2003

Settlement Agreement Language:

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

B. Vehicle Stops, Field Investigation and Detentions

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

Status: Policy in Compliance. Training reported as completed; not yet verified through audit of training roster. Not in Full Compliance based on preliminary review of implementation.

Deliverables:

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

Implementation Activities: Special Order 8012, Racial Profiling Stop-Data Collection Form, was published April 1, 2003 (Revised 11 Apr 03). Special Order 8012 outlines the procedure for completing and processing the "Stop-Data Collection Form." This Special Order was evaluated against the SA, and determined to adequately address all the points listed in Agreement Task 34.

A Captain of Police began "Stop-Data Collection Form" training throughout the Department during the first two weeks in April, attending Patrol line-ups, Traffic line-ups, and sessions with non-field units. In addition, twelve selected personnel have received a two-day training course designed to teach these personnel the procedures for data entry, form error recognition and correction, and the management of the computer data.

A preliminary review by OIG of the implementation of this task revealed that overall, 26 % of forms were being turned in. Interviews with officers in the field indicated that some did not have access to the form and some did not receive the training. Some officers also expressed concern

that although they did not believe they were practicing biased policing, the data collected might be used to make it seem as though they were.

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

OIG Audit

Scope and Method:

- This section of the SA requires that
- In order to assess members' compliance with Special Order 8012, which outlines the Department's racial profiling data collection program, the OIG conducted interviews with officers, supervisors and commanders assigned to patrol and reviewed stop-data collection forms completed by officers during a four-day period in August 2003. OIG also conducted a review of forms completed during a violence suppression project, Operation Impact.
- The report on this review was published on November 24, 2003.

Findings:

- Based on the data collected, the overall policy compliance rate was 26%.
- Members interviewed regarding the low rate of compliance elicited the following responses:
 - Crime Reduction Teams did not receive the initial training
 - Filling out the forms is too time consuming
 - Forms are often not available
 - The information is redundant when completing citations and Field Contact Reports
 - The Special Order is confusing and contradictory
 - Placing CDL information on the forms presented concerns regarding privacy issues
 - Officers are unaware that filling out the forms was a requirement
 - There is concern that the information being compiled will be used against an officer in the future
- Common errors in completing the stop data forms were identified, including the following:
 - The results of the stops were only partially completed
 - The warrant classification was not being filled out
 - Several forms were not filled in by a supervisor
 - Section four, which indicates persons searched and/or their gender, was frequently left unmarked
 - The "other passenger" was left unmarked, which led to mistakes in the race of the other occupants.
- A review of the Special Order found that some of the instructions were vague

Recommendations and Responses:

- Stop-Data Form Collection and Data Entry
 - Train additional personnel to review and enter the SDC forms into the SCANTRON system.

- Centralize the collection point for all the SDC forms. Require the Crime Analysis Unit to pick up the Stop-Data forms daily, which would eliminate the possibility of Records Division misplacing or misdirecting the forms.
- Require supervisors to collect the SDC forms submitted by their subordinates for review.
- Officer Training and Accountability
 - Conduct refresher training throughout the Department, emphasizing the reporting requirement established by Special Order 8012, as well as the proper way to complete the forms
 - Require officers to provide their name and serial number when completing the forms
- Form Revisions
 - Revise the Special Order requiring members to list "none" if the person stopped was not in possession of CA Driver's License or Identification Card
 - In Section 4 of the SDC form, under the heading of "other passengers," add the option of Not Applicable (N/A) and Multiple Pedestrians.
 - In Section 4 of the SDC form, under the heading of "who was searched," add the following options: pedestrian, vehicle and vehicle only.
- Supervisory Accountability
 - Require sergeants to maintain a weekly statistical sheet that captures the number of forms completed by each officer
 - Require sergeants to compare the weekly stop-data sheets to the daily activity sheets to ensure compliance

Recommendations from the review have been implemented as noted, or are otherwise under advisement. The OIG will continue to conduct audits and reviews on this SA provision and provide updates on the implementation of the SA requirements and the review recommendations.

Task 35: Use of Force Reports – Witness Identification

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

Assigned Unit: BOS

Compliance Date: August 25, 2003

Settlement Agreement Language:

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

C. Use of Force Reports – Witness Identification

- 1. OPD shall require, by policy, that every Use of Force Report, whether felonies were involved or not, include the names, telephone numbers, and addresses of witnesses to the incident, when such information is reasonably available to the members/employees on the scene.*
- 2. In situations in which there are no known witnesses, the report shall specifically state this fact. Policy shall further require that in situations in which witnesses were present but circumstances prevented the author of the report from determining the identification or phone number or address of those witnesses, the report shall state the reasons why the member/employee was unable to obtain that information. Reports shall also include the names of all other members/employees of OPD witnessing the incident.”*

Status: Policy in compliance; training not yet completed. Not in Full Compliance

Deliverables:

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

Implementation Activities: The current Task Progress Report indicates that this task is 90% complete.

Special Order 8066, Use of Force – Witness Identification, was evaluated against the SA, and determined to adequately address the points listed in Agreement Task 35. This General Order was published on December 23, 2003. Training materials have been prepared, and training has begun.

The draft of revised Departmental General Order K-4, Reporting and Investigating the Use of Force, was drafted, and reviewed by the OIG. The Departmental General Order was returned to the subject-matter expert with comments for further revision.

To facilitate comprehension and use of General Order K-4, the subject-matter expert decided to divide it into two General Orders. The first, General Order K-4, pertains to reporting the use of force. This policy pertains directly to a large proportion of the Department’s members, who would be in a position of being required to report a use of force. The second General Order, K-4.1, focuses on investigating the use of force. This policy should be known by all members, but will be used primarily by those who actually investigate the use of force; command staff and managers. Both General Orders were submitted to OIG for review. The Task Manager called a meeting with the subject matter experts, the Task Manager, the Bureau of Investigations Chief,

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and OIG to provide feedback on the drafts and discuss the direction for the new drafts. The subject matter experts are currently revising the new General Orders per the feedback from this meeting.

Task 36: Procedures for Transporting Detainees and Citizens

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

Assigned Unit: BOS

Compliance Date: August 25, 2003

Settlement Agreement Language:

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

D. Procedures for Transporting Detainees and Citizens

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

Status: Policy in compliance; training not yet begun. Not in Full Compliance

Deliverables:

- Special Order 8055, Transportation of Persons in Custody

Implementation Activities: An initial review concluded that, for the most part, Special Order 6071 adequately addressed the provisions listed in Task 36; however, the following two points were omitted from the Special Order:

1. Paragraph #1 does not list the requirement for members or employees to inform Communications Division the "purpose of transport" and,
2. Paragraph #1 does not list the requirement for members or employees to inform Communications Division of the "gender of individual being transported."

OIG's implementation review recommended that a new Special Order be created which would amend Special Order 6071. The new Special Order would include all the provisions listed in Special Order 6071, as well as adding the two provisions omitted from the Special Order 6071 (e.g., "purpose of transport" and the "gender of individual being transported"). Although not required by the SA, the implementation review also advised that the new Special Order include the requirement that the member or employee notify radio if the transportee is a juvenile.

Special Order 8055, Transportation of Persons in Custody, was published on November 25, 2003. This Special Order was evaluated against the SA, and determined to adequately address the points listed in Agreement Task 36. The Special Order also includes, as recommended in the audit review, the requirement that radio be notified if the transportee is a juvenile.

Full implementation of this task will be complete when adequate training on all related policy has been provided to all members and employees. Training for this task is scheduled to take place January 13, 2004. The retention of all training records pertaining to the Agreement is necessary to demonstrate compliance.

Task 37: Internal Investigations – Retaliation Against Witnesses

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

Assigned Unit: BOS

Compliance Date: August 25, 2003

Settlement Agreement Language:

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

E. Internal Investigations – Retaliation Against Witnesses

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

- 1. Reports misconduct by any other member or employee, or*
- 2. Serves as a witness in any proceeding against a member or employee.*

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

Status: Policy in compliance; training not yet begun. Not in Full Compliance

Deliverables:

September 1, 2002 *Manual of Rules* revisions:

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

Implementation Activities: Two *Manual of Rules* sections added to the revised *Manual of Rules* (September 1, 2002) were evaluated against the Agreement language for Task 37.

Manual of Rules Section 398.73 reads as follows:

RETALIATION AGAINST WITNESSES Under no circumstances shall members or employees retaliate against any other member or employee of the department for reporting incidents of misconduct or for serving as a witness in any proceeding against a member or employee. Retaliation shall be defined as any act, be it informal and subtle or overt and blatant, of reprisal, retribution, harassment, or “payback.” Disciplinary penalties up to and including termination will be assessed for violations.

Manual of Rules Section 398.74 reads as follows:

RETALIATION AGAINST WITNESSES, ACCOUNTABILITY

Managers and supervisors shall be held accountable for the conduct of their subordinates in this regard if it is determined that the manager or supervisor knew

or should reasonably have known the retaliatory behavior was occurring.

An OIG Implementation Review concluded that while *Manual of Rules* Section 398.73 adequately addressed the points listed in the first section of Task 37, *Manual of Rules* Section 398.74 appeared to be deficient on the following points:

- a. The word "commanders" has been omitted from the section,
- b. The sentence containing, "...they shall be subject to the investigative, and if appropriate, the disciplinary process," has been omitted.

The OIG implementation review recommended that specific areas of *Manual of Rules* Section 398.74 be revised to include "commanders" in the section and also add the wording, "...they shall be subject to the investigative, and if appropriate, the disciplinary process."

Per review of the two MOR Inserts, 398.73 and 398.74 were both revised to address the spirit and letter of the Settlement Agreement. Pending issue of a newly revised Manual of Rules, these two inserts were published under Special Order 8092 on November 23, 2003.

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

Task 38: Citizens Signing Police Forms

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

Assigned Unit: BOS

Compliance Date: August 25, 2003

Settlement Agreement Language:

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

F. Citizens Signing Police Forms

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

Status: Policy in compliance; training in progress. Not in Full Compliance.

Deliverables:

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

Implementation Activities: The current Task Progress Report indicates that this task is 98% complete.

The provisions of this task have been in effect since June 25, 1993. An Information Bulletin on Citizens Signing Police Forms, describing and illustrating the manner in which statements shall be signed per Report Writing Manual Insert S-1, was published on October 22, 2003. Department-wide training on the policy was subsequently initiated. All watch commanders and Police Service Area commanders, and a majority of Department members and employees have received the training on citizens signing police forms, as noted on the training logs.

A preliminary check by the Office of Inspector General revealed that, even for this very straightforward directive, formal training on the policy had a positive impact on compliance.

A sample of reports taken in mid-December, 2003 has been provided to the IMT per their request. This review, and other audits by the Independent Monitoring Team will determine whether statement takers are in compliance with the provisions of this task.

OIG Review

Scope and Method:

- Reports taken from November 1, 2003 through November 15, 2003 were reviewed for compliance with the Settlement Agreement's requirements regarding citizens signing police forms. This section of the SA requires that OPD personnel 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. It also requires

that statements taken on offense reports be signed by the citizen immediately following the statement.

- Although the Information Bulletin had been issued on October 22, 2003, not all officers had received training on the directive at the time of the review. The data was therefore analyzed separately for those who had and those who had not received training.
- A total of 579 reports were reviewed.
- The report on this review was published on November 24, 2003.

Findings:

- 20% of the reports reviewed had been completed by officers who were listed on the training roster; 80% of the reports were completed by officers for whom the Department did not have evidence of training on the relevant Information Bulletin.
- 83% of the forms submitted from trained officers were signed and dated correctly. 47% of the forms submitted from officers who were not yet trained were signed and dated correctly.
- Overall, 55% of the reports were completed in compliance with the SA requirements.

Recommendations and Responses:

- The review of the Information Bulletin found that the example provided did not show a signature in the signature box at the end of the page, as would be required by the SA. It was therefore recommended that the Information Bulletin be revised to correct this oversight.
- At the time of the review, the Training Section agreed to accelerate the training process so that all sworn members are trained and logged by 01 Dec 03. It was recommended that Second and Third Watch personnel, a majority of those not documented on training logs, be trained immediately in patrol lineups. As of the publication of this report, the Training Section reports that the logs indicate that training has been provided to approximately 80% of all sworn members.
- Supervisors should ensure statements are signed correctly during the report review process.
- Special emphasis during training should be made regarding entering the date on the diagonal stripe.
- A follow-up audit should be conducted in February 2004.

Recommendations from the review have been implemented as noted, or are otherwise under advisement. The OIG will continue to conduct audits and reviews on this SA provision and provide updates on the implementation of the SA requirements and the review recommendations.

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

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

Assigned Unit: BOS

Compliance Date: August 25, 2003

Settlement Agreement Language:

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

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

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

Status: Policy in compliance; training not yet begun. Not in Full Compliance.

Deliverables:

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

Implementation Activities: This task is partially implemented by September 1, 2002 *Manual of Rules* revision.

MOR Section 314.28 reads as follows:

NOTIFICATION Any member or employee who is sued, arrested, cited, served with a civil or administrative process related to their employment or which contains allegations which rise to the level of a Manual Of Rules violation, or comes under investigation for any misdemeanor or felony in this or another jurisdiction shall

within 72-hours report this fact and the circumstances of the investigation/arrest to the Internal Affairs Division. The incident shall be appropriately documented and reported to the Chief of Police and the member's or employee's supervisor or manager.

The above *Manual of Rules* section was evaluated against the Agreement language for Task 39.

The *Manual of Rules* section indicates that OPD personnel must report the incident directly to IAD, but does not make that same requirement for the member/employee to report the incident to his/her chain of command. As the current *Manual of Rules* is written, it appears to indicate that IAD will make that notification, which was not the intent when that task was written. OIG's implementation review recommended that *Manual of Rules* Section 314.28 be revised to include the provision that, in addition to the reporting requirement to IAD, OPD personnel shall report the specified incident through his/her chain of command.

Accordingly, MOR Insert 314.28 was revised.

The implementation review recommended that Draft a new Departmental General Order which covers the provisions listed in Section VI. G 2 , affecting both policies and procedures within Divisions/Sections/Units in two Departmental Bureaus and the Departmental transfer policy.

It was originally anticipated that the remainder of this task's provisions would be covered by Departmental General Order B-4, Personnel Transfers and Loans. Transfer policy discussions are currently underway with the Oakland Police Officers' Association (OPOA). It has been recommended by OIG that any agreement between the City and OPOA should ensure that Section VI. G. 2. a. b. & c., are included in any revision of Departmental General Order B-4, Personnel Transfers and Loans. In the mean time, in order to expedite compliance with this provision of the Settlement Agreement, Special Order 8064, Reporting Civil Actions Served, was written. Following review by all parties, this Special Order was published on December 16, 2003.

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

Task 40: Personnel Information Management System (PIMS)

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

Assigned Unit: BOS

Compliance Date: 28 June, 2005

Settlement Agreement Language:

"A. Purpose

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

1. *All uses of force required to be reported by OPD;*
2. *OC spray canister check-out log (see Section V, paragraph D)*
3. *All police-canine deployments;*
4. *All officer-involved shootings and firearms discharges, both on duty and off duty;*
5. *All on-duty vehicle pursuits, traffic accidents and traffic violations;*
6. *All citizen complaints, whether made to OPD or CPRB;*
7. *All civil suits and/or tort claims related to members' and employees' employment at OPD, or which contain allegations which rise to the level of a Manual of Rules violation;*
8. *Reports of a financial claim as described in Section VI, paragraph G (3).*
9. *All in-custody deaths and injuries;*
10. *The results of adjudications of all investigations related to items (1) through (9), above, and a record of all tentative and final decisions or recommendations regarding discipline, including actual discipline imposed or non-disciplinary action;*
11. *Commendations and awards;*
12. *All criminal arrests of and charges against OPD members and employees;*
13. *All charges of resisting or obstructing a police officer (Penal Code §§69 and 148), assault on a police officer (Penal Code §243(b)(c), or assault-with-a-deadly-weapon on a police officer (Penal Code §245(b)(c));*
14. *Assignment and rank history for each member/employee;*
15. *Training history for each member/employee;*
16. *Line-of-duty injuries;*
17. *Sick leave usage, particularly one-day sick leaves;*
18. *Report Review Notices or Case Evaluation Reports for the reporting member/employee and the approving supervisor;*
19. *Criminal cases dropped due to concerns with member veracity, improper searches, false arrests, etc.; and*
20. *Other supervisory observations or concerns."*

Status: Progressing With Concern*

Deliverables:

- Subcommittee on the Personnel Information Management System
- New Departmental General Order

- Relational database and associated computer hardware and software

Implementation Activities: The current Settlement Agreement Task Progress Report indicates that this task is 7% complete. A subcommittee was formed to conduct research on the Personnel Information Management System to determine a "best practices" model for this Department. This would also include an examination of hardware/software issues as they relate to the City's new Records Management System and Laptop Reporting. The PIMS Data Capture components have been assigned for research to subject matter experts.

Given the amount and complexity of work to be done, and feedback from the Independent Monitoring Team regarding the status of this task, a new commander has been added to head up Task 40. The commander reports that the PIMS committee and sub-committees continue to meet regularly. A draft RFP was completed by the end of this reporting period.

*Update Note: As of the publication of this report, the final PIMS RFP was sent out to begin the bid process. The RFP was posted on the city website January 16, 2004. A vendor conference has been scheduled for early February, 2004.

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

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

Assigned Unit: BOS

Compliance Date: 28 June, 2005

Settlement Agreement Language:

“B. Use of Personnel Information Management System (PIMS)

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

- 1. Within 90 days from the effective date of this Agreement, the Chief of Police shall designate a PIMS Administration Unit. The PIMS Administration Unit shall be responsible for administering PIMS and, no less frequently than quarterly, shall notify, in writing, the appropriate Deputy Chief and the responsible commander/manager of an identified member/employee who meets the PIMS criteria.*
- 2. The Department shall maintain all the PIMS data for at least five (5) years.*
- 3. The Monitor, Inspector General and Compliance Coordinator shall have full access to PIMS to the extent necessary for the performance of their duties under this Agreement and consistent with Section XIII, paragraph K, and Section XIV of this Agreement.*
- 4. PIMS, and the PIMS data and reports are confidential and not public information.*
- 5. On a quarterly basis, commanders/managers shall review and analyze all relevant system information concerning personnel under their command, to detect any pattern or series of incidents which may indicate that a member/employee, supervisor, or group of members/employees under his/her supervision may be engaging in at-risk behavior. The policy shall define specific criteria for determining when a member/employee or group of members/employees may be engaging in at-risk behavior.*
- 6. Notwithstanding any other provisions of the PIMS policy to be developed, the policy shall include, at a minimum, a requirement that any member/employee who receives three (3) or more citizen complaints during an 30-month period, or any member/employee who has any combination of five (5) or more citizen complaints, Penal Code §§69, 148 and 243(b)(c) arrests within a 30-month period, shall be identified as a subject for PIMS intervention. For the purposes of these two criteria, a single incident shall be counted as “one” even if there are multiple citizen complaints arising from the incident or combined with an arrest for Penal Code §§69, 148 or 243(b)(c).*
- 7. When review and analysis of data indicate that a member/employee may be engaging in at-risk behavior, commanders/managers shall undertake a more intensive review of the member/employee’s performance and personnel history. Members/employees shall be required to attend a documented, non-disciplinary PIMS review meeting with their designated commander/manager and supervisor. The purpose of this meeting shall be to review the member/employee’s performance and recommend appropriate remedial action, if necessary. After discussing the issues, the member/employee shall be dismissed from the meeting, and the designated commander/manager and the member/employee’s immediate supervisor shall remain and discuss the situation and the member/employee’s response. The primary responsibility for any corrective action required should be placed upon the supervisor. Remedial action may include additional training, reassignment, additional supervision, coaching or personal counseling. The performance of members/ employees subject to PIMS review shall be monitored by their designated commander/manager for the specified period of time following the initial meeting, unless released early or extended (as outlined in Section VII, paragraph B (8)).*
- 8. Members/employees who meet the PIMS criteria specified in Section VII, paragraph B (6), shall be monitored for a minimum of 12 months. There shall be two (2) documented, mandatory follow-up meetings with the member/ employee’s immediate supervisor and designated commander/manager: The first at three (3) months and the second at one (1) year. Member/employees subject to PIMS review for minor, easily correctable performance deficiencies may be dismissed from the jurisdiction of PIMS upon the written approval of the*

- member/employee's responsible Deputy Chief, following a recommendation in writing from the member/employee's immediate supervisor. This may occur at the three-month follow-up meeting or at any time thereafter, as justified by reviews of the member/employee's performance. When a member/employee is not discharged from PIMS jurisdiction at the one-year follow-up meeting, PIMS jurisdiction shall be extended, in writing, for some discrete period in three-month increments at the discretion of the member/employee's responsible Deputy Chief. When PIMS jurisdiction is extended beyond the minimum one-year review period, additional review meetings involving the member/employee, the member/employee's designated commander/manager and immediate supervisor, shall take place no less frequently than every three (3) months.*
- 9. On a quarterly basis, OPD commanders/managers shall review and analyze relevant data in PIMS about subordinate commanders and/or managers and supervisors regarding their ability to adhere to policy and address at-risk behavior. All commanders/managers shall conduct quarterly unit-integrity meetings with their supervisory staffs for the purpose of assessing and sharing information about the state of the unit and identifying potential or actual integrity-control problems within the unit. These meetings shall be scheduled to follow-up on supervisors' assessments of their subordinates' eligibility for PIMS participation. These meetings shall consider all outstanding complaints and investigations, as well as complaints and investigations closed since the last integrity meeting. Also considered shall be patterns involving use of force, sick leave, line-of-duty injuries, narcotics-related possessory offenses, and vehicle accidents that are out of the norm among either personnel in the unit or among the unit's subunits. Commanders/managers shall ensure that confidential minutes of the meetings are taken and retained for a period of five (5) years. Commanders/managers shall take appropriate action on apparent patterns of the conduct specified in this paragraph.*
 - 10. At least annually, commanders shall meet with the IAD to discuss the state of their commands and any potential or actual integrity-control problems within the unit. Prior to such meetings, minutes of unit-integrity meetings shall be submitted to the IAD for review. Commanders shall be responsible for developing and documenting plans to ensure the integrity of their units, and for addressing any real or potential problems that may be apparent.*
 - 11. PIMS information shall be taken into account for promotion, transfer and special assignment, and in connection with annual personnel performance evaluations.*
 - 12. Actions taken as a result of PIMS review shall be documented in a timely manner.*
 - 13. Relevant and appropriate PIMS information shall be taken into account in connection with determinations of appropriate discipline for sustained misconduct allegations.*
 - 14. Notwithstanding other requirements of the policy developed for PIMS, a review meeting involving the member/employee's designated commander/manager shall be held no later than 20 days following notification of the Deputy Chief that the member/employee has met the PIMS criteria.*
 - 15. The PIMS policy to be developed shall include a provision that a member/employee making unsatisfactory progress within PIMS review may be transferred and/or loaned to another supervisor, another assignment or another Division, at the discretion of the Bureau Chief if the transfer is within his/her Bureau. Inter-Bureau transfers shall be approved by the Chief of Police. In general, when a member/employee is transferred because of unsatisfactory progress, that transfer shall be to a position with little or no citizen contact. Sustained citizens' complaints from incidents subsequent to a member/employee's referral to PIMS shall continue to result in corrective measures; however, such corrective measures shall not necessarily result in a member/employee's exclusion from, or continued inclusion in, PIMS. The member/employee's exclusion or continued inclusion in PIMS shall be at the discretion of the Chief of Police or his/her designee and shall be documented.*
 - 16. In parallel with the PIMS program described above, the Department may wish to continue the Early Intervention Review Panel.*
 - 17. On a semi-annual basis, beginning within 90 days from the effective date of this Agreement, the Chief of Police, the Bureau of Field Operations Deputy Chief, the commander of IAD, and the commander responsible for the PIMS Administration Unit shall meet with the Monitor to review the operation and progress of the PIMS. At these meetings, OPD administrators shall summarize, for the Monitor, the number of members/employees who have been identified for review, pursuant to the PIMS policy, and the number of members/employees who have been identified for inclusion in the PIMS system pursuant to those reviews. The Department administrators shall also provide*

data summarizing the number of times that various corrective actions have been taken as a result of PIMS and/or the disciplinary sanctions which been administered. The major objectives of each of these semi-annual meetings shall be consideration of whether the PIMS policy is adequate with regard to detecting patterns of misconduct or poor performance issues as expeditiously as possible and if PIMS reviews are achieving their goals.

18. *Nothing in this Agreement, and more specifically, no provision of PIMS, shall be construed as waiving, abrogating or in any way modifying the Department's rights with regard to discipline of its members/employees. The Department may choose, at its discretion, to initiate the administrative discipline process, to initiate PIMS review or to use both processes concurrently or consecutively."*

Status: Progressing With Concern*

Deliverables:

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

Implementation Activities: The first Semi-Annual Report noted that a sub-committee was formed to conduct research on the PIMS and determine best practices. To assist in this effort, a PIMS Administration Unit was designated by Chief of Police Memorandum, Personnel Information Management System (May 15, 2003).

While a great deal of background research on early warning systems, reporting, and hardware and software needs was conducted during that first six month period, the current Settlement Agreement Task Progress Report indicates that work on this task has not progressed in recent months. Additionally, the IMT identified PIMS as an area of concern in their first quarterly report.

The task was reassigned to the Personnel Division as of December 6, 2003, and charged to a new subject matter expert. The new subject matter expert reports that he will develop a plan and timeline for this task, research best practices in this area, and collect model policies from other departments.

*Update Note: As of the publication of this report, the IMT has agreed to provide technical assistance with this area of the Settlement Agreement, as needed and requested by the department. The specific nature of the technical assistance is yet to be determined by the Task Manager, subject matter experts and IMT. Additionally, the Department, along with the Citizens' Police Review Board, submitted a proposal to the UC Berkeley School of Public Policy to have a group of graduate students assist with the research and development of recommendations concerning the use of PIMS. This proposal has been accepted. The specific nature of the assistance from the graduate students is yet to be determined.

Task 42: Field Training Program

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

Assigned Unit: BOS

Compliance Date: April 16, 2004

Settlement Agreement Language:

“VIII. FIELD TRAINING PROGRAM

Within 323 days of the effective date of this Agreement, OPD shall develop and implement a plan to enhance its Field Training Program. This plan shall address the criteria and method for selecting FTOs, the training provided to FTOs to perform their duty, supervision and evaluation of FTOs, the length of time that trainee officers spend in the program, and the methods by which FTOs assess and evaluate trainee officers in field training. The plan must ensure proper reporting, review and approval of probationary officers' reports.

A. Field Training Program Coordinator

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

B. Trainee Rotation

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

C. FTO Participation Incentives

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

D. FTO Candidate Nomination and Requirements

FTO candidates shall be nominated by field supervisors and commanders, but shall be approved for assignments to this duty, and for retention in it, by the Chief of Police. All FTO candidates must have completed three (3) years of Departmental service before selection, unless specifically authorized by the Chief of Police. FTO candidates shall be required to demonstrate their commitment to community policing, and their problem-solving and leadership abilities. Ethics, professionalism, relationships with the community, quality of citizen contacts and commitment to OPD philosophy shall be primary criteria in the selection of FTOs. Excessive numbers of citizen complaints, sustained investigations or excessive numbers of use of force incidents shall bar a candidate from selection as an FTO for no less than two (2) years.

E. Decertification

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

F. FTO Assignment

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

G. FTO Evaluation

At the end of a complete FTO cycle, trainee officers leaving the FTO program shall anonymously evaluate each of their FTOs. OPD shall develop a form for such evaluations which emphasize effectiveness at training and effectiveness at supervision. The evaluation form shall also assess the degree to which the FTO program reflected policies, procedures, values and other information taught in the recruit academy. The FTO evaluation forms shall be reviewed by the Field Training Program

Coordinator and the individual FTO's commander and supervisor. The Field Training Program Coordinator shall provide evaluation information to the FTOs as a group, concerning program effectiveness. Each FTO shall also be provided with evaluation information regarding their individual performance. The individual evaluation forms shall not be made available to individual FTOs in the interest of maintaining anonymity of trainee officers who have completed the forms.

H. Daily Evaluation Audit

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

I. Trainee Officer Assignment

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

J. Field Commander and FTO Supervisor Training

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

K. Focus Groups

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

L. Consistency of Training

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

Status: Policy in compliance. Training reported to be completed; not yet verified through an audit of training rosters. Implementation reported; not yet verified through an audit of practices.
Progressing Without Concern.

Deliverables:

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

Implementation Activities: Departmental General Order B-8, Field Training Program, was published and distributed. Protocols are in place.

The current Task Progress Report indicates that the Field Training Program Coordinator (FTPC) held a focus group session for the 153rd Basic Academy, and provided the results to the Training Section Commander. The FTPC held the first Personal Interview with the Trainee Officer. The FTPC also audited the trainee's field training folder and found that all of the required daily

evaluations had been maintained. The FTPC provided training on the Field Training Program to sergeants attending the Supervisor Transition Course.

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

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

Training conferences continue with the Trainee Officer.

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

Although there is one (1) trainee officer at this time, because of fiscal constraints, no police academies are currently scheduled. A performance/compliance audit of this task will be conducted once the Department resumes hiring and training new officers.

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Task 43: Academy Training Plan

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

Assigned Unit: BOS

Compliance Date: February 15, 2005

Settlement Agreement Language:

“IX. ACADEMY AND IN-SERVICE TRAINING

A. Academy Training Plan

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

B. Professionalism and Ethics

OPD shall expand professionalism and ethics as a training topic within the recruit academy, in-service training, and field training. Wherever possible, OPD shall include and address issues of professionalism and ethics using curricula that employ realistic scenario-based training exercises.

C. Supervisory and Command Training

OPD shall provide all supervisors and commanders/managers with mandatory 40-hour in-service supervisory and leadership training. Supervisors shall attend training prior to promotion. Commanders shall attend training within six (6) months of promotion. Such training shall include supervisory and command accountability, and ethics and professionalism, with emphasis on supervisory and management functions and situations, and shall include both scenario-based training and case studies.

D. In-Service Training

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

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

E. Training Staff Record Review

Appointment to the Academy staff or other staff training position shall also require a review of the record of the individual being considered, to ensure that the individual does not have a record of any Class I offense, as defined in Section III, paragraph H (1), within the prior two (2) years, and that the individual is supportive of the philosophy and values of OPD.”

Status: Progressing Without Concern

Deliverables:

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

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

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Task 44: Performance Appraisal Policy

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

Assigned Unit: BOS

Compliance Date: July 8, 2003*

Settlement Agreement Language:

"Within 120 days from the effective date of this Agreement, OPD shall develop and implement enhanced personnel policies and practices as follows:

A. Performance Appraisal Policy

Performance appraisals shall be written individually for the member/employee being evaluated and shall accurately reflect the quality of each member/employee's performance.

- 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.*
- 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.*
- 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.*
- 4. OPD shall conduct regular audits of the performance appraisal system to ensure compliance with the above requirements.*
- 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.*
- 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."*

Status: Not in Compliance

Deliverables:

- Revised Departmental General Order B-6, Performance Appraisal

Implementation Activities: The most current Task Progress Report indicates that this task is 90% complete.

Departmental General Order B-6 was drafted, and submitted to the OIG for review. Comments were returned to the subject matter expert, and a revised policy is being completed. A plan for Department-wide training has been developed, and is ready for implementation pending the finalization of DGO B-6.

A new Task Manager has been assigned to this task, and reports that post-staffing revisions to the policy will be completed in January.

*Update Note: As of the publication of this report, the Task Manager has submitted a request for extension on this task. The parties agreed that the draft of Departmental General Order B-6 will be presented to the stakeholders for review on February 27, 2004. The policy is scheduled for publication by May 5, 2004, with training completed by July 7, 2004.

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Task 45: Consistency-of-Discipline Policy

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

Assigned Unit: IAD

Compliance Date: July 8, 2003

Interim Extension Granted: October 6, 2003*

Settlement Agreement Language:

“Within 120 days from the effective date of this Agreement, OPD shall develop and implement enhanced personnel policies and practices as follows:

B. Consistency-of-Discipline Policy

OPD shall revise and update its disciplinary policy to ensure that discipline is imposed in a fair and consistent manner.

- 1. The policy shall describe the circumstances in which disciplinary action is appropriate and those in which Division-level corrective action is appropriate.*
- 2. The policy shall establish a centralized system for documenting and tracking all forms of discipline and corrective action, whether imposed centrally or at the Division level.*
- 3. Class I investigations which result in a sustained finding shall be submitted to the subject’s accountable commander/manager for a disciplinary recommendation. The Chief of Police may convene a meeting of commanders/managers in the affected chain-of-command for a confidential discussion of the misconduct taking into consideration the member/employee’s overall performance.*
- 4. Class II offenses investigated at the Division level which result in a sustained finding shall be corrected through progressive discipline so as to address overall performance deficiencies. Before recommending corrective actions, the designated commander/manager shall review the sustained person’s prior history of disciplinary and corrective actions to determine if there is an indication of a pattern of unacceptable behavior. If the review does not indicate a pattern of unacceptable behavior, the designated commander/ manager may choose to counsel the member or employee, send the member or employee for retraining, or issue a “Performance Deficiency Notice.” If the review indicates a pattern of unacceptable behavior, then the designated commander/manager shall notify his/her immediate superior that a higher level of discipline is recommended and shall discuss the appropriate level of that discipline to correct the pattern.”*

Status: Progressing Without Concern

Deliverables:

- Special Order 8053, Consistency of Discipline Workgroup
- Departmental General Order M-3, Complaints Against Department Personnel

Implementation Activities:

The Chief of Police and the IAD subject-matter expert developed a two-part plan for completing the remainder of this task.

- Part 1: In the first phase, the subject matter expert modified the Department’s current disciplinary policy and codify the policy and procedures into a Department Training Bulletin.

- Part 2: The Chief of Police established a committee to research different disciplinary systems (i.e., disciplinary matrix, review panel, review board, board of appeals, etc.). Based on the finding of that study, and the ability to achieve consistent discipline under the codified system in part 1 of his plan, the Chief has directed the development and implementation of a new system.

At the June and July 2003 Monthly Meetings, the Department presented the two-part plan and requested an extension on this task.

It was agreed by the Department and plaintiffs' attorneys that the codification of existing policy would be provided to the parties by October 6, 2003. The white paper on consistency of discipline would be completed by the consistency of discipline workgroup, and provided to the Chief of Police by November 17, 2003. Based on the information and recommendations contained in the white paper, the Chief would then decide on an appropriate departmental discipline policy to develop and adopt.

Initial research by the Consistency of Discipline Workgroup revealed that there was no clear "best practice" in the area of discipline. Many organizations were adopting a matrix or bail system, but these same organizations were often still working out the associated details and challenges. To help gather information from the field and discuss and brainstorm new discipline policy for law enforcement, the Department initiated a national conference on consistency of discipline. The conference was hosted by Oakland Police Department and a well-known researcher in law enforcement policy. Attendees included policy-makers and commanders from several law enforcement agencies, researchers and consultants from government and non-governmental agencies related to law enforcement (e.g., Department of Justice, PARC), a member of OPD's Independent Monitoring Team, and members of the Consistency of Discipline Workgroup.

Based on the information gathered through the conference, additional research, and the requirements of the Settlement Agreement and the Oakland Police Department itself, the Workgroup recommended that the Department adopt a discipline matrix to achieve consistency of discipline.

The Chief of Police concurred with this recommendation. He has assigned the Research and Planning Division to research appropriate values and ranges for the different violations for which a member might receive discipline, as well as aggravating and mitigating circumstances that may or may not come into play. The findings of this research will be provided to the Consistency of Discipline Workgroup which will create a draft working matrix for the Department. Once reviewed by the command staff and Chief of Police, and revised as appropriate, the matrix will be published and members will be trained.

Provisions of this task were also included in the draft revision of Departmental General Order M-3, Complaints Against Department Personnel. The draft was shared with the plaintiffs' attorneys and Independent Monitoring Team as it went to internal staffing. Comments from the Department's command staff indicated a need for significant revisions to M-3. The comments were shared with the subject matter expert to consider in the redrafting of this policy.

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*Update Note: As of the publication of this report, the Department presented revised timelines for the development of the Discipline Matrix and General Order M-3 which were accepted by the plaintiffs' attorneys. The revised draft of Departmental General Order is scheduled to be presented to the parties for their primary review no later than February 1, 2004. The directive is scheduled to be published by March 15. Informational training for all members and employees is scheduled to be completed by April 15, 2004. It was agreed that the discipline matrix will be provided to the parties by May 14, 2004, and would be published on or before June 14, 2004. Specialized training on M-3 for sergeants and lieutenants and Department training on the discipline matrix will be delivered on or before July 1, 2004. Command staff will receive specialized training on the discipline matrix.

Task 46: Promotional Consideration

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

Assigned Unit: BOS

Compliance Date: July 8, 2003

Extended Compliance Date: December 1, 2003*

Settlement Agreement Language:

"Within 120 days from the effective date of this Agreement, OPD shall develop and implement enhanced personnel policies and practices as follows:

C. Promotional Consideration

1. *Sustained misconduct cases against a member/employee shall be an important factor in determining promotability. There shall be a presumptive ineligibility for promotion for 12 months following the sustained finding of a Class I offense as defined in Section III, paragraph H(1). Such cases shall be considered important in evaluating promotability for three (3) years following the completion of the investigation.*
2. *In addition to other factors, the Chief of Police shall consider the following criteria in making promotional determinations:*
 - a. *Commitment to community policing;*
 - b. *Quality of citizen contacts;*
 - c. *Number of citizen complaints;*
 - d. *Instances of unnecessary use of force;*
 - e. *Support for Departmental integrity measures."*

Status: Policy in Compliance. Progressing without Concern

Deliverables:

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

Implementation Activities: The Memorandum on Promotional Consideration issued by the Office of the Chief of Police was drafted, reviewed, and is ready for publication. Because this memorandum refers to Class I and Class II offenses, it is currently on hold until the Departmental publication defining these terms is issued. This publication, M-3, has been drafted, is currently under review, and is scheduled to be issued during the first quarter of 2004.

*Update note: It was agreed at the January Monthly Settlement Agreement meeting that the new DGO M-3 would be published by March 15, 2004.

Task 47: Community Policing Plan

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

Assigned Unit: BFO

Compliance Date: August 1, 2003

Settlement Agreement Language:

“XI COMMUNITY POLICING PLAN

Within 138 days from the effective date of this Agreement, OPD shall develop and implement a plan to strengthen its commitment to relationships with local communities including, but not limited to, the following:

- 1. OPD shall host at least one (1) community meeting per quarter in each Patrol Service Area.*
- 2. 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.*
- 3. OPD shall develop mechanisms to measure its community policing and problem solving activities.*
- 4. OPD shall incorporate positive statistics on community policing and problem solving activities in “Crime-Stop” meetings, along with information on citizen complaints and use of force incidents.*
- 5. The appropriate Departmental personnel shall arrange a meeting within 60 days unless not feasible with representatives of an established organization active within Oakland (PUEBLO, ACLU, NAACP, etc.), community groups or church groups, if an organization communicates a concern regarding specific police personnel or practices.”*

Status: Not in Compliance

Deliverables:

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

Implementation Activities: The most recent Settlement Agreement Task Progress Report indicates that this task is 75% complete.

The first Semi-Annual report issued noted that the Office of Inspector General had identified this task as Progressing With Concern; potentially falling far enough behind to endanger meeting the Compliance Date. A change in personnel assigned to the unit was identified as contributing to the delay in policy writing for this task. The new Task Manager has drafted the three policies that will be needed to complete the provisions of this task. The policies have been staffed to the Department Commanders, and have been revised based on feedback from those individuals. A review of the Settlement Agreement requirements and IMT needs for auditing, as well as comments from command staff indicated a need to expand the reporting requirements related to community policing. Responses to requests for meetings, as well as attendance at meetings would need to be documented. The associated forms were therefore also developed as part of this task, as well as new processes that affect several units, in order to ensure that the community policing plan activities could be tracked and monitored.

*Update Note: As of the publication of this report, this task is Not in Full Compliance. Departmental General Order B-7, Requests for Meetings and Public Appearances and Bureau of Field Operations Policy and Procedure 03-03, Community Meetings have both been published and are in compliance with the requirements of the Settlement Agreement. Training Bulletin III-A.5 is currently under review by the parties, including the OPOA.

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Task 48: Departmental Management and Annual Management Report

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

Assigned Unit: BOS

Compliance Date: July 2, 2003

Settlement Agreement Language:

"XII. DEPARTMENTAL MANAGEMENT AND ANNUAL MANAGEMENT REPORT

Within 116 days from the effective date of this Agreement, OPD shall develop and implement a policy requiring each functional unit of OPD to prepare a management report every 12 months. The division commanders individually shall meet with the Chief of Police and their respective Deputy Chief to thoroughly review the management report of that division. These management reports shall include relevant operating data and also highlight ongoing or extraordinary problems and noteworthy accomplishments."

Status: Policy in compliance; training not yet begun. Not in Full Compliance

Deliverables:

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

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

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

Task 49: Monitor Selection and Compensation

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

Assigned Unit: OCOP

Compliance Date: April 15, 2003

Settlement Agreement Language:

“XIII. INDEPENDENT MONITORING

A. Monitor Selection and Compensation

1. *Within 60 days after entry of this Agreement, the City and plaintiffs' counsel shall mutually select a Monitor, subject to the approval of the Court, who shall review and report on OPD's implementation of, and assist with OPD's compliance with this Agreement. The selection of the Monitor shall be pursuant to a method jointly established by the plaintiffs' counsel and the City. In selecting the Monitor, plaintiffs' counsel and the City recognize the importance of ensuring that the fees and costs borne by the City are reasonable, and, accordingly, fees and costs shall be one factor considered in selecting the Monitor.*
2. *The maximum sum to be paid the Monitor, including any additional persons he or she may associate pursuant to Section XIII, paragraph C (1)(2) (excluding reasonable costs or fees associated with non-compliance or breach of the Agreement by the City or the Department), shall be set forth in a contract between the City and the Monitor and approved by the City Council. The contract amount shall be calculated to fairly and reasonably compensate the Monitor for accomplishing the tasks and responsibilities set forth in this Agreement. The maximum amount specified in the contract will not exceed four million dollars (\$4,000,000.00) for the entire five years of the implementation of the Settlement Agreement. Should the monitoring be extended for an additional period of time, the compensation will be renegotiated subject to the approval of the City Council.*
3. *If the plaintiffs' counsel and City are unable to agree on a Monitor, or on an alternative method of selection, the plaintiffs' counsel and the City each shall submit to the Court no more than two (2) names of persons who shall have the following attributes:*
 - a. *A reputation for integrity, even-handedness and independence;*
 - b. *Experience as a law enforcement officer, expertise in law enforcement practices, or experience as a law enforcement practices monitor;*
 - c. *An absence of bias, including any appearance of bias, for or against the plaintiffs, the City, the Department, or their officers or employees; and*
 - d. *No personal involvement, in the last five (5) years, whether paid or unpaid, with a claim or lawsuit against the City or the Department, or any of their officers, agents or employees, unless waived by the parties, which waiver shall not be unreasonably withheld.*

To assist the Court in selecting the Monitor when there is a disputed selection as above, the City and the plaintiffs' counsel shall submit to the Court the resumes, cost proposals, and other relevant information for such persons demonstrating the above qualifications, and the Court shall appoint the Monitor from among the names of qualified persons so submitted.

B. Period and Appointment

The Monitor shall be appointed for a period of five (5) years, but in no circumstances to exceed seven (7) years past the date on which this Agreement was entered by the Court by the agents of the plaintiffs and the agents of the City. The extension of the Monitor beyond five years shall be allowed only if the Court determines that it is reasonably necessary in order for the Monitor to fulfill his/her duties pursuant to this Agreement.

C. Staffing

1. *The Monitor may associate such additional persons or entities as are reasonably necessary to perform the monitoring tasks specified in this Agreement. Any additional persons or entities associated by the Monitor shall possess the following attributes: a reputation for integrity, even-handedness and independence; an absence of bias, including any appearance of bias, for or against the plaintiffs, the City, the Department, or their members or employees; and no personal involvement in the last five (5) years, whether paid or unpaid, with a claim or*

lawsuit against the City or the Department or any of their officers, agents or employees unless waived by the parties, which waiver shall not be unreasonably withheld.

2. *The Monitor shall notify the City and the Court if and when such additional persons or entities are selected for association by the Monitor. The notice shall identify the person or entity to be associated and the monitoring task to be performed, and, if a waiver is being requested, the notice shall indicate if the person had any such involvement in the last five (5) years, whether paid or unpaid, with a claim or lawsuit against the City or the Department, or any of their members, agents, or employees. Either the plaintiffs' counsel or the City may notify the Monitor, in writing, within 10 days (excluding weekends, and federal or state holidays) of any objection either may have to the selection. If the parties and the Monitor are unable to resolve any such objection, and the Monitor believes that the specific person or entity in question is needed to assist the Monitor, and such person or entity satisfies the qualifications and requirements in this paragraph, the Monitor may seek Court authorization to hire such person. For purposes of all paragraphs of this Agreement, other than the preceding paragraph, the term Monitor shall include any and all persons or entities that the Monitor associates to perform monitoring tasks, and such persons shall be subject to the same provisions applicable to the Monitor under this Agreement.*

D. Replacement of Monitor

Should any of the parties to this Agreement determine that the Monitor, and/or his/her agents, employees, independent contractors, has exceeded his/her authority or failed to satisfactorily perform or fulfill his/her duties under this Agreement, the party may petition the Court for such relief as the Court deems appropriate, including replacement of the Monitor and/or his/her agents, employees and/or independent contractors.

E. City-Provided Office Space, Services and Equipment

The City shall provide the Monitor and any staff of the Monitor with office space, which may be in the Police Department or within other City offices, and with reasonable office support such as telephones, access to fax and photocopying, etc. The City and OPD shall bear all reasonable fees and costs for the Monitor. The Court retains the authority to resolve any dispute that may arise regarding the reasonableness of fees and costs charged by the Monitor.

F. Resolving Monitor Fee Disputes

In the event that any dispute arises regarding the payment of the Monitor's fees and costs, the City, plaintiffs' counsel and the Monitor shall attempt to resolve such dispute cooperatively, prior to seeking the Court's assistance.

G. Responsibilities and Authority

The Monitor shall be the agent of the Court and shall be subject to the supervision and orders of the Court, consistent with this Agreement. The Monitor shall have only the duties, responsibilities and authority conferred by this Agreement. The role of the Monitor shall be to assess and evaluate compliance with the provisions of the Agreement. The Monitor shall not, and is not intended to, replace or take over the role or duties of the Chief of Police or other police or City officials. The Monitor shall offer the City and OPD technical assistance regarding compliance with and implementing the Agreement.

H. Required Audits, Reviews and Evaluations

In order to report on OPD's implementation and compliance with the provisions of this Agreement, the Monitor shall conduct audits, reviews and evaluations, in addition to any others deemed relevant by the Monitor, of the following:

1. *OPD policies and procedures established to implement the Agreement, to ensure that these policies and procedures are consistent with both the purposes of this Agreement and, as reasonably practicable, the best practices in law enforcement.*
2. *All completed and pending internal affairs proceedings and files except investigator[s] notes while the investigation is open.*
3. *Policy and procedures used by OPD for Internal Affairs misconduct investigations, including a review of an appropriate sample of closed IA cases; assess and evaluate the quality and timeliness of the investigations; recommend reopening of investigations that the Monitor determines to be incomplete; recommend additional measures that should be taken with respect to future investigations in order to satisfy this Agreement; and review and evaluate disciplinary actions or other interventions taken as a result of misconduct investigations.*

4. *Quality and timeliness, from appropriate samples, of OPD use of force incident reports and use of force (K-4) investigations; review and evaluation of actions of OPD's Use of Force (K-4) Board and Firearms-Discharge Board of Review (K-3); and review and evaluation of disciplinary actions or other interventions taken as a result of use of force investigations or K-3 and K-4 Board reviews.*
5. *If the Monitor determines that any use of force investigation or internal (IAD or Division-level) investigation/report which has been adjudicated or otherwise disposed or completed, is inadequate under this Agreement, the Monitor shall confer with the Chief of Police, IAD Commander and the Inspector General, and provide a confidential written evaluation to the Department and the Court. Such evaluation shall be for the purpose of assisting the Chief of Police in conducting future investigations, and shall not obligate the Department to reopen or re-adjudicate any investigation.*
6. *Implementation of provisions of this Agreement related to OPD training, including changes to the FTO program.*
7. *OPD's development and implementation of PIMS as required by this Agreement, including any supervisory action taken in response to analyses from such a system.*
8. *City/OPD's Performance Appraisal System.*
9. *Compliance with provisions in this Agreement relating to command, management and supervisory duties.*
10. *The Monitor may request information about "court related" problem officers from OPD's MLL, the Office of the District Attorney (DA), or the Office of the Public Defender (PD). All information provided to the Monitor by the DA and/or PD shall be confidential and serve as a "check and balance" of the PIMS.*
11. *Other reviews as deemed relevant, such as sampling cases developed from the directives targeting specific geographic areas, to ensure that OPD enforcement activities fully comply with all applicable Department procedures and federal and state law.*

When appropriate, the reviews and evaluations shall include, at a minimum, annual audits of stratified random samples.

I. Reports

During the first two (2) years of this Agreement, the Monitor shall issue quarterly reports to the parties and to the Court. Thereafter, the Monitor shall issue semi-annual reports to the parties and the Court. At any time during the pendency of this Agreement, however, the Monitor may issue reports more frequently if the Monitor determines it appropriate to do so. These reports shall not include information specifically identifying any individual member/employee. Before issuing a report, the Monitor shall provide to the parties a draft for review to determine if any factual errors have been made, and shall consider the parties' responses; the Monitor shall then promptly issue the report. All efforts to make these reports available to the general public shall be made, including posting on the Department's web site, unless the Court orders that the reports or any portions of the reports should remain confidential. In addition, public disclosure of the reports and any information contained therein shall comply with the Public Safety Officers' Procedural Bill of Rights.

J. Meetings

1. *During the first year of this Agreement, the Monitor shall conduct monthly meetings that shall include representatives of OPD, the City Attorney's Office, the City Manager's Office, the Oakland Police Officers' Association, and plaintiffs' counsel. These meetings may be continued beyond the first year at the request of the parties to this Agreement. The purpose of these meetings is to ensure effective and timely communication between the Monitor, OPD, the City Attorney's Office, the City Manager's Office, the Oakland Police Officers' Association and plaintiffs' counsel regarding the development of procedures and policies under the Agreement, implementation, compliance and information-access issues. Throughout the duration of this Agreement, directives, policies and procedures developed by OPD pursuant to this Agreement shall be provided to plaintiffs' counsel for review and comment as a part of the Department's existing staffing process. Written comments may be returned to the Department by the specified deadline, or verbal comments may be given at the monthly meetings.*
2. *The Monitor shall also convene meetings with representatives of OPD, City Attorney's Office,*

City Manager's Office, the Oakland Police Officers' Association and plaintiffs' counsel to provide a forum for the discussion and comment of the Monitor's reports before the reports are issued to the Court. The plaintiffs' counsel and their retained experts and/or consultants shall be compensated by the City up to but not to exceed Fifty Thousand Dollars (\$50,000); this amount includes all fees and costs over the duration of this Agreement for their participation in the review of policies called for in this Agreement. The plaintiffs' counsel shall submit to the City, on an annual basis during the duration of the Agreement, a statement of such fees and costs.

K. Access and Limitations to OPD Documentation and Staff

1. *By policy, OPD personnel shall be required to cooperate fully with the Monitor and to provide access to information and personnel in a timely fashion. The Monitor shall have the right to interview any member/employee of OPD pursuant to the provisions of this Agreement.*
2. *Except as restricted below, the City and OPD shall provide the Monitor with full and unrestricted access to all OPD staff, facilities and non-privileged documents (including databases) necessary to carry out the duties assigned to the Monitor in a timely fashion. The Monitor shall have the right to interview any member/employee of OPD pursuant to the provisions of this Agreement. The Monitor shall cooperate with the City and the Department to access personnel and facilities in a reasonable manner that, consistent with the Monitor's responsibilities, minimizes interference with daily operations. This right of access shall include all documents regarding use of force data, policies and analyses. The Monitor shall provide the City or Department with reasonable notice of a request for copies of documents. Upon such request, the City and the Department shall provide the Monitor with copies (electronic, where readily available, or hardcopy) of any documents to which the Monitor is entitled access under this Agreement. The Monitor shall maintain all documents obtained from the City, OPD or the plaintiffs' counsel in a confidential manner and shall not disclose non-public information to any person or entity other than the Court or the parties, absent written notice to the City and either consent by the City or a Court order authorizing disclosure.*
3. *The Monitor shall have access to OPD personnel medical records, generally, if permission for such access is granted by the applicable member/employee, or the information from such records is otherwise contained in investigative files.*
4. *For any other OPD personnel medical records reasonably necessary to carry out the duties assigned to the Monitor by this Agreement, the Monitor shall notify the Court and the City in writing of the need for such documents, and the City shall so notify the affected member/employee. The Court, the City, or the affected member/employee may, and the City if requested by the affected member/employee shall, notify the Monitor in writing within 10 days (excluding weekends, and federal or state holidays) of any objection they may have to such access. If the parties, the Monitor and, where applicable, the affected member/employee are unable to resolve any such objection, and the Monitor continues to believe that the documents in question are reasonably necessary to assist the Monitor, the Monitor may seek Court authorization for access to such documents, subject to any appropriate protective orders. The City shall assert applicable defenses and privileges from disclosure and protections of such records for the City and the affected member/employee. Any documents obtained by this procedure shall be treated as confidential.*

L. Limitations to Personal and Confidential Information

Nothing in this Agreement shall be construed to require disclosure of strictly personal information not material to implementation of this Agreement. Personal information includes, but is not limited to, background investigations, personal financial information other than compensation paid by the City, personal medical (including psychological) information, and residential or marital information. The Monitor shall not access attorney-client privileged information or work-product information. If the City or OPD objects to the access to any material, the City shall state why the material is not relevant, or that the information is privileged or otherwise confidential, and shall provide a privilege log. The City and OPD acknowledge that in order to evaluate the performance appraisal system, the disciplinary system for staff, the PIMS system, IAD investigations and other aspects of OPD, the Monitor will need substantial access to information about individual members, information about situations which may be currently in litigation or

which may be the subject of future litigation, and information related to ongoing criminal investigations and prosecutions to the extent that disclosures of such information to the Monitor may not compromise or may not reasonably tend to compromise the integrity of the pending criminal investigation. If, after efforts among the parties to resolve the disagreement, the objection remains, the Court shall make the final determination.

M. Access to Criminal Investigation Files

1. *The Monitor shall have direct access to all documents in criminal investigation files that have been closed by OPD. The Monitor shall also have direct access to all arrest reports, warrants and warrant applications, whether or not contained in open criminal investigation files; where practicable, arrest reports, warrants and warrant applications shall be obtained from sources other than open criminal investigation files.*
2. *The Monitor shall have access to documents containing confidential information prepared for and contained solely in open criminal investigations of OPD personnel reasonably necessary to monitor compliance with this Agreement (other than arrest reports, warrants and warrant applications which shall be subject to the general access provisions).*
3. *If the Monitor reasonably deems that access to documents contained solely in either:*
 - a. *Open criminal investigation files, which investigations have been open for more than ten months; or*
 - b. *Open criminal investigation files of OPD personnel, which investigations have been open for less than ten months, is necessary to carry out the duties assigned to the Monitor by this Agreement, the Monitor shall notify the Court and the City, in writing, of the need for such documents. After notification by the Monitor, either the Court or the City may respond in writing to the Monitor within ten days (excluding weekends, and federal or state holidays), should either have any objection to such access. If the parties and the Monitor are unable to resolve any such objection, and the Monitor continues to believe that the documents in question are reasonably necessary to assist the Monitor, the Monitor may seek Court authorization for access to such documents, subject to any appropriate protective orders. Any documents obtained by this procedure shall be treated as confidential.*

N. Access to Intelligence Files

The access provisions of the previous paragraphs do not apply to documents contained solely in Anti-Terrorist files, or solely in Intelligence files, or Investigative Notes files or similar files in joint task forces with other law enforcement agencies.

O. Access to "Whistle Blowers"

The Monitor shall have full access to any "whistle blower" who wishes to communicate with the Monitor. The Monitor shall be informed of any and all "whistle blower" reports made by such OPD personnel. The Monitor shall not be given the name of any OPD member/employee who uses the confidential reporting process described above and who indicates that he or she does not want their names given to the Monitor.

P. Testimony

The Monitor shall be an agent of the Court and may testify in this case regarding any matter relating to the implementation, enforcement or dissolution of the Agreement. The Monitor shall not testify and/or respond to subpoenas or documents in other matters relating to the City and OPD, except as required or authorized by the Court. The Monitor shall not be retained by any current or future litigant or claimant in a claim or suit against the City and its employees.

Q. Confidential Records Maintenance

The records maintained by the Monitor shall not be deemed public records. All documents, records, computerized data, and copies of any reports or other information provided to the monitor, as well as any reports, memoranda or other information produced by the monitor, shall be maintained for a period of 12 years following the entry of this Agreement.

R. Court Resolution of Disputes

In the event the Monitor reports that the duties and the responsibilities of the Monitor, as specified in this Agreement, cannot be carried out because of lack of cooperation, failure to provide appropriate data and documents otherwise called for in this Agreement, lack of timely response or other forms of unwarranted delays from OPD or the City, the Court may impose such remedies as it deems just and necessary. Plaintiffs' counsel may bring motions based on their belief that the

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City or OPD is failing to comply with the provisions of this Agreement. The City may also bring motions to amend the Agreement, should it determine such changes are necessary to achieve the overall purposes of the Agreement. Before any such motions are brought, the parties shall meet and confer following the exchange of a letter brief. Should it be necessary to continue the meet and confer process, the parties may request mediation before Magistrate Judge Larson, another Magistrate Judge mutually requested, or another Magistrate Judge as designated by the Court. The Court shall hold hearings on such matters and, if plaintiffs prevail, plaintiffs' counsel shall be entitled to their costs and legal fees. Should the plaintiffs not prevail, the standards set forth in FRCP Rule 11 and 42 USC Section 1988 shall apply so as to determine if the City shall be entitled to an award of fees and costs. Additionally, in the event of substantial and/or chronic non-compliance with provisions of this Agreement, the Court may impose such sanctions and/or remedies as it deems just and necessary, including, but not limited to, attorneys' fees.

S. Petitions for Relief

At any time during the pendency of this Agreement, the City may petition the Court for relief from any provisions of this Agreement. However, such relief shall not be granted unless the City demonstrates that all good faith efforts have been undertaken to comply with the subject provision, that the provision is inconsistent with the overall purposes of the Agreement, and that implementation of the provision is operationally and/or fiscally onerous or impracticable."

Status: Independent Monitoring Team Approved by City Council. In Full Compliance

Deliverables:

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

Implementation Activities: Following negotiations with Relman & Associates, a Professional Services Agreement and Scope of Work for Independent Monitor services went before City Council on July 15, 2003. The Independent Monitoring Team (IMT) made their first visit to the Department on July 14, 2003 – July 17, 2003, with meetings scheduled for July 16, 2003 and July 17, 2003, after Council met. Since that time, the IMT has been on-site August 19-21, 2003, September 3-5 and 22-26, 2003, October 27-31, 2003, November 18-20, 2003, and December 17-19, 2003.

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

Task 50: Compliance Unit Liaison Policy

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

Assigned Unit: OIG

Compliance Date: March 4, 2003

Settlement Agreement Language:

"A. Compliance Unit Liaison Policy

Within 30 days from the effective date of this Agreement, OPD shall hire and retain, or reassign current OPD members/employees, to serve as an OPD Compliance Unit for the duration of this Agreement. The Compliance Unit shall serve as the liaison between OPD, the Monitor and the plaintiffs' counsel, and shall assist with OPD's compliance with the Agreement. Among other things, the Compliance Unit shall:

- 1. Facilitate the provision of data and documents;*
- 2. Provide to the Monitor access to OPD personnel, as needed;*
- 3. Ensure that documents and records are maintained as required by the Agreement;*
- 4. Prepare a semi-annual report describing the steps taken, during that reporting period, to comply with the provisions of the Agreement."*

Status: Policy in compliance; training completed. Policy implemented. In Full Compliance

Deliverables:

- Training Bulletin V-S, Publication Development (30 Apr 03)
- Special Order 8009, Settlement Agreement 6-Week Progress Reports (7 May 03)
- Special Order 8010, Comments and/or Recommendation by OPD Personnel Regarding Departmental Publications (8 May 03)
- Special Order 8011, Compliance Unit Liaison Policy (9 May 03)

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

The purpose of Training Bulletin V-S, Publication Development, is to establish uniform Departmental publication standards, styles and formats. It also provides instruction on how to develop a Departmental publication. Page 2 outlines the procedures that are to be taken to ensure that Departmental directives are developed or revised in accordance with the provisions of the Agreement.

The purpose of Special Order 8009, Settlement Agreement 6-Week Progress Reports, is to set forth Departmental policy and procedures regarding the 6-week progress reporting of Agreement related tasks. A report is required for each functional task. Based on these reports, the OIG is required to prepare a summary report to the COP. To the extent possible, the COP ensures that the Task Managers complete the task within the required time period.

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

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

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

I. PURPOSE

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

II. COMPLIANCE UNIT RESPONSIBILITIES

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

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

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

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

The Department was late in publishing Special Order 8011 in regards to the Agreement timelines and thus the Department was out of compliance with the provisions of the Agreement for a brief period of time. Full implementation of this task is now in effect. OIG Implementation Review yielded recommendation that the task be reviewed again once the Independent Monitoring Team is retained and on-site to ensure continuing implementation of the Agreement.

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

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Task 51: Compliance Audits and Integrity Tests

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

Assigned Unit: OIG

Compliance Date: September 1, 2005

Settlement Agreement Language:

"B. Compliance Audits and Integrity Tests

Upon implementation of policies and procedures pursuant to this Agreement, OPD shall conduct annual audits of stratified, random samples of:

- 1. Arrest and offense reports, and follow-up investigation reports, including, but not limited to, arrests for narcotics-related possessory offenses not discovered in the course of a search pursuant to arrest for other crimes;*
- 2. Use of force incident reports and use of force investigations;*
- 3. Complaint processing and investigation, to include but not limited to timeliness and quality;*
- 4. Mobile Data Terminal traffic;*
- 5. Personnel evaluations;*
- 6. Citizen accessibility to the complaint process and the availability of complaint forms.*

The review of documents shall entail, at a minimum, a review for completeness of the information contained, and an examination for inappropriate "boilerplate" language, inconsistent information, or lack of articulation of the legal basis for the applicable action. The results of audits conducted pursuant to this paragraph shall be included in OPD's semi-annual compliance reports."

Status: Progressing Without Concern

Deliverables:

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

Implementation Activities:

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

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

The first three reviews (Tasks, 20, 38, 34) were conducted to determine compliance with Settlement-Agreement related policy that had been drafted and/or published. The September 2003 audit of Span of Control (Task 20) showed non-compliance with the Settlement Agreement requirements. Although a second formal audit has not yet been conducted, the Department reports that the January 10, 2004 patrol draw has put the Department in compliance with this SA provision. Eleven (11) of forty-two (42) Patrol Sergeants had more than eight (8) members assigned to their squads. Reviews of Tasks 38 and 34 revealed that although the policies were published and training had been implemented, though not completed, the related Settlement Agreement requirements were not being practiced to a level that the department would consider

substantially compliant. In particular, Task 34, involving the completion of Stop-Data forms, was trained, but showed a very low rate of compliance.

The two additional reviews on timeliness of Internal Affairs investigations and use of force reporting and investigation were conducted as a preliminary exploration of two of the more complex areas of the Settlement Agreement. The purpose of these reviews was to gather information that might be helpful in the current development of policies in these areas and in the development of audit plans and methodology for the Office of Inspector General.

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

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

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Task 52: Housekeeping Provisions
Settlement Agreement Section XV.; page 54, line 23 – page 60, line 3
Assigned Unit: N/A

Status: Progressing Without Concern

Deliverables: None

Implementation Activities:

APPENDIX A: TASK REFERENCE CHART

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

³ The page and line numbers indicate the starting point of the reference paragraph in the printed version of the Settlement Agreement.

TASK NO.	PARAGRAPH	PAGE-LINE ⁴	UNIT	COMPLIANCE DATE	TASK NAME
22	IV E	17:20	BOI	15 Apr 03	OPD/DA Liaison Commander
23	IV F	18:2	OCOP	20 Jan 04	Command Staff Rotation
24	V A	18:13	BFO	20 Jul 04	Use of Force Reporting Policy
25	V B	19:13	BFO	20 Jul 04	Use of Force Investigation and Report Responsibility
26	V C	21:17	BFO	20 Jul 04	Use of Force Review Board (UFRB)
27	V D	22:12	BOI	20 Jul 04	Oleoresin Capsicum Log & Checkout Procedures
28	V E	22:17	BOI	20 Jul 04	Use of Force - Investigation of Criminal Misconduct
29	V F	22:22	BOI	20 Jul 04	IAD Investigation Priority
30	V G	23:3	BFO	20 Jul 04	Firearms Discharge Board of Review
31	V H	23:10	BOI	20 Jul 04	Officer Involved Shooting Investigation
32	V I	23:20	BFO	20 Jul 04	Use of Camcorders
33	VI A	23:25	BOS	25 Aug 03	Misconduct
34	VI B	24:17	BFO	25 Aug 03	Vehicle Stops, Field Investigation, and Detentions
35	VI C	25:7	BOS	25 Aug 03	Use of Force Reports- Witness Identification
36	VI D	25:17	BOS	25 Aug 03	Procedures for Transporting Detainees and Citizens
37	VI E	25:25	BOS	25 Aug 03	Internal Investigations- Retaliation Against Witnesses
38	VI F	26:10	BOS	25 Aug 03	Citizens Signing Police Forms
39	VI G	26:15	BOS	25 Aug 03	Personnel, Arrested, Sued and/or Served with Civil or Administrative Process
40	VII A	27:13	BOS	28 Jun 05	Personnel Information Management System (PIMS)
41	VII B	28:23	BOS	28 Jun 05	Use of PIMS
42	VIII A	33:25	BOS	16 Apr 04	Field Training Program
43	IX A	37:5	BOS	15 Feb 05	Academy Training Plan
44	X A	38:23	BOS	7 Jul 04 (policy to be published by 5 May 04)*	Performance Appraisal Policy
45	X B	40:8	IAD	1 Jul 04 (policy to be published by 15 Mar 04; draft matrix to parties by 14 Jun 04)*	Consistency of Discipline Policy
46	X C 1	41:4	BOS	8 Jul 03	Promotional Consideration
47	XI	41:17	BFO	1 Aug 03	Community Policing Plan
48	XII	42:10	BOS	5 Sep 03*	Department Management and Annual Management Report
49	XIII A	42:19	OCOP	15 Apr 03	Monitor Selection and Compensation
50	XIV A	53:21	OIG	4 Mar 03	Compliance Unit Liaison Policy
51	XIV B	54:6	OIG	1 Sep 05	Compliance Audits and Integrity Tests

⁴ The page and line numbers indicate the starting point of the reference paragraph in the printed version of the Settlement Agreement.

APPENDIX B: GLOSSARY OF TERMS AND ACRONYMS

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

Terms

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

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

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

Citizen: Any individual person, regardless of citizenship status.

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

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

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

Department: The Oakland Police Department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Oleoresin Capsicum Spray (OC): Pepper spray.

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

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

Plaintiffs' Counsel: Attorneys representing plaintiffs in the "riders" cases.

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

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

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

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

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

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

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

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

Acrohyms

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

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PUBLIC SAFETY CMTE.

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