

Auditor's Fourth Quarterly Report  
Quarter Ending August 16, 1998

## 1 Introduction

This document represents the fourth of an anticipated 20 "Auditor's Quarterly Reports" (AQR) assessing the levels of compliance of the City of Pittsburgh (City) with the requirements of the consent decree (decree) entered into between the City and the United States Department of Justice (Justice) on April 16, 1997. The document consists of three sections, identified below:

- Introduction;
- Compliance Assessment; and
- Summary.

The methodology employed by the auditor, definitions used by the auditor, key dates for the audit process, a description of the compliance audit process, and operational definitions of "compliance" are described in the Introduction. Section Two, "Compliance Assessment," includes the findings of the audit, and specific examples of compliance and non-compliance observed during the audit process. Section Three, "Summary" provides an overall assessment of the City's performance for this quarter.

### 1.1 Overall Status assessment

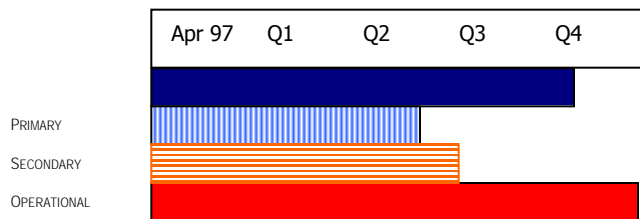
#### 1.1.2 Dates of Project Deliverables

Two specific dates accrue to deliverables for the decree: the date of entry of the decree (April 16, 1997), which times deliverables of the City; and the date of appointment of the auditor (September 16, 1997), which times deliverables for the compliance audit.

### 1.2 Format for Compliance Assessment

The AQR is organized to be congruent with the structure of the consent decree. It reports on the City's compliance using the individual requirements of the decree. For example, the first section of actual compliance assessment deals with the requirements, in paragraph 12 of the decree, relating to development of an automated "early warning system" (EWS). The following components of the decree are treated similarly. For each section of the decree, a graphic representation of the City's compliance status is presented. The graphic is

designed as follows. The "label" depicts the start date for the City's compliance actions (almost always April 16, 1997). The blue bar, below the label, depicts the time allotted, by the decree, for the City to comply with the decree. The light blue, yellow, orange or red bars, below the blue bars indicate the time expired since the start date. The vertically patterned light blue bars indicate expired time equal to or less than that allowed by the decree. The checkered Yellow bars indicate expired time that is more than that allowed by the decree, but which, in the judgment of the auditor, does not seriously threaten the City's successful compliance with the decree. The horizontally patterned Orange bars indicate expired time that is more than that allowed by the decree, and which, in the judgment of the auditor, may seriously threaten the City's successful compliance with the decree. Red bars indicate expired time which is more than that allowed by the decree, and which, in the judgment of the auditor does seriously threaten the City's successful compliance with the decree.



Compliance is classified as primary, secondary and "operational," with the definitions specified in Section 1.4, below.

### 1.3 Compliance Assessment Processes

#### 1.3.1 Structure of the Task Assessment Process

Members of the audit team have collected data on-site and have been provided data, pursuant to specific requests, by the Pittsburgh Bureau of Police (PBP) and the Office of Municipal Investigations (OMI). All data collected were of one of two types. They were either collected by:

- Selection of a random sample, or
- Selecting all available records of that type.

Under no circumstances were the data selected by the audit team based on provision of records of preference by personnel from the Police Bureau and OMI. In every instance of selection of random samples, PBP personnel were provided

with lists requesting specific data, or the samples were drawn directly by the auditor or the auditor's staff while on-site.

The performance of the PBP and the City of Pittsburgh (City) on each task outlined in the consent decree was assessed by the auditor during the quarter ending August 15, 1998. In order to allow time for completion of the report, the auditor completed assessment activities on August 7, 1998.

All determinations of status for the City and the PBP are data-based, and were formed by review of the following types of documents:

- Official PBP documents prepared in the normal course of business;
- Official Office of Municipal Investigations (OMI) documents prepared during the normal course of business; and/or
- Electronic documents prepared by the City or components of City government during the normal course of business.

Where practicable, documentation forming the database for this audit were selected by the auditor and the auditor's staff directly from PBP, OMI or City files. Where this was not the case, the auditor verified the accuracy of documents provided by checking secondary sources. For example, records of complaints filed against police officers, and the status of those complaints were assessed by reviewing OMI files, OMI electronic files, PBP personnel files, and zone performance files.

#### **1.4 Operational Definition of Compliance**

For the purposes of this audit, "compliance" consists of three components: primary compliance, secondary compliance, and operational compliance. Primary compliance is viewed as the administrative piece of compliance. It entails the creation of policy, procedure, rule, regulation, directive or command to "comply" as required by the text of the decree. Secondary compliance deals with training, supervision, audit and inspection, and discipline to ensure that a specific policy is being implemented as designed. To achieve operational compliance, both the primary—policy and directives—and secondary—training, supervision, audit and inspection, and discipline—must be achieved, and the directives must, by matter of evidence, be followed in day-to-day operations of the Bureau.

During the fourth quarter of the decree, the City, the Bureau and OMI have continued to implement the changes required by the decree. The commitment continues to be to implement both the letter and the spirit of the decree.

Substantial progress has been made during the fourth quarter, including progress in the critical areas of training and crafting systems of documentation of compliance efforts. In addition, significant progress has been made in the area of OMI operations and management.

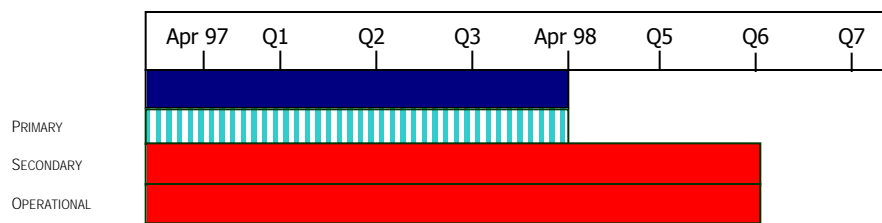
## 2 Assessment of Compliance

### 2.1 Methodology

The auditor assessed the City's compliance using the Auditor's Manual, included as Appendix A of the first quarterly report. The Manual identifies each task required by the consent decree and stipulates the methodology used to assess compliance. Compliance was assessed as primary, secondary and "operational" (see section 1.4, above).

The following sections of the fourth Auditor's Quarterly Report contain a detailed assessment of the degree to which the City has complied with the 76 tasks to which it agreed on April 16, 1997.

### 2.2 Assessing Compliance with Task 12: Automate the PBP Early Warning System



Paragraph 12-a of the Decree requires the City and the PBP to automate the database tracking system currently in use to track police officer behavior, and to add functionality to the system, transitioning it to an "early warning system" (EWS) which will assist the Bureau in identifying and managing officer behavior which may be problematic.

In order to accomplish this task, the City has formed a "protocol committee," and charged this committee with responsibility for defining policies, procedures, manual and automated systems, and oversight practices for each of required elements of the EWS. The decree requires development of protocols in the following areas:

- Citizens' complaints;
- Officer-involved shootings;
- Criminal investigations of officers;
- Civil or administrative claims arising from PBP operations;
- Civil claims against the PBP;
- Law suits against the PBP;
- Warrantless searches by officers;

- Use of force by officers;
- Traffic stops by officers; and
- Discretionary charges filed by officers.

The City has completed work on the various protocols designed to serve as policy guidance for the planned Early Warning System. The "Traffic Stop" protocol, developed during the third quarter, remains a point of discussion between the Department of Justice and the City.

Further, the City has implemented a supplementary supervisory device, the Supervisor's Activity Report (and supporting policy and training), which requires supervisors to provide an on-scene presence at selected traffic stops conducted by personnel under their command. The SAR process requires supervisors to exhibit a field presence, assessing the quality of work of patrol officers regarding performance, adherence to policy and procedure, use of equipment, safety practices, communication skills, or exhibition of prohibited bias. Further, the form requires the supervisor to note recommended actions to remedy any deficiencies noted. The auditor has reviewed each of these protocols, and has assessed their viability in sections 2.2-2.6, following.

The EWS system, which is under development by the City Information Systems Department (CIS), was scheduled for implementation by April 16, 1998, with plans calling for an on-line system before the established deadline to allow the system to be fine-tuned and fully operational by April 16. As of the auditor's site visit for the fourth quarter, (which took place during the week of August 3, 1998) CIS continued to experience difficulties in development and deployment of the EWS. The system's "training database" was operational, and 115 of 117 personnel who would use the system have been trained in the use of the Officer Management System. This represents no improvement over the City's performance for the third quarter. To date, the Pittsburgh Bureau of Police has done all that it can do—absent an operational EWS—to comply with the requirements of the consent decree relative to automated review of the Bureau's enforcement actions. The Bureau is now awaiting completion of the EWS in order to move the City and itself into additional compliance.

Understanding the delay in deployment of the EWS requires an understanding of the complexity of the proposed system, which, in reality taps virtually every area of operation of the PBP, and requires coordination of dozens of City work units, as well as coordination with consulting groups not under the direct control of the City. The "EWS," in actuality is four different systems which must work together to provide the PBP with management information. The system requires all four subsystems to work properly before the EWS can be used as anticipated.

The four subsystems are described briefly below, and the status of each subsystem is reviewed.

**Hardware and Systems Integration (HSI):** The EWS is a hardware-dependent information system. Each of the seven police zones (Zones One through Six and SDD) will require a dedicated workstation, connected by wide-area-network (WAN) to the central data files which reflect the day-to-day activities of the PBP: field contact reports, arrest reports, subject resistance reports, etc. These workstations, in addition to being used to obtain data from the EWS will also be used to enter data into the system. Each workstation will be equipped with a scanning system through which critical data will be entered into the EWS. While each zone has received a fully configured PC-based workstation, the scanning systems have not yet been acquired, configured or deployed. No data are currently available from or to the Zone workstations. Acquisition, configuration and deployment of Zone scanning stations are required before the HSI is considered operational.

**Records Imaging System (RIS):** Just as the EWS is hardware dependent, so is it dependent on skilled staff for maintenance of the data flow anticipated by the system's designers. While the EWS High Volume Data Entry system has been designed and implemented at a centralized location in the Municipal Court Building, the decentralized system has yet to be developed. Further, additional staff will need to be hired, trained and deployed to the Zones in order to begin data entry into the system from decentralized locations. In addition, City Information Systems has yet to finalize the design, protocol development and training for the imaging procedures necessary to allow data input from the Zones. Systems development and deployment; selection, training and debriefing of Zone clerks; and entry of "backlog" information into the EWS remain to be completed before the RIS is considered operational.

**Officer Management System (OMS):** City Information Systems has provided training for supervisors and command personnel in operation of the OMS; however, the "live" data system is not available to these personnel for several reasons. First, the entry of pre-consent decree information (for previous years) must be completed. Second, the OMS system programming must be finalized and brought "on-line." Third, refresher training for supervisors regarding the OMS must be completed, as some of these individuals were trained several months earlier, and have had not real access to the system since.

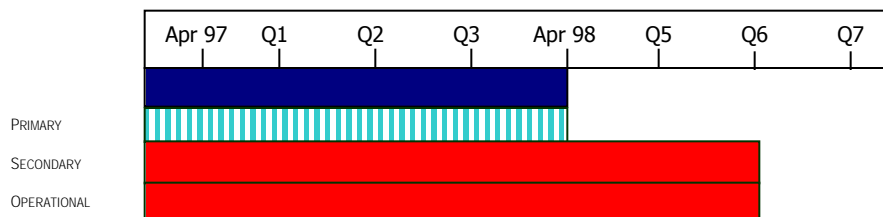
Once each of these subsystems are complete, the EWS can be brought "on-line" as soon as all supervisory personnel are trained in its use. City Information Systems estimates currently indicate a late November start-up of the EWS.

Obviously, the delay in bringing the EWS on line has been frustrating to all concerned, probably none more so than management personnel from the PBP. Once the system is "on-line," the auditor anticipates a two- to three-month period of acclimation before management and supervisory decisions routinely can be made based on information available from the system.

Currently, the delay in implementation of the EWS is beginning to have an adverse impact on the City's ability to maintain compliance with specific areas of the decree. For example, the decree requires the City to assess citizen complaint activity of its officers, and to note and act accordingly when officers have three complaints of a similar nature (or five total complaints) in a two year period (see Section 21.a.ii of the decree), whether the complaints are sustained or not. Based on the auditor's review of zone performance files for the fourth quarter, officers are beginning to accrue sufficient citizens' complaints to trigger the required thresholds for action on the part of the Bureau. Unfortunately, due to the failure to implement the EWS, these actions are not being taken. While supervision and management are the lynch-pins of the Bureau's plans to conform to the consent decree, supervisors and managers will find it difficult to perform their duties without adequate MIS support.

Status:           Primary:       In compliance  
                       Secondary:   Not in compliance  
                       Operational: Not in compliance

**2.2.1 Assessing Compliance with Task 12-a: Nature of Early Warning System Record Keeping**



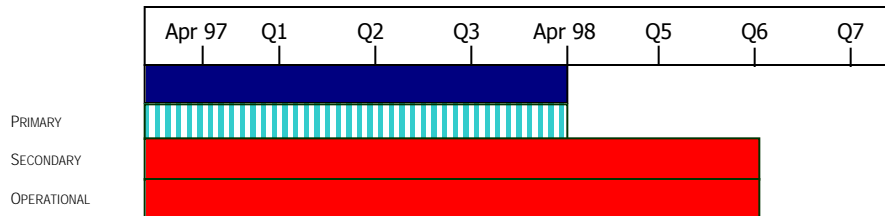


Paragraph 12-a of the decree requires the City to collect, analyze and report specific items related to officer performance and behavior through an automated early warning system.

Given the fact that the EWS is not currently on-line and producing reports, an audit for completeness is not possible. Based on project plans the system will provide all elements of information required by the decree—and will exceed those requirements. Training for system operation for the EWS had not been completed as of August 15, 1998. Access to the EWS has not been authorized for PBP or OMI personnel, given the lack of training, as of August 15, 1998.

Status:           Primary:       In compliance  
                       Secondary:   Not in compliance  
                       Operational: Not in compliance

**2.2.2 Assessing Compliance with Task 12-b: Nature of EWS Retrieval Systems**



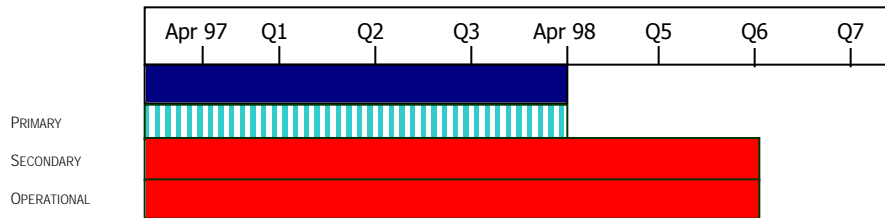
Paragraph 12-b of the decree requires the City to build into the EWS the ability to retrieve information from the EWS by officer, squad, zone, unit, and the execution of “discretionary arrests.”<sup>1</sup>

Given the fact that the EWS is not currently on-line and producing reports, an audit for completeness is not possible. Based on project plans the system will provide all elements of information required by the decree—and will exceed those requirements. Until the system is on-line however, assessment of the degree to which the system conforms to its planned configuration is not possible.

Status:           Primary:       In compliance  
                       Secondary:   Not in compliance  
                       Operational: Not in compliance

<sup>1</sup> Defined by the decree as resisting arrest, disorderly, public intoxication, and interfering with the administration of justice.

**2.2.3 Assessing Compliance with Task 12-c: Establishing Data Retention Schedules for the EWS**

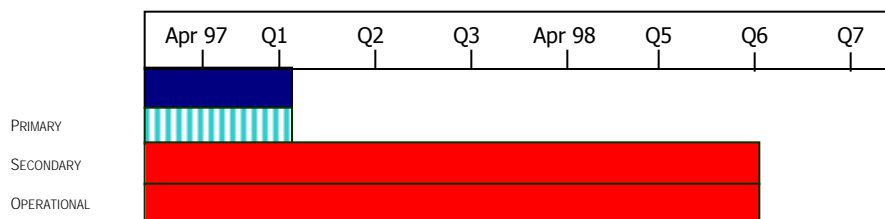


Paragraph 12-c of the decree requires the City to archive the records in the EWS for three years after the involved officers’ separation from service, and that all records be archived indefinitely. In addition, it requires the City to enter all relevant data for three years prior to April 16, 1997.

Given the fact that the EWS is not currently on-line and producing reports, an audit for completeness is not possible. Based on project plans the system will provide all elements of information required by the decree—and will exceed those requirements. Until the system is on-line however, assessment of the degree to which the system conforms to its planned configuration is not possible. Data for the three years prior to April 16, 1997 have not been entered into the EWS system. Data sources have been identified, however, and the process of organizing data entry has begun.

Status:           Primary:       In compliance  
                       Secondary:   Not in compliance  
                       Operational: Not in compliance

**2.2.4 Assessing Compliance with Task 12-d: Developing Written Protocols for Operation of the EWS**



Paragraph 12-d requires the City to develop a protocol for use of the EWS that would:

- Establish trigger thresholds for review of officer records by senior supervisors;

- Establish requirements for frequency of review of officer records by senior supervisors;
- Establish the types of corrective actions to be taken by senior supervisors;
- Establish confidentiality and security provisions for the EWS;
- Establish requirements for quality assurance checks of data input; and
- Have the protocol submitted for review 30 days before implementation.

The City has developed protocols for use of the EWS, including those controlling:

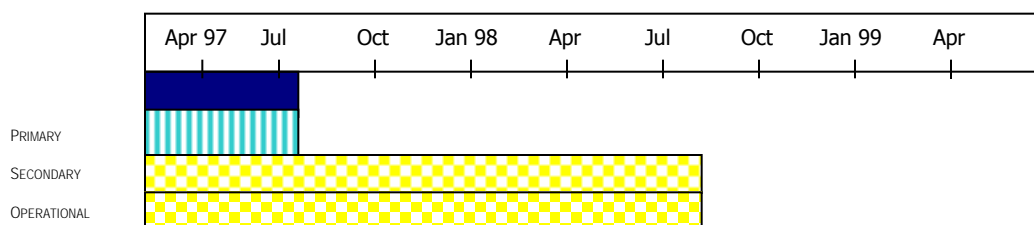
- Weapons discharges by a Bureau member;
- Citizens complaints;
- Civil claims arising from Bureau operations;
- Initiation of criminal investigations against Bureau members;
- Lawsuits arising from Bureau operations;
- Reporting subject resistance incidents;
- Trend analysis;
- Processing allegations of untruthfulness, racial bias, domestic violence, and physical force;
- Managing search and seizure activity; and
- Reporting and review of traffic stop and arrest data.

These protocols have been reviewed by the auditor, and found to be reasonable and effective responses to the requirements of the consent decree, and in fact, in many cases, to move beyond the requirements of the decree.

Given the fact that the EWS is not currently on-line and producing reports, an audit for completeness is not possible. Based on project plans the system will provide all elements of information required by the decree—and will exceed those requirements. Until the system is on-line however, assessment of the degree to which the system conforms to its planned configuration is not possible.

Status:           Primary:       In compliance since August, 1997  
                      Secondary:   Not in Compliance  
                      Operational: Not in Compliance

## 2.3 Assessing Compliance with Task 13: Developing a Use of Force Policy



Paragraph 13 requires the City to develop, within four months of entry of the decree, a use of force policy which conforms to professional standards and applicable state law. The paragraph further requires the City to submit the policy to Justice for approval prior to implementation.

### Methodology

The auditor has reviewed the PBP's use of force policy, which was completed prior to the deadline, and has assessed the policy for conformance to national standards and applicable law. The newly drafted policy, effective August 15, 1997 is well written, and is designed to allow the Bureau to control effectively the use of force by the Bureau's officers.

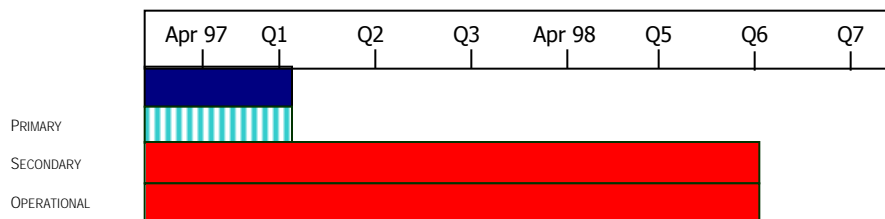
Promulgation of the policy and the necessary training to implement it have been completed. Reporting and supervisory review processes have been implemented, and the Bureau's Subject Resistance Reports have been developed, disseminated, and implemented, and are currently being completed by PBP personnel. This quarter's review of the SRRs indicates a continued high level of performance by the Bureau in reporting and analyzing police use of force. This is true for several reasons:

- First, the forms continue to be appropriately completed, for the most part, by line personnel, e.g., establishing the order of force applied rather than simply "checking" appropriate boxes;
- Second, supervisory review appears, for the most part, to continue to be responsive and focused, rather than simply process-oriented;
- Third, the forms continue to indicate an active supervisory presence on the street, where use of force generally occurs;

- Fourth, the files reviewed continue to indicate an apparent under-use of force on the part of the officers of the PBP, e.g., multiple instances in which the articulable facts supported higher levels of police force than were reportedly used; and
- Fifth, SRRs were located in all OMI-investigated citizen complaint files which alleged an inappropriate use of force.

Status:           Primary:       In Compliance  
                       Secondary:   In Compliance  
                       Operational: In Compliance

**2.4   Assessing Compliance with Task 14: Development of an Effective Strip Search Policy**



Paragraph 14 requires the City to develop effective strip search policies, allowing PBP officers to conduct strip searches only when authorized by a supervisor, and then only if specifically trained to do so. The searches must be performed in conformance with hygienic procedures, in a room specially designated for strip searches, under specific controls. The policy further must preclude field strip searches in all but exigent circumstances.

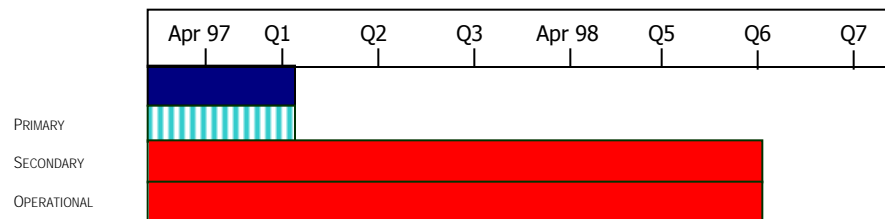
**Methodology**

The auditor has reviewed PBP policy 45-1, "Strip and Body Cavity Searches." The policy conforms to all requirements of the decree, and was promulgated and effective November 10, 1997. The auditor sees no potential problems with the policy if it is implemented as written. Training has begun in the areas of search and seizure, and as of August 16, 1998 the department has trained 676 of 1,079 officers in its "current" training database (this database excludes 24 officers on extended leave, etc.). Search and seizure training has been provided to 63.7

percent of the active officers who should receive the training, as of August 16, 1998. Obviously, this falls short of the 95 percent necessary for critical tasks.

Status:           Primary:       In Compliance  
                       Secondary:   Not in Compliance  
                       Operational: Not in Compliance

## 2.5 **Assessing Compliance with Task 15: Written Reports of Specific Police Actions**



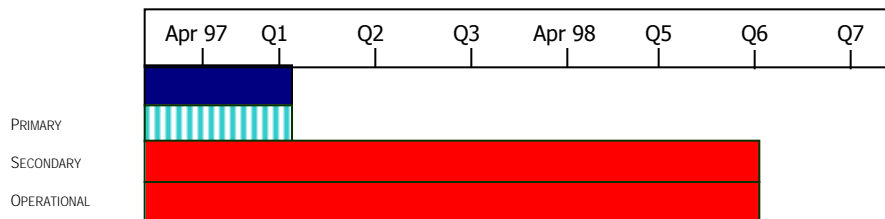
Paragraph 15 requires the City to establish reporting requirements each time a police officer uses force, conducts a warrantless search or seizure, or conducts a body cavity search.

The City has conformed to paragraph 15 through development of several related policies, each of which requires a written report any time a police officer performs any of the above-listed actions. In addition, these protocols are supported by specific policies (12-6, Use of Force, 45-2 Warrantless Searches and Seizures, and 45-1 Strip and Body Cavity Searches). Each of these policies stipulates specific reporting procedures which are in conformance with the requirements of the decree, c.f., 12-6 @ 6.6, 45-1 @ 5.1, and 45-2 @ 3.1. However, given the fact that some of these policies were only recently approved, the necessary training, reporting and supervisory review processes have yet to be institutionalized. The Department of Justice has approved these protocols viz a viz the decree (Use of Force on August 4, 1997 and Search and Seizure on November 10, 1997) based on the City's submission on July 16, 1997. The Search and Seizure protocol approval was delayed by discussion between the City and Justice regarding specific provisions. Training regarding Use of Force reporting has been completed, and the reporting forms and guidelines have been implemented. Subject Resistance Reports are being processed by the department, and the day-to-day operation of controlling use of force by PBP officers appears to moving forward appropriately.

Even though training has been provided regarding reporting of use of force by PBP officers, training regarding search and seizure has not been completed as of August 15, 1998. Although search and seizure training has begun (see Section 2.4 above) it is not complete.

Status: Primary: In Compliance  
 Secondary: Not in Compliance  
 Operational: Not in Compliance

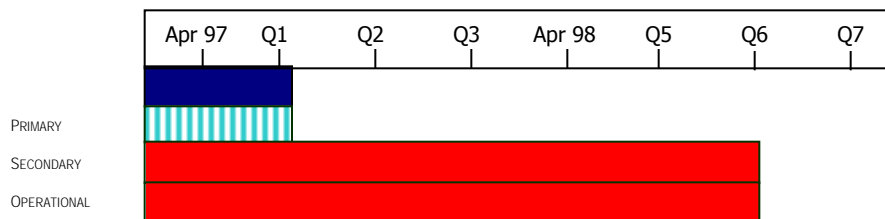
**2.6 Assessing Compliance with Task 16: Reporting Traffic Stops**



Paragraph 16 requires the City to establish reporting requirements each time a police officer makes a traffic stop. The City has promulgated a protocol requiring officers to report traffic stops, and establishing a review function for these activities. Training for PBP personnel regarding reporting traffic stop information was completed during the third quarter. Reporting practices for traffic stops are currently under negotiation between the City and Justice, and awaiting finalization prior to promulgation. The Bureau has begun collecting traffic stop data, using the form designed by the City. These data are available at the Zones, and, of course, will be entered into the EWS once it comes "on-line." No traffic stop reports were reviewed by the auditor during this quarter.

Status: Primary: In Compliance<sup>2</sup>  
 Secondary: Not in Compliance  
 Operational: Not in Compliance

**2.7 Assessing Compliance with Task 17: Entry of Data into the EWS**

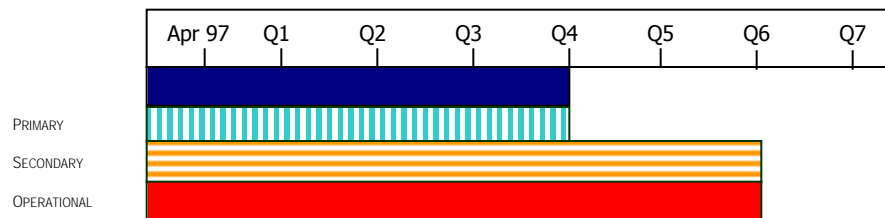


<sup>2</sup> The City submitted the required protocol in a timely fashion. On-going negotiations between the City and Justice are currently underway.

Paragraph 17 requires the City to enter data regarding use of force, traffic stops, warrantless searches and seizures, and other indicators of police activity levels into the planned automated Early Warning System. The City has developed protocols requiring such entry. The automated EWS has begun accepting data on police use of force and searches, and traffic stops are currently being entered into the system, as well. Obviously, no data are currently available from the EWS regarding traffic stops or other PBP activities.

Status:           Primary:       In Compliance  
                       Secondary:   Not in Compliance  
                       Operational: Not in Compliance

## 2.8 Assessing Compliance with Task 18: Audits of Use of Force



Paragraph 18 requires the City to cause supervisors and senior supervisors to conduct "regular audits" of PBP officers' use of force, and to act on information concerning the use of force with the goal of reducing or preventing use of excessive force.

### Methodology

The audit team conducted a random selection of 40 "Subject Resistance Reports" completed by PBP officers, and reviewed by PBP supervisors and senior supervisors, pursuant to policy developed by the Chief of Police. The policy requires PBP officers to complete a SRR any time they use force to subdue a subject. Each of the reports selected was reviewed to ensure that the:

- Form was properly executed;
- Form was reviewed by supervisors and senior supervisors within one week;
- Supervisory review identifies problems with the use of force, where appropriate; and
- The review process is being implemented as required by the decree.



The results of the review indicate that the City is in primary compliance with the requirement of the decree: the policy regarding use of force reporting has been written and disseminated; the forms are being completed and reviewed; the forms are being forwarded to the training academy and to the administration division; and the forms are being filed as would be expected.

In addition, it is apparent that the training provided regarding the SRR process has been internalized by the officers and supervisors of the Bureau, as the reports reviewed were completed properly, e.g., the "Level of Control" sections were completed with numbers—relating to the order of force employed—rather than "checks."

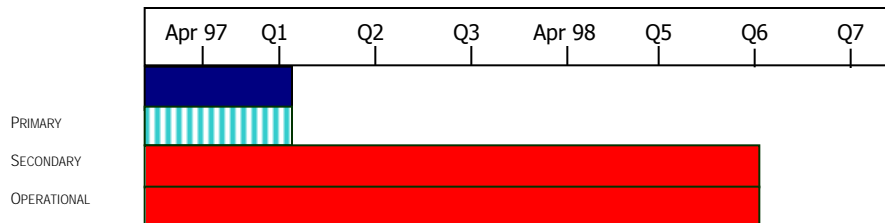
Of the 40 SRR's reviewed, only one was not reviewed by the chain of command within seven days, as required by section 18-a of the decree. Requirements of this section are deemed by the auditor to be a critical function, and less than a 95 percent compliance rate is deemed insufficient to earn an assessment of "in compliance" with the seven day review requirement. The Bureau has met the requirements for operational compliance with use of force reporting and review, scoring a 97.5 percent compliance rate for reporting and review. In addition, a review of completed OMI investigations this quarter indicated that all citizens' complaints regarding inappropriate use of force included a completed SRR filed, as required, by the officer.

In addition, the City is currently assessing Section 18-a of the consent decree, which requires an OMI investigation of use-of-force incidents which result in "serious injury," which is defined (at 11-f of the decree) as "any injury that results in death or that the City has reason to know requires or results in professional medical care or treatment" (Decree, p. 5). Thirteen of the SRRs reviewed by the auditor indicated that the subject arrested received medical attention at hospital. While OMI selected eight SRRs for initiation of investigations this quarter, none of the thirteen randomly selected SRRs which resulted in a "serious injury" resulted in an OMI investigation, as required by the decree. Currently, the City is working to resolve this implementation issue. The potential re-interpretation of "serious injury" has been referred to the City Solicitor's Office and the Department of Justice. Until this area of the decree is better-defined, however, the current working definition established by the decree was used to assess compliance.

Status:           Primary:       In Compliance  
                       Secondary:   In Compliance

Operational: Not in Compliance<sup>3</sup>

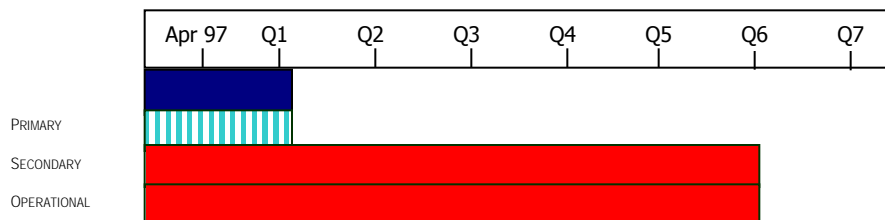
**2.8.1 Compliance with Task 18-b: Analyze Use of Force Quarterly**



Paragraph 18-b requires senior supervisors to analyze use of force data quarterly. To be effective, this requirement, in the judgment of the auditor, requires an automated system, similar to that planned by the automated Early Warning System. The anticipated first date that SRRs can be meaningfully reviewed for patterns is after implementation of the EWS. Protocols requiring review have been written, and all command staff have received training in the EWS process. Obviously, without the EWS in place, supervision, inspection and audit to ensure conformance cannot begin. In the interim, however, the PBP Training Academy has developed and written an analysis of the Bureau’s use of force practices.

Status:        Primary:        In Compliance  
                   Secondary:    Not in Compliance  
                   Operational: Not in Compliance

**2.9 Compliance with Task 19-a: Review Search and Seizure Reports through Chain of Command**



Paragraph 19-a requires the City to review search and seizure reports, through the officers’ chains of command, within one week of the search or seizure. The

<sup>3</sup> Attainment of operational compliance for this task will require resolution of the “serious injury-” OMI investigation issue.

protocol for searches and seizures has been approved, and training and implementation have been completed.

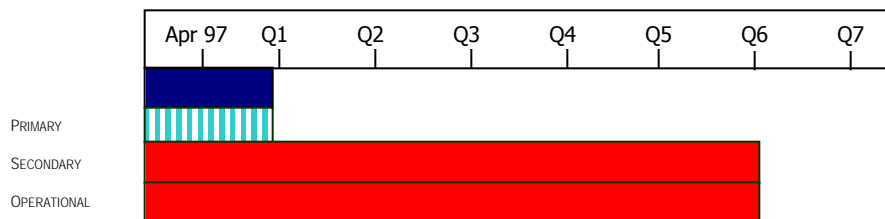
Methodology

A 100 percent sample of completed "Field Contact/Search/Seizure Reports" (FCSSRs) was assessed for activity levels and the rate at which searches resulted in seizures. The Bureau began processing FCSSRs in June, 1998. To date, through July, 1998, 386 FCSSRs have been processed by the Bureau. Of these, 182 resulted in some form of seizure, a "hit" rate of 47.5 percent. In addition, a random sample of 22 FCSSRs completed during the fourth quarter was selected and analyzed to ensure the reports met the requirements of task 19-a. All but two of the selected reports were reviewed by the searching officers' chains of command within seven days. However, since task 19-a is considered a critical task, a compliance rate of 95 percent or better is required for a finding of "in compliance." The Bureau falls short of this requirement for the fourth quarter.

Further, each of the 22 selected reports was reviewed for probable cause (in the event of a search) or reason to suspect (in the event of a field stop and investigation). The narrative of each of the 22 reports was assessed, and supporting documentation, where available, was reviewed. No incidents of unwarranted search or seizure were noted. Additionally, the reports were assessed for completeness and accuracy. Of the 22 reports reviewed, only nine were deemed to be completely and accurately executed.

Status:           Primary:       In Compliance  
                       Secondary:   Not in Compliance  
                       Operational: Not in Compliance

**2.9.1 Compliance with Task 19-b: Quarterly Analysis of Search and Seizure Data**

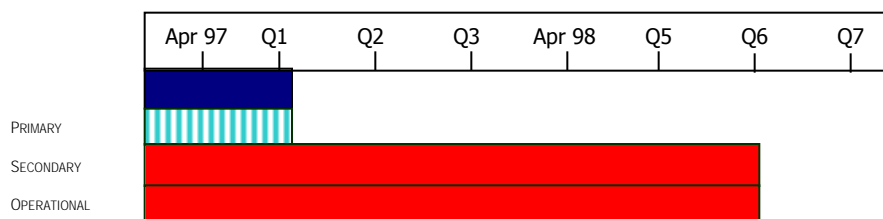


Paragraph 19-b requires the City to analyze the search and seizure activity of its officers on a quarterly basis. The protocols and policies for search and seizure

reporting have been completed, and training and implementation are completed. The EWS's reporting processes for search and seizure information have not been implemented as of this quarter, thus no analysis can be conducted at this time.

Status:       Primary:       In Compliance  
                   Secondary:   Not in Compliance  
                   Operational: Not in Compliance

## 2.10 Compliance with Task 20-a: Review of Allegations of Racial Bias



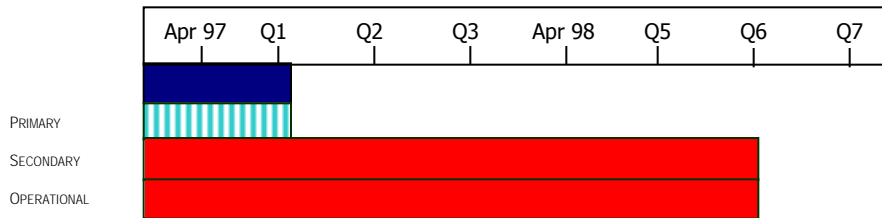
Paragraph 20-a requires the City to review all allegations of racial bias through the officers' chains of command within one week of completion of the investigation. The Bureau currently relies on OMI for notice of allegations of racial bias and requires review after notification.

### Methodology

During the course of reviewing OMI completed investigations, the auditor screened these complaints for allegations of racial bias. Three were found that were investigated between May 16 and August 15, 1998: AQR4-E, AQR4-J, and AQR4-P. Of these three, one was sustained. Unfortunately, all three of these investigations were completed during the week of the auditor's site visit, and were not forwarded to command staff in time to be reviewed before the close of the quarter. Data regarding command staff review were not available at this writing.

Status:       Primary:       In Compliance  
                   Secondary:   Not in Compliance  
                   Operational: Not in Compliance

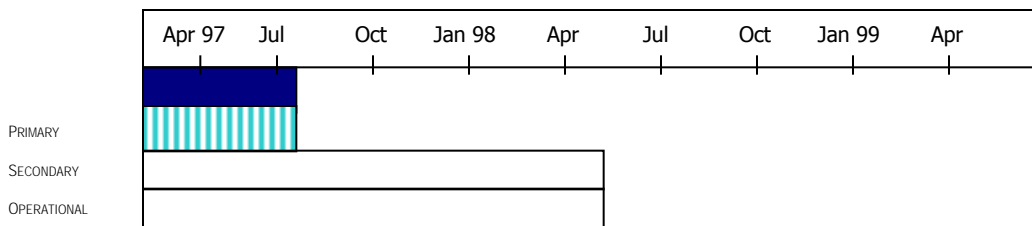
**2.10.1 Compliance with Task 20-b: Quarterly Analysis of Racial Bias Allegations**



Paragraph 20-b requires supervisors to use the EWS on a quarterly basis to assess allegations of racial bias for patterns or irregularities. Until the City’s EWS is brought on-line, supervisors cannot reasonably be expected to comply with this stipulation.

Status:           Primary:       In Compliance  
                       Secondary:   Not in Compliance  
                       Operational: Not in Compliance

**2.11 Compliance with Task 21-a: Imposing Appropriate Discipline**



Paragraph 21-a requires the City to impose appropriate discipline after evaluating officer behavior.

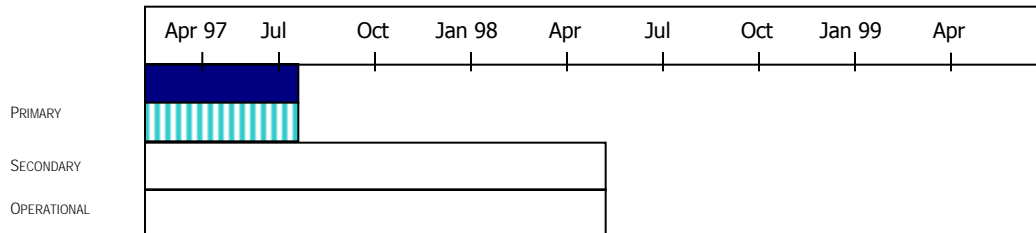
**Methodology**

Based on records provided by the Bureau, no disciplinary action was taken by the department during the period of time covered by this report. While the Office of Municipal Investigations has sustained eight citizens’ complaints during this quarter, the investigations were all completed near the end of the quarter, and as of this writing, no disciplinary action has been assigned for many of these sustained complaints. The department has, however, taken action (termination) against two officers guilty of criminal offenses during the fourth quarter.

Status:           Primary:       In Compliance

Secondary: Unable to Audit—No DARs for Sustained Citizens' Complaints this Quarter  
 Operational: Unable to Audit—No DARs for Sustained Citizens' Complaints this Quarter

**2.11.1 Compliance with Task 21-b: Imposing Retraining and Counseling**



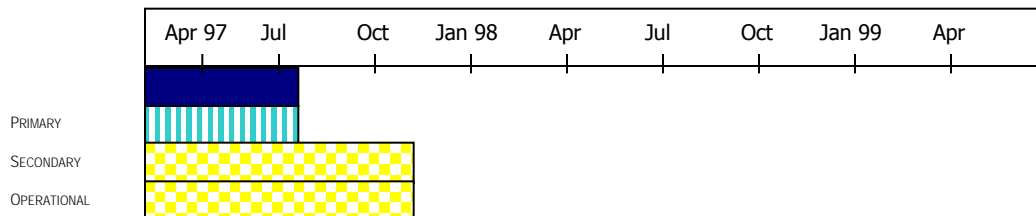
Paragraph 21-b requires the City to also impose retraining or counseling in all cases in which a citizen's complaint has been sustained, except those resulting in termination, based on reviews of officer behavior.

**Methodology**

The auditor reviewed the Bureau's disciplinary processes for the period from May 16 to August 15, 1998. While the Office of Municipal Investigations has sustained eight citizens' complaints during this quarter, the investigations were all completed near the end of the quarter, and as of this writing, no disciplinary action has been assigned for many of these sustained complaints.

Status: Primary: In Compliance  
 Secondary: Unable to Audit—No DARs for Sustained Citizens' Complaints this Quarter  
 Operational: Unable to Audit—No DARs for Sustained Citizens' Complaints this Quarter

**2.11.2 Compliance with Task 21-c: Consider Prior Record in Determining Discipline**



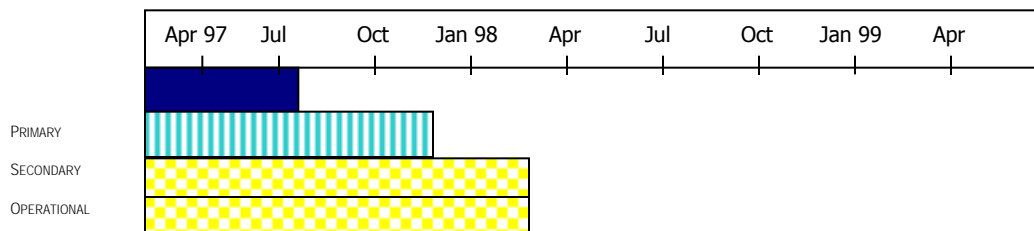
Paragraph 21-c requires the City to consider an officer's prior record in determining discipline.

### Methodology

According to records provided by the Bureau and the Office of Municipal Investigations, no disciplinary action was taken by the Bureau this quarter. However, since the Bureau was deemed in compliance with this requirement last quarter, and, as no evidence was seen indicating a change in performance, it retains its "in compliance" status.

Status:           Primary:       In Compliance  
                       Secondary:   In Compliance  
                       Operational: In Compliance

### 2.12 Compliance with Task 22: Disciplinary Files at the Zone Level



Paragraph 22 requires the PBP to establish disciplinary action files, or "performance files" at the zone level.

### Methodology

The auditor's team visited two randomly selected unit locations (Zone One and SDD) and pulled a random sample of officers' personnel and performance files. These files were assessed for compliance with the requirement that states that the files would include:

- Officer's Name;
- Discipline Imposed;
- OMI File Number; and
- A Description of Factors Considered.

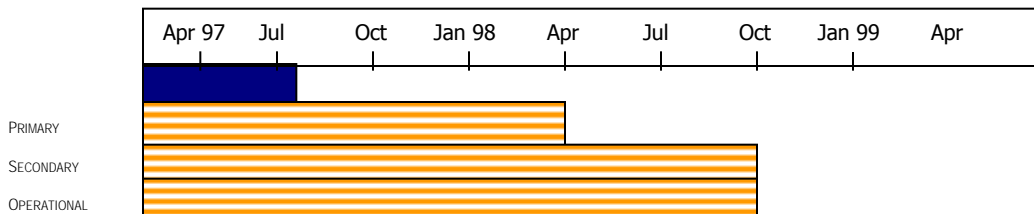
In addition, the auditor’s team assessed the same officers’ files in the PBP centralized personnel records system, and the OMI database, to assess the level of accuracy of the zone files.

As with the requirement to assess use of force issues, the Bureau is in primary compliance with the stipulation of task 22: A series of chief’s orders has been promulgated (97-009 and 97-024), establishing a requirement for zone commanders to maintain “performance files” which conform to the requirements of the consent decree.

An assessment of the zones’ performance on this task indicates that the Bureau is also in secondary and operational compliance with this task. All of the zones’ performance and personnel files showed at least a 95 percent accuracy rate.

Status:           Primary:       In compliance  
                       Secondary: In Compliance  
                       Operational: In Compliance

**2.13 Compliance with Task 23: Annual Performance Evaluation**



Paragraph 23 requires the City to implement an annual performance evaluation process for all officers, supervisors and senior supervisors. Further, it requires supervisors and senior supervisors to be evaluated based on their ability to prevent and address misconduct by officers. In addition, paragraph 23 requires officers to be evaluated, in part, on their complaint history.

Methodology

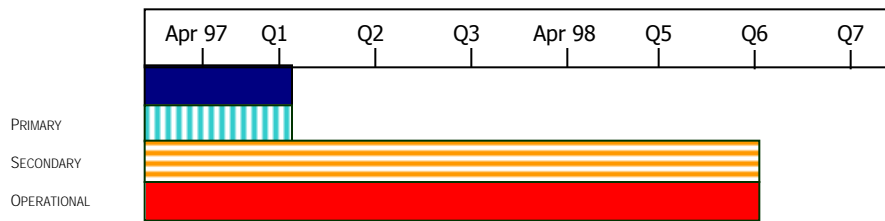
The Bureau has developed a performance evaluation policy which meets the requirements of the decree, and which was approved and disseminated in April, 1998. Training regarding the performance evaluation system was completed by May 16 for all personnel except three officers who were on leave. The first wave of performance evaluations has been completed. The auditor has reviewed a randomly selected sample of these evaluations, and found them to be appropriate and complete. The Supervisor’s Performance Evaluation Guidelines



includes several points at which supervisors would be expected to monitor their subordinates' conduct (see Performance Evaluation Guidelines, section eight, "Monitoring Officer Conduct"). Based on the documents reviewed, it appears that the Bureau is in compliance with the requirements of this task.

Status:           Primary:       In Compliance  
                       Secondary:   In Compliance  
                       Operational: In Compliance

**2.14 Compliance with Task 24: Performance Based Promotion**



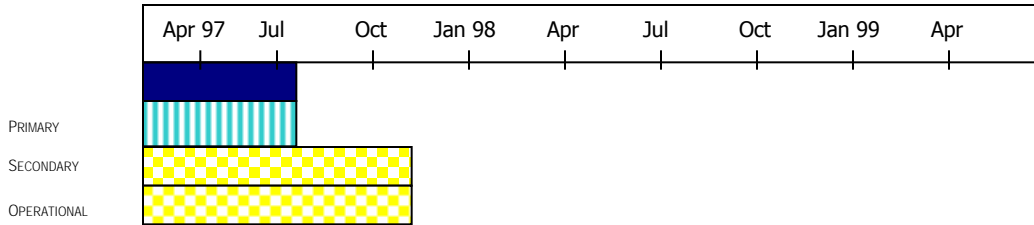
Paragraph 24 requires the City to use performance evaluations as a factor in promotional decisions.

**Methodology**

The Bureau has developed a performance evaluation policy which appears to meet the requirements of the decree, and the policy was implemented in June, 1998. The Bureau has promoted no personnel during the last three quarters, thus no promotions have been made which are in contradistinction to the "performance-based" promotion requirement of the decree. Promotions using these data, obviously, cannot be made until a later date. We anticipate that future Auditor's Quarterly Reports will be able to assess the performance evaluation-based promotions.

Status:           Primary:       In Compliance  
                       Secondary:   In Compliance  
                       Operational: Unable to Audit

**2.15 Compliance with Task 25: Provision of an Employee Assistance Program**



Paragraph 25 requires the City to continue to provide PBP employees with an Employee Assistance Program, including counseling and stress management services for officers, offered by certified, trained and experienced counselors, and supported by department-wide publicity of EAP availability, non-retributive attendance for employees, and non-binding referrals to the EAP.

Methodology

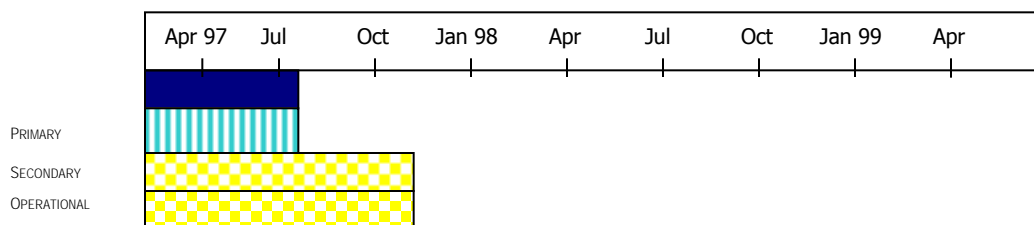
The auditor’s team visited two randomly selected unit locations (Zone One and SDD) to assess the degree of compliance with paragraph 25. During the site visit, the auditor reviewed zone performance files, and conducted walk through inspections of zone facilities such as bulletin boards and office space.

Evidence exists to support the Bureau’s operational compliance with paragraph 25. The review of zone “performance files” indicates that the EAP is being used by departmental personnel and departmental managers. The counselors assigned to the EAP were interviewed during the first quarter by the auditor’s staff, and appear to be both experienced and knowledgeable concerning EAP practice and standards. It appears that EAP participation is non-retributive and meets established practice for such programs.

Departmental policy requires the posting of EAP flyers at each of the zone stations, and of the two zones visited, all had had the flyers readily visible in the stations.

Status:           Primary:       In Compliance  
                       Secondary:   In Compliance  
                       Operational: In Compliance

## 2.16 Compliance with Task 26: Notification of Adverse Involvement



Paragraph 26 requires the City to obtain notice of adverse involvement from its officers any time they are arrested, criminally charged, or named as a party to a civil suit. In addition, the paragraph requires the City to discipline or retrain officers found guilty or liable by a court. Further, the paragraph requires OMI to conduct investigations of such events.

### Methodology

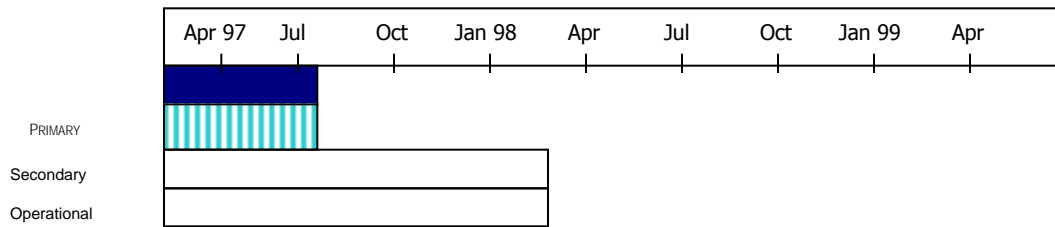
During the auditor's review of departmental personnel files, the files were assessed for evidence of implementation of PBP Policy 44-5, effective 8-25-97, which requires notification of the chain of command any time:

- A warrant is to be served on a member of the service;
- A protective order is to be served on a member of the service;
- An on-scene arrest is made of a member of the service;
- An officer is arrested by another agency other than the PBP; or
- An officer of the service is the subject of a civil suit.

The PBP has received notice of a pending civil case during this quarter (dated June 2, 1998). In addition, the department has taken action on incidents involving five Bureau officers related to settled litigation. The actions taken appear appropriate, given the nature of the settlement, and range from retraining in issues related to the settlements to suspension of extra-duty privileges for one officer involved in settled litigation. The Bureau remains in compliance with this task.

Status:           Primary:       In compliance  
                       Secondary:   In Compliance  
                       Operational: In Compliance

**2.17 Compliance with Task 27: OMI to Monitor Criminal Proceedings**



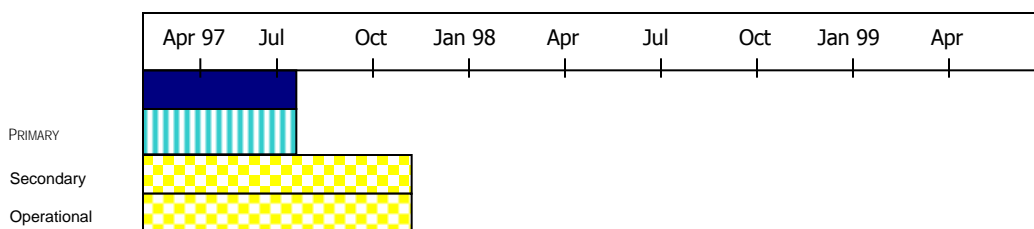
Paragraph 27 requires the Office of Municipal Investigations to monitor all criminal proceedings containing allegations of false arrest or improper search and seizure by PBP officers. This paragraph also requires the Bureau to implement appropriate discipline for officers who are found to have committed misconduct as a result of these reviews.

**Methodology**

A review of records available during the time frame of the fourth quarterly audit indicated no criminal proceedings in progress against PBP officers; however, the Bureau has established an agreement with the District Attorney in which the DA will notify the PBP in the event that criminal charges are filed, at the county level, against any PBP personnel. Further refinement of this process is anticipated. Current plans call for the City to monitor court cases for criminal charges which are dismissed because of illegal searches or other illegal activity on the part of the police. In such events, OMI would, based on the dismissal, initiate an investigation of the officer’s actions.

Status:            Primary:        In Compliance  
                           Secondary:    Unable to Audit  
                           Operational: Unable to Audit

**2.18 Compliance with Task 28:            Sanctions for Officers Involved in Settled Litigation**



Paragraph 28 requires the City to implement appropriate discipline “as the circumstances and OMI investigation warrant,” in all instances in which PBP

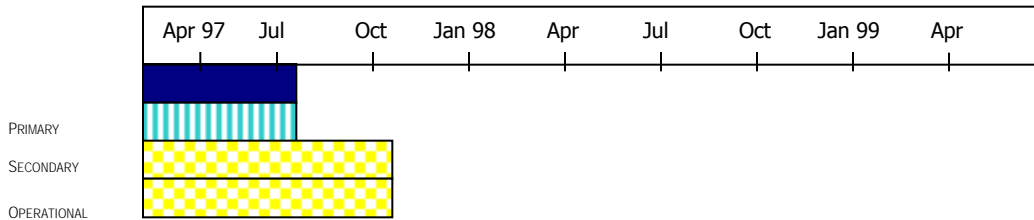
officers are the subject of civil litigation.

Methodology

Personnel files were reviewed for evidence of PBP officers involved in settled civil litigation. During the last quarterly audit, the department received notification of settled litigation involving five Bureau officers. A review of the files indicates that the department provided mandatory counseling, from the Bureau legal advisor, for all five officer over topics related to the issues in the settled cases. In addition, one officer received a six month suspension of permission to work secondary details. A third officer was given, in addition to a mandatory counseling session with the legal advisor, a copy of the settlement documents "as an experience tool." It is clear from this review that the department continues to be in compliance with this task.

Status:           Primary:       In Compliance  
                       Secondary: In Compliance  
                       Operational: In Compliance

**2.19 Compliance with Task 29: Provision of Legal Advisor Services**



Paragraph 29 requires the City to provide PBP officers with legal advice on a 24/7 basis. Further the paragraph requires the legal advisor to provide training regarding legal aspects of search and seizure, use of force, and racial bias.

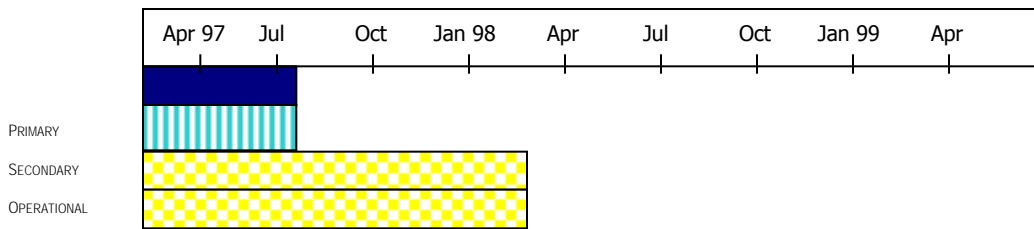
Methodology

The auditor interviewed the police legal advisor, assessed the degree to which his legal bulletins are available to police personnel, and assessed the viability of the policy which announces and controls his availability. Chief’s Memo 97-245 announces the availability of a police legal advisor on a 24-hour basis, seven days per week, providing a pager number, and a home telephone number. Further, the policy provides a back-up process for those occasions when the legal advisor is not available. The legal advisor continues to provide support for the Bureau, publishing legal bulletins, two during this quarter, and providing in-service training for Bureau officers. In addition, the legal advisor has been

involved in mandatory counseling of five officers who were the subject of settled litigation during the last quarter. The Bureau continues its compliance with this task.

Status: Primary: In compliance  
 Secondary: In Compliance  
 Operational: In Compliance

**2.20 Compliance with Task 30: Develop a Rotation Schedule**



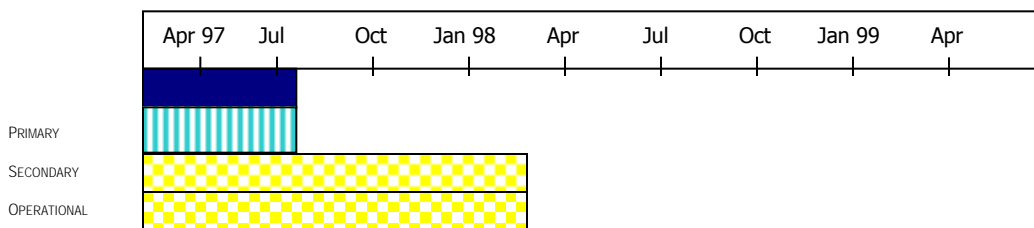
Paragraph 30 requires the PBP to develop a department-wide rotation schedule to ensure that officers are regularly supervised by different sergeants and lieutenants and that they regularly work with different officers.

Methodology

The PBP has developed a personnel rotation plan, and has implemented the first phase of the plan during the second quarter. The plan, supported by Chief's Memo 97-550, has transferred 91 officers to other assignments through January 1, 1998. Additional officers continue to be transferred as part of this rotation policy, with the next round of transfers which occurred in June, 1998 (and ordered by the Chief of Police in May, 1998).

Status: Primary: In compliance  
 Secondary: In Compliance  
 Operational: In Compliance

**2.21 Compliance with Task 31: PBP Attendance at Community Meetings**



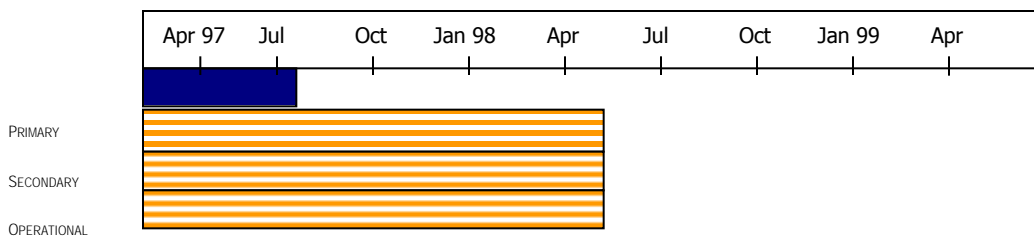
Paragraph 31 requires the PBP to “make every effort” to participate in community meetings, including those oriented toward minority groups.

Methodology

The auditor reviewed monthly attendance logs for police zones for the months of May 16 through August 15, 1998. The logs show multiple community meetings attended by PBP personnel, although the volume of meetings is reduced, presumably due to the fact that community meetings are more sparse during the summer months. The meetings were attended by command level personnel, line personnel, OMI personnel and supervisory personnel. No agendas for these meetings were available.

Status:           Primary:       In compliance  
                       Secondary:   In Compliance  
                       Operational: In Compliance

**2.22 Compliance with Task 32:        Televis OMI’s Function**



Paragraph 32 requires the city to televise to the public information concerning OMI’s function, location, etc. The paragraph also requires the City to have PBP personnel present at community meetings, and to publish and distribute pamphlets describing the OMI complaint process.

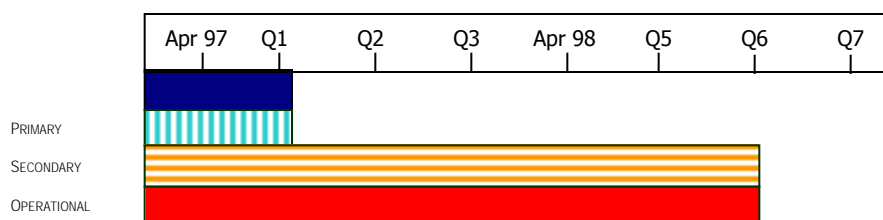
Methodology

The auditor reviewed community meeting logs maintained by OMI staff, and determined that personnel from the unit are in attendance at community meetings. Effective this quarter, the City has developed and aired (on average eight times daily) on the City’s public access cable channel a professionally created video tape explaining OMI’s function in investigating complaints of alleged misconduct against City employees. The video covers all important aspects of the internal investigations process, and according to the City, reaches 105,000 households throughout the Pittsburgh area. Based on 2.7 residents per household (a national average), the video is reaching nearly all of Pittsburgh’s

residents. The City is currently working with major television networks in the Pittsburgh area to carry Public Service Announcement regarding the OMI process. The City has also printed a brochure explaining the OMI function and has distributed the brochure to all of the City's community organizations and placed these brochures in all City buildings.

Status: Primary: In compliance  
 Secondary: In Compliance  
 Operational: In Compliance

### 2.23 Compliance with Task 33: Provision of Training in Cultural Diversity



Paragraph 33 requires the City to provide cultural diversity training to all PBP officers, with the training covering: relating to persons of different groups, relating to persons of the opposite gender, and communications skills.

#### Methodology

The auditor and the auditor's staff have reviewed the PBP's training curricula for in-service training, have conducted a site-visit of the training academy, and have interviewed many of the personnel assigned to the training academy. The Bureau has developed (through contract) curricula for the cultural diversity training, and has begun implementation. Through July, 1998, the Bureau has continued to train its officers in the topics of cultural diversity, "effective communication" and ethics. To date, according to the Training Academy's records, more than 99 percent (1,080) of the department's 1,125<sup>4</sup> currently-working<sup>5</sup> officers have received training in cultural diversity.

<sup>4</sup> The Academy's training records appear to have been cleared of retired, terminated, and deceased officers, bringing the total number of employees in the training database to 1,125.

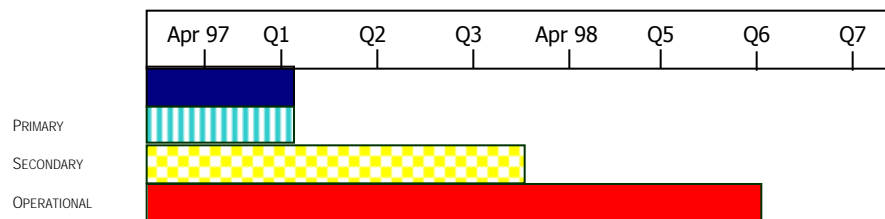
<sup>5</sup> A total of 22 PBP officers are carried on extended leave or other non-functional status, as of July 29, 1998 when these training records were generated, leaving 1,081 of the PBP's 1,103 officers eligible for cultural diversity training.



More importantly, perhaps, the department is currently engaged in a re-engineering effort for its cultural diversity program. The revised curriculum for this topic is being developed by a Cultural Diversity Task Force Team, which will assist the training academy in developing the new curriculum. This is exactly the nature of the processes identified as needed for operational compliance—moving beyond mere “letter of the law” compliance to a process of critically assessing the impact of tasks on the policing environment.

Status:       Primary:       In Compliance  
                   Secondary:   In Compliance  
                   Operational: In Compliance

## **2.24 Compliance with Task 34: Monitoring Citizen Complaints for Training Indicators**



Paragraph 34 requires the City to establish monitoring systems which will assess citizens complaints for indicators of needs in training or re-training. The Bureau has established a system in which OMI forwards a copy of a summary of all citizen complaints to the Chief of Police, who also provides a copy to the Deputy Chief for Operations. Additional copies are also sent to the training academy for review.

### Methodology

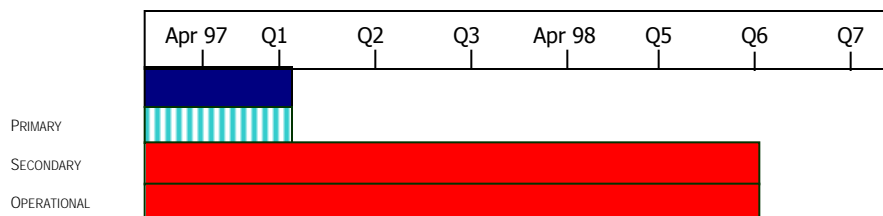
In order to assess this requirement, the auditor reviewed Training Academy records, reviewed the notes of PBP command staff meetings, and reviewed OMI monthly and quarterly reports.

It is clear that the command staff is reviewing citizen complaints and reports of infractions and communicating that review to subordinates. Discipline, based on internal infractions, often involves retraining. Further refinement of this process may depend on the EWS, or some intensive systems redesign in the way reports

(and which reports) are forwarded to and analyzed by the Academy and command staff.

Status:           Primary:       In compliance  
                       Secondary:   In Compliance  
                       Operational: Not in Compliance

## 2.25 Compliance with Task 35: Training in Verbal De-Escalation



Paragraph 35 requires the City to train all officers in the use of verbal de-escalation techniques as an alternative to the use of force and to incorporate verbal de-escalation training “into all other training that implicates the use of force.”

### Methodology

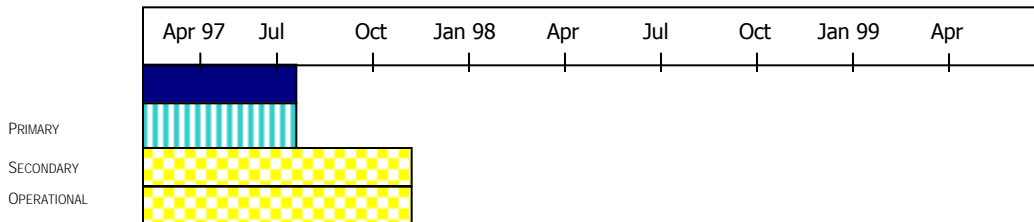
While the City and the Bureau continue to make progress toward compliance with this task, no new milestones have been met this quarter. The City is currently under contract with a nationally recognized consultant to deliver a series of classes on “verbal judo,” a process of verbal de-escalation which is recognized nationally as effective in reducing police-involved violence. The auditor is familiar with this curriculum, and believes that, if it is implemented as required by the decree, it will meet and exceed the requirements of the decree. Delivery of a “train the trainers” session to 23 PBP personnel who will serve as “verbal judo” trainers occurred in March, 1998. Training of “all officers” has not yet begun.

Further, operational compliance with this paragraph would require, in the opinion of the auditor, a complete in-service and recruit curriculum review to identify curriculum items that relate to use of force—or the avoidance thereof—and insertion of training elements in verbal de-escalation. This process is currently underway, in a joint program between the City Law Department and the Bureau of Police. Three staff attorneys from the City Solicitor’s office are working with Training Academy staff to develop a comprehensive review of the PBP’s training curriculum with respect to use of force training. The goal is development of a

five-year training plan and a revision/rewrite of all aspects of the curriculum which entail police use of force—or avoidance thereof. No product has been developed as of this writing.

Status: Primary: In Compliance  
 Secondary: Not in Compliance  
 Operational: Not in Compliance

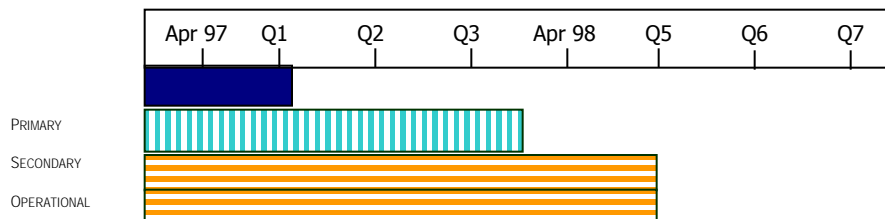
**2.26 Compliance with Task 36: Training in Ethics and Integrity for Recruits**



Paragraph 36 requires the City to provide training for recruits in integrity, ethics, cultural diversity and verbal de-escalation “at the beginning of the training curriculum to serve as a foundation for all other classes.” No recruits were trained in the fourth quarter. The last recruit class offered by the PBP ran from May 19, 1997 through October 24, 1997. The recruit curriculum offered “ethics” training in weeks three and four, human relations skills in weeks four and five, multi-cultural training in week six. The auditor has reviewed the curriculum outlines for cultural diversity and ethics, and finds the curricula to be appropriate and responsive to the decree. No new recruit classes have been offered since October, 1997, thus no additional audit of the recruit training curriculum was possible.

Status: Primary: In Compliance  
 Secondary: In Compliance  
 Operational: In Compliance

**2.27 Compliance with Task 37: In-Service Training in Ethics and Integrity**



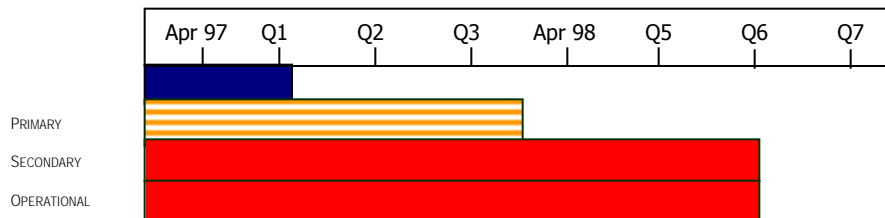
Paragraph 37 requires the City to train all officers in integrity, ethics, the PBP’s mission and values, and cultural diversity. The training requires inclusion of the topics of truthfulness, reporting misconduct by fellow officers, the importance of avoiding misconduct, and professionalism.

Methodology

The auditor has reviewed the Bureau’s curriculum outlines for cultural diversity and ethics. In addition, the auditor has reviewed other curriculum components which he asked to be forwarded for review. The Academy’s maintenance of training records for non-mandatory training has been substantially updated since the last quarterly report. According to academy records, all but 29 of the departments 1,103<sup>6</sup> personnel (97 percent) have received training in ethics.

Status:           Primary:       In Compliance  
                       Secondary:   In Compliance  
                       Operational: In Compliance

**2.28 Compliance with Task 38: Train all Officers re OMI Complaint Process**



Paragraph 38 requires the City to train all police officers regarding the OMI complaint process, and their obligation to cooperate with OMI investigations.

Methodology

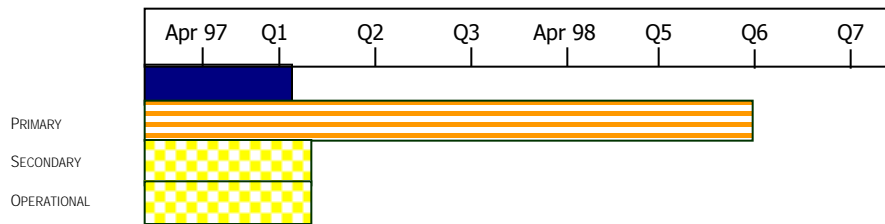
The auditor assessed primary steps necessary to complete the tasks required by this paragraph. The Bureau has, however, completed work on a script for a training video; the script has passed legal review, and the initial taping has been

<sup>6</sup> The Academy’s training records appear to have been cleared of retired officers, terminated officers, and deceased officers, bringing the total number of employees in the database to 1,103 currently working officers, and 22 officers on extended leave or other non-functional assignments.

completed. An initial session was presented by the OMI manager to recruits. The training of "all officers" in the OMI complaint process has begun, using a video tape, a training syllabus and an associated examination. Based on a review of the training records, the department has trained approximately fifty percent of its officers in the OMI process.

Status:           Primary:       In Compliance  
                       Secondary:   Not in Compliance  
                       Operational: Not in Compliance

**2.29 Compliance with Task 39:       Encourage Qualified FTO**



Paragraph 39 requires the city to recruit "highly qualified" Field Training Officers and instructors by establishing formal eligibility requirements, basing selection on performance evaluations and superior performance as police officers. The paragraph further requires the City to disqualify any FTO or instructor (or candidates for the positions) with a poor disciplinary record or complaint history.

**Methodology**

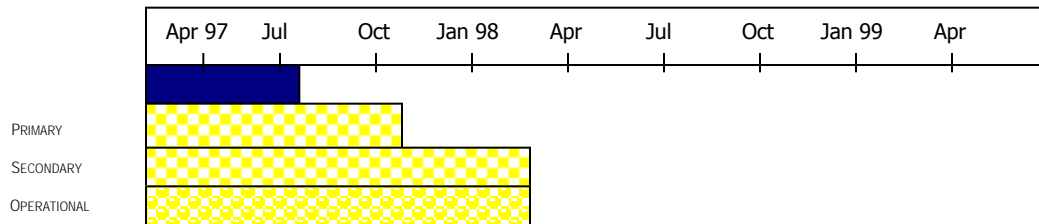
During the first quarterly report, the auditor selected slightly more than a 50 percent sample of the 25 newly appointed FTOs selected by the Bureau for its new recruits. Each of the 13 records selected was screened for poor disciplinary record, complaint history, and past performance. Given the Bureau's delay in implementing paragraph 23 (performance evaluations) these evaluations could not be used in selecting the FTOs appointed in July, 1997; however, recent re-evaluations of FTO performance included performance evaluations in the evaluation packet.

The auditor found all of the 13 officers' files to be reflective of police careers that would recommend a role as an FTO. The field training officers' records were clean of any civilian complaints that would require disqualification as an FTO. No new FTOs were appointed during the fourth quarter.

In addition, the auditor pulled a random sample of 15 PBP instructors' files to assess completeness, accuracy, and conformance to established standards. Further, the auditor checked each instructor who taught at the Academy during the second quarter to ensure that they were certified to teach the subjects they taught during the quarter. Each file checked was complete, accurate, and organized as one would expect. All instructors checked were certified by the state—or other certifying agency—to teach the topics they were assigned.

Status:           Primary:       In Compliance  
                       Secondary: In Compliance  
                       Operational: In Compliance

**2.30 Compliance with Task 40:       Train all FTOs and Instructors**



Paragraph 40 requires the City to ensure that all FTOs and instructors receive adequate training to ensure that they are capable of meeting their job expectations. Further, the paragraph requires that the City require FTOs and instructors to “demonstrate on a regular basis, their proficiency in their areas of instruction.”

Methodology

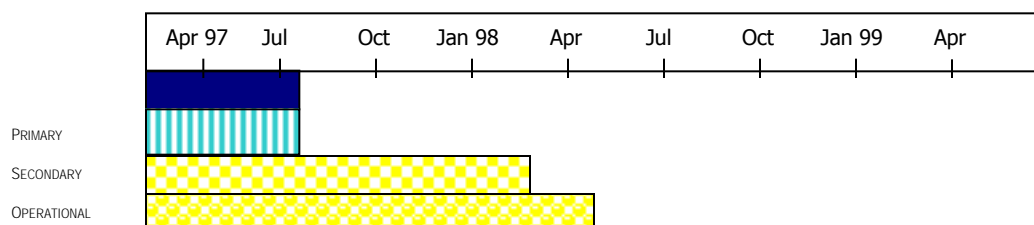
The auditor reviewed the training curriculum for FTOs and instructors provided through contract for the PBP. All instructors and FTOs are first “instructor development certified” by either the Federal Bureau of Investigation or Indiana University-Pennsylvania. FTOs then receive an additional five days of training at the PBP Academy for specific FTO-related topics. The specific provisions of paragraph 40 requires “demonstration on a regular basis...[of] proficiency in their areas of instruction.” The Police Bureau requires a formal assessment, using two forms specifically designed for evaluation, of the FTOs. The first (“Field Training and Evaluation Program—FTO Critique Form) is a two-page evaluation completed by field trainees. The form evaluates FTOs relative to the trainees’ assessment of the FTO’s ability, interest, knowledge, skill, ability to communicate, and fairness. The aggregate data collected through this process is shared with the FTO by the Academy commander. In addition, the PBP assesses FTOs by requiring their supervisors to complete an evaluation form (Field Training and

Evaluation Program—FTS Critique Form). This form requires supervisors to rate FTOs on their skill as a trainer, their ability to communicate, their fairness, promptness, and attendance. These data as well are shared with the FTO.

In addition, the Academy has begun a process of testing for all consent-decree and state mandated training classes. The Academy evaluates instructor proficiency through these test scores, assuming that effective instructors produce students who can pass Bureau and State exams. The process of testing for all consent decree-related training is relatively new; however, during the fourth quarter, more than 1,000 exam scores were reviewed by the auditor. The vast majority of test scores of PBP personnel were in the 85-100 range (of a possible 100). The examinations that the auditor reviewed indicated a close correlation between the instructor's syllabus and the exams. Further, a review of the examinations indicated that they are substantive and not, on their face, overly simple or easy to pass.

Status:           Primary:       In Compliance  
                       Secondary:   In Compliance  
                       Operational: In Compliance

### 2.31 Compliance with Task 41: Maintenance of Training Records



Paragraph 41 requires the City to maintain written records documenting all training of officers, including the officers' names, dates of training, reasons for mandatory training, subject matter, and "whether the training was completed satisfactorily."

#### Methodology

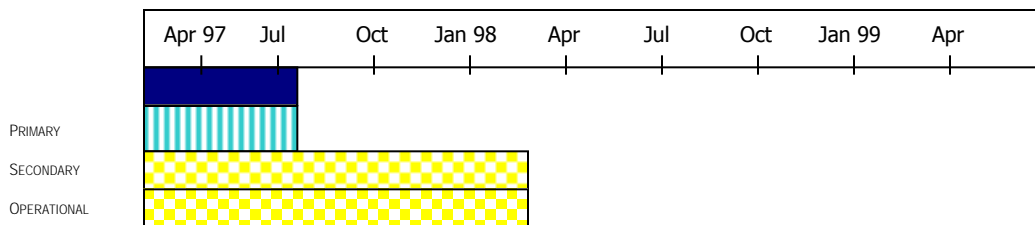
The auditor conducted a thorough second-quarter review of the Academy's training records during a site visit to the Academy. Selected training curricula were assessed, and specific documents were selected for further analysis. This included training records for state-mandated and consent decree-related training. These records now appear to be up to date and complete. The records are kept in useable format, and are managed by a sworn officer, adept in

manipulation of the database, and capable of generating ad hoc reports. The records currently can generate reports by officer, training topic, hours, date and test score.

Changes to the Academy’s record-keeping processes are relatively new; however, this quarter’s assessment shows the records to be free from error, and to exhibit a “living” quality, i.e., they are updated frequently, and subjected to error checking and correction processes. The Bureau continues to be in compliance with this task.

Status:           Primary:       In Compliance  
                       Secondary: In Compliance  
                       Operational: In Compliance

**2.32 Compliance with Task 42: Document Mandatory Counselings**



Paragraph 42 requires the City to document in writing all mandatory counselings by name of officer, reasons for the referral, OMI file number, related cross index number, the subject matter of the counseling, and the status of the officer’s attendance.

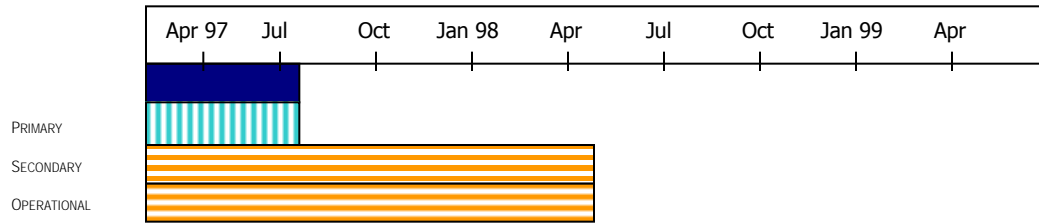
**Methodology**

During the auditor’s review of data for the fourth quarterly report, the department’s centralized file which is used to document mandatory counselings was reviewed. Five records were found which had required a mandatory counseling for a PBP officer. Each of these five mandatory counseling sessions was related to settled civil litigation in which the officer had been named. The sessions were related to the allegations of the litigation, and designed to avoid future incidents.

Status:           Primary:       In Compliance  
                       Secondary: In Compliance  
                       Operational: In Compliance



**2.33 Compliance with Task 43: Annual Supervisory and Leadership Training**



Paragraph 43 requires the City to provide mandatory annual in-service training for senior supervisors in the topics of command accountability, integrity, and cultural diversity.

**Methodology**

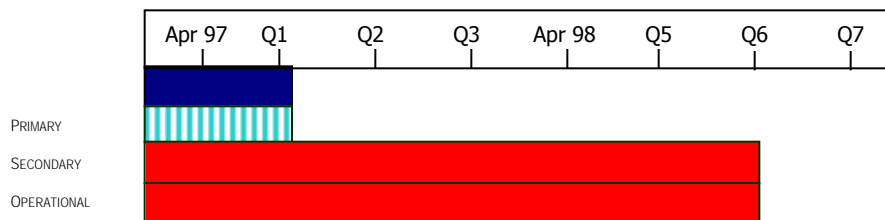
The auditor assessed the training records for PBP senior supervisors. The Bureau continues to move forward with training for its senior supervisors. All but three senior supervisors have received the updated ethics training being designed by the Bureau. Test scores for senior supervisors average in the high 80s.

It appears, from the records available at this time, that a majority of all senior supervisors have been trained at Pennsylvania State University's "POLEX" command staff training program. An in-service component on "ethics" has been developed, and all senior supervisors have received this updated training.

According to Academy records, all senior supervisors have been trained in ethics, cultural diversity and OMI investigations. In addition, nine senior supervisors have attended the "Command Institute," according to academy records.

Status: Primary: In Compliance  
 Secondary: In Compliance  
 Operational: In Compliance

**2.34 Compliance with Task 44: OMI Quality Assurance**



Paragraph 44 requires the City to update the existing OMI database to serve as an interim management tool. The paragraph also stipulates records retention schedules and develops specification for preparing complaint histories.

Methodology

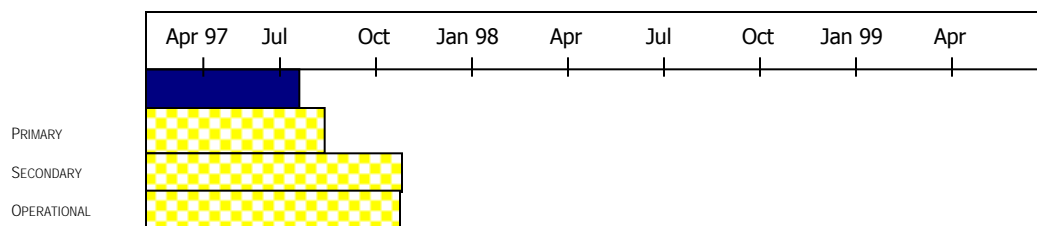
The auditor and the auditor’s team assessed the records management systems and electronic databases currently in place within the OMI office. They observed OMI personnel as they worked with the databases, and reviewed output from the databases.

Current OMI databases have been brought up to date, through the assignment of a temporary data entry clerk. At present, data are available for OMI investigations from 1986 through 1997. Using this database, records of complaints for individual officers can be easily identified; however, assessment of complaint history on a routine basis, for all officers, is cumbersome and difficult.<sup>7</sup> This database will be replaced by those planned for the EWS when it comes on line.

Further, this paragraph requires that OMI prepare complaint histories from the Early Warning System. Obviously, the City cannot come into compliance with this paragraph until the EWS comes on-line.

Status:           Primary:        In Compliance  
                       Secondary:   Not in Compliance  
                       Operational:  Not in Compliance

**2.35 Compliance with Task 45: Chain of Command Access to Disciplinary Records**



<sup>7</sup> This undoubtedly is one factor leading to individual officers’ accrual of multiple complaints without management notice, as discussed in 2.2, above.

Paragraph 45 requires the City to make OMI files and records relating to a particular officer available to personnel within that officer's chain of command who are responsible for officers' training, counseling and discipline.

### Methodology

The auditor has reviewed Chief's Orders 97-009 and 97-024 which established the zone "performance files." These orders required the creation of disciplinary files at the zone level which "contain all OMI and non-OMI complaints that have been filed against the officer," (CO 97-009). CO 97-024 requires that performance files "shall be available to personnel within the officers' chain of command who are responsible for the officers' training, counseling, or discipline." The auditor's team visited two randomly selected unit locations (Zone One and SDD), and pulled a random selection of personnel and "performance files" for inspection. In addition, the files were assessed for reasonable accessibility for sergeants, lieutenants and commanders who supervise sworn officers.

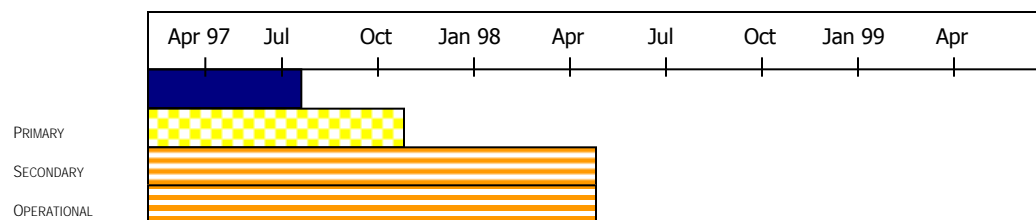
The PBP continues to provide access to police officers' files in an area of each zone station house which is accessible to sergeants and lieutenants working evening and night turns. The files continue to be updated, and most files were found to be an accurate reflection of the OMI and personnel databases.<sup>8</sup> The audit did uncover three citizens' complaints that were not in the zone files. This constitutes an error rate of less than five percent; however, since this task is considered a critical task, it puts the department on the cusp of falling out of compliance with task 45. A renewed effort to ensure compliance may be necessary prior to the November audit.

Status:           Primary:       In Compliance  
                       Secondary:   In Compliance  
                       Operational: In Compliance

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<sup>8</sup> While task 12 requires that supervisors note the occurrence of three similar or five total citizens' complaints over a two year period, regardless of complaint outcome (a task identified by the department for the EWS), the random selection of personnel files noted at least one officer with three similar complaints—not yet investigated by OMI—in three months. While the proposed EWS would have noted this fact, the current system, laboring under a manual process, was unable to note the occurrence of three similar complaints of verbal abuse in a three-month period.

### 2.36 Compliance with Task 46: Maintenance of OMI Manuals and Training



Paragraph 46 requires the City maintain an OMI manual, detailing OMI investigative policies and procedures, and to ensure that all OMI investigators receive adequate training. This paragraph also requires the City to provide OMI civilian investigators with police academy training on 15 specific topics related to police operations, conduct and processes. The paragraph stipulates that the training provided to OMI civilian investigators will be "identical" to that received by OMI police investigators. The paragraph further requires that the City make the OMI manual available for inspection at PBP facilities and at the OMI office.

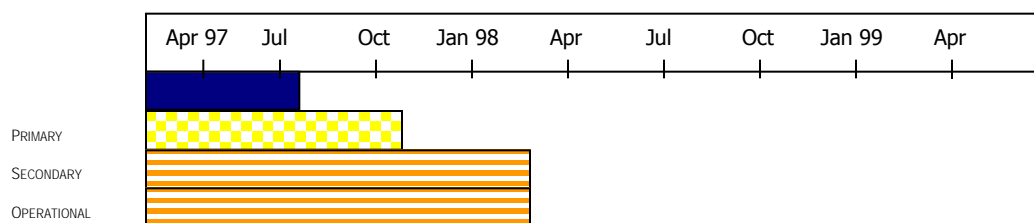
#### Methodology

The auditor reviewed the OMI manual, as promulgated on December 1, 1997, for revisions and assessed OMI training documents. In addition, the auditor reviewed training records for OMI personnel. Records provided by OMI indicate that all civilian OMI investigators have received training during the fourth quarter, and the office continues to implement its training plan for investigative personnel.

The Office is in primary compliance with the requirements relating to promulgation of an OMI manual, and provision of training for OMI staff. In addition, the Office has developed an annual training plan for 1998-99, and made all suggested revisions in the OMI manual during the last quarter. No new revisions were made this quarter.

Status:        Primary:        In Compliance  
                   Secondary:    In Compliance  
                   Operational: In Compliance

## 2.37 Compliance with Task 47: Receipt of Complaints



Paragraph 47 requires the City to accept citizen complaints at OMI via telephone, mail, facsimile, or in person, and that no complainant be required to complete a complaint form to initiate an investigation.

### Methodology

The auditor reviewed eleven of twenty-two completed OMI investigations of citizens' complaints to assess the method of receipt and to determine if any complainants were "required" to complete any OMI form prior to receipt of the complaint and initiation of the investigation. The revised OMI manual was assessed to determine levels of compliance with the stipulations of paragraph 47 and the consent decree. The OMI manual requires that complaints will be received via telephone, facsimile, mail, or in person, as well as anonymously. Revised OMI form 103-97 includes a checkbox for each receipt method.<sup>9</sup> Further, the auditor assessed completed OMI complaint investigations to determine if complaints were being received in accordance with the decree.

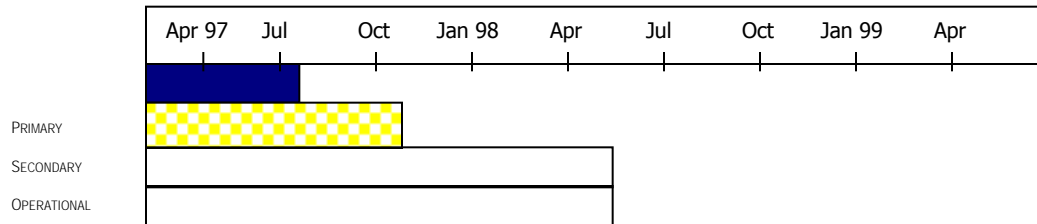
Evidence was available in the completed investigations to indicate the particular method by which complaints were being received. Of the eleven investigations reviewed (of twenty-two citizens' complaints completed this quarter) ample evidence existed of receipt of complaints via telephone, letter, and in-person.

Completed investigations were reviewed for any indication of requirements for complainants to complete forms prior to initiation of an investigation. None of the eleven files reviewed included any form completed by a complainant.

Status:           Primary:       In Compliance  
                       Secondary:   In Compliance  
                       Operational: In Compliance

<sup>9</sup> Although many of the investigations completed this quarter used the old OMI 103-97, which does not have the check box for method of receipt.

**2.38 Compliance with Task 48: Receipt of Anonymous Complaints**



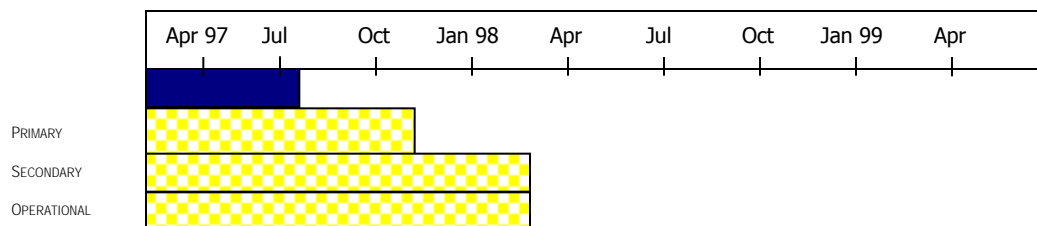
Paragraph 48 requires that the City accept anonymous and third party complaints through the OMI process, and to investigate these complaints thoroughly. This paragraph also allows the OMI unit to require corroborating information or evidence from complainants.

Methodology

As noted in the first auditor’s quarterly report, a review of completed OMI investigations did not indicate that anonymous or third party complaints were—or were not--being investigated. Although intake forms have been revised to indicate the source of the complaint, none of the complaints reviewed this quarter were anonymous complaints. The City’s new OMI video emphasizes the fact that complaints will be received from anonymous and third-party sources.

Status:        Primary:        In Compliance  
                   Secondary:    Unable to Audit  
                   Operational:    Unable to Audit

**2.39 Compliance with Task 49: Closure of OMI Investigations**



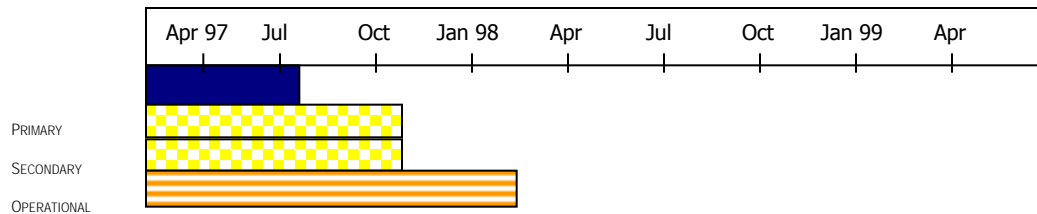
Paragraph 49 of the consent decree requires OMI to refrain from closing an investigation without rendering a disposition solely because a complainant withdraws the complaint or is unavailable to make a statement.

Methodology

The auditor reviewed the OMI Policy and Procedures Manual, which states in section 6-11 that withdrawal of complaints will not cause OMI to cease its investigation. Interviews with OMI staff indicate that it is customary not to terminate investigations upon the complainant's withdrawal of same. In addition, a sample of three completed OMI investigations for last quarter, and eleven for this quarter, was assessed to determine if any of the complainants in these cases had withdrawn the complaint. One such complaint was found, during the fourth quarter, in which the complainant signed an official "notice" of withdrawal of his complaint. The OMI investigation, nonetheless, was completed, and was thorough.

Status:           Primary:       In Compliance  
                       Secondary:   In compliance  
                       Operational: In compliance

#### **2.40 Compliance with Task 50: Relocate OMI**



Paragraph 50 requires the City to relocate the Office of Municipal Investigations to an office that is separate from any building occupied by PBP personnel. It further requires that the new facility be convenient to public transportation, and that the City publicize the new OMI location.

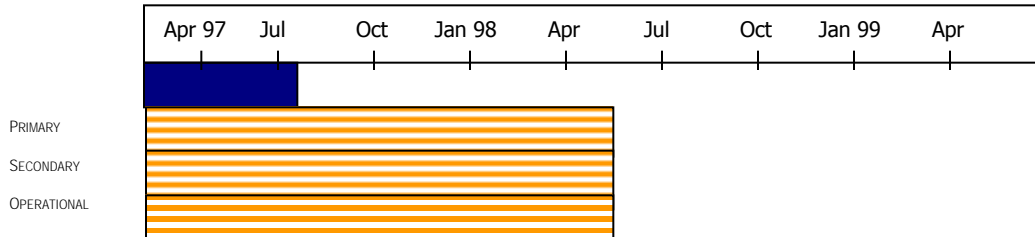
#### Methodology

During the second quarter, the auditor verified that OMI had been relocated, and assessed the relocation as meeting the requirements of the decree. The only element precluding operational compliance with section 50 of the decree, at that time, was lack of "notice" to the public of the relocation. During the auditor's site visit for the fourth quarter's audit, the level of notice of the relocation was assessed. The City has taken proactive steps to publicize the location or function of OMI since the last quarter. A public-access video has been aired detailing the Office's new location, and thousands of brochures have been printed and distributed noting the Office's new location.

Status:           Primary:       In Compliance  
                       Secondary:   In Compliance

Operational: In Compliance

**2.41 Compliance with Task 51: Reporting and Receipt of Citizens' Complaints**



Paragraph 51 precludes the City from requiring any complainant to come to PBP facilities to file a complaint or provide a statement. In addition, the paragraph requires the City to hold quarterly open meetings in rotating zones to educate the public about proper police functions, misconduct and other topics. The City is further required to accept complaints at the quarterly meetings, and to publicize the location and time of the quarterly meetings "in all City buildings."

Methodology

The auditor reviewed eleven of the twenty-two citizens' complaint investigations completed during this quarter to determine if OMI personnel or police personnel required any complainant to come to a City facility to file a complaint or provide a statement. Ample evidence existed, in the Case Investigation Checklist, to indicate that OMI personnel were taking numerous interviews at complainants' and witnesses' homes. The auditor reviewed attendance logs for OMI's quarterly meetings (held between May 16 and August 15, 1998), reviewed the newly revised OMI manual to determine policy or procedural guidance relative to attendance at quarterly community meetings, and requested copies of publicity documents posted by OMI relative to the quarterly meetings. Further, the auditor assessed completed OMI investigations to attempt to identify whether or not complainants were required to come to a PBP facility to register a complaint or make a statement.

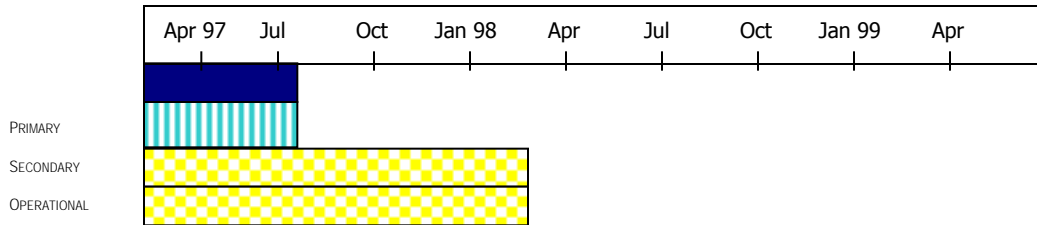
The quarterly attendance logs indicate that OMI personnel have been conforming to the requirement to attend quarterly meetings. While they offer to take complaints at these meetings, according to staff, no such complaints have been registered or investigated. The OMI manual, at section 4-1(B) stipulates that "OMI also accepts complaints during quarterly, off-premises meetings in rotating zones." This quarter, the City advertised zone meetings in City buildings, and provided copies of publicity notices used to publicize the OMI quarterly meetings in City



buildings. Further, the brochures printed by the City and the video completed and aired to all cable recipients, provides further information regarding identifying the location of zone meetings (by providing an contact name and a telephone number). While no logs were provided to ensure that "all City buildings" had posted notices of zone meeting dates, time and locations, the use of the OMI public-access video, coupled with the printed OMI brochure, gives, in the opinion of the auditor, ample notice allowing those interested to attend zone meetings. Further, it should be noted that each City facility the audit team visited this quarter had the OMI brochures prominently displayed in public areas.

Status:           Primary:       In Compliance  
                       Secondary: In Compliance  
                       Operational: In Compliance

**2.42 Compliance with Task 52: Notification to Senior Supervisors of Citizens' Complaints**



Paragraph 52 requires the City to provide notification to senior supervisors of an accused officer who has been the subject of a complaint to OMI regarding use of force, improper search or seizure, or racial bias.

**Methodology**

The auditor attempted to track the paper trail from OMI to zone-level senior supervisors, and to find any evidence at the zone level of notification from OMI of use of force, improper search or seizure or racial bias. OMI does issues monthly reports identifying officers complained against, the type of complaint and a brief narrative. These reports are forwarded to the Chief of Police, and the Deputy Chief for Operations. In addition, any complaint alleging racial bias is automatically forwarded to the Human Relations Commission (although this process is not treated in the new OMI manual).

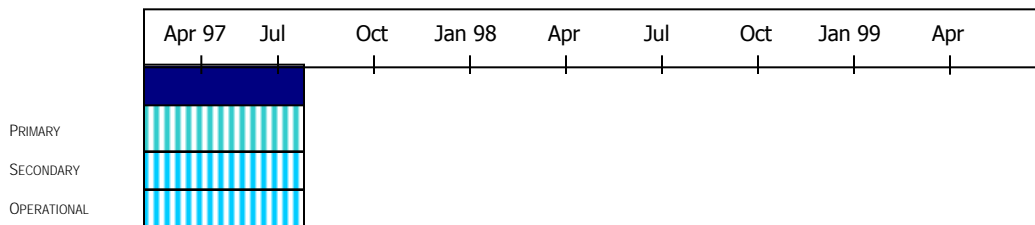
During this quarter's site visit, the auditor was able to track a "paper trail" of notice to senior supervisors of complaints filed by citizens, noting dissemination of quarterly and monthly OMI reports to senior supervisors of the Bureau of Police. In addition, notice is sent to each zone, and filed in the zone performance file, of

OMI investigations of allegations against officers assigned to the zones. This includes all allegations, including those of improper use of force, search and seizure and racial bias.

The auditor also found evidence of a proactive use of data regarding citizen complaints at the level of the Deputy Chief for Operations (DCO), who, it was noted, often includes discussions of such data in his presentations at command staff meetings, and at the level of the Chief of Police. Given this stance on the part of the Chief of Police and the DCO, and given the fact that notice of complaints is made to senior supervisors, the Bureau is deemed to be in operational compliance for task 52.

Status:           Primary:        In Compliance  
                       Secondary:    In Compliance  
                       Operational:  In Compliance

**2.43 Compliance with Task 53:           Responsibility for Complaint Investigation**



Paragraph 53 requires the City to ensure that responsibility for investigation of citizen complaints rests solely with OMI, to require OMI to monitor the progress of investigations, to require OMI to accept all complaints, to disallow the process of officers attempting to “settle” OMI complaints, and to require OMI to document all officer-initiated settlements of citizens’ complaints.

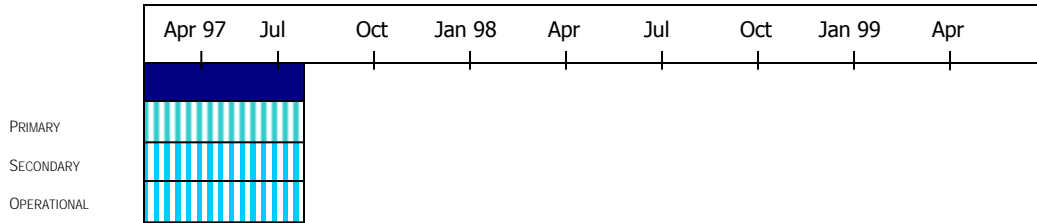
**Methodology**

The auditor reviewed the OMI manual for sections relating to paragraph 53, interviewed OMI personnel, and reviewed OMI case files for any indication of incompleted or “withdrawn or settled” OMI cases. Section 2-1 of OMI’s new manual charges OMI with jurisdiction to “investigate all personnel of any department of the City of Pittsburgh...” and specifically notes the departments over which OMI has investigative authority, including the PBP. A review of eleven of the twenty-two completed OMI investigations for this quarter indicates that the City remains in compliance with this task. One case was found in which the

complainant officially notified OMI of his desire to withdraw his complaint. The allegations were completely and thoroughly investigated, despite this withdrawal.

Status: Primary: In Compliance  
 Secondary: In Compliance  
 Operational: In Compliance

**2.44 Compliance with Task 54: Officers to Provide Name and Badge Number on Request**



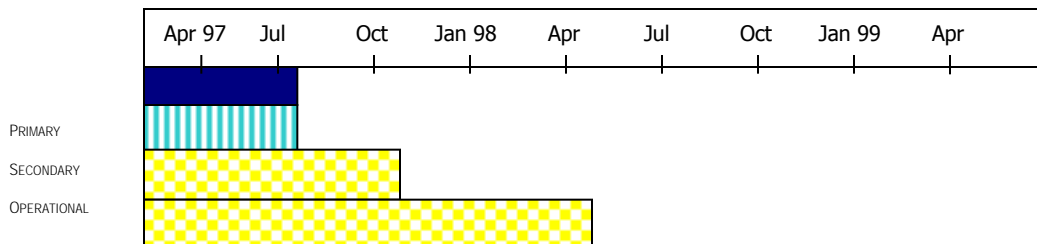
Paragraph 54 requires officers to provide citizens with their names or badge numbers, upon request. Section 101-4.06, "Conduct Toward the Public" requires that "when requested by any person, a member shall give his name and badge number in a courteous manner."

Methodology

The auditor reviewed a sample of completed OMI cases for the fourth quarter (May 16 to August 15, 1998) to determine if allegations of failure to provide name and badge number were made to OMI. Four allegations of failure to provide badge numbers and names were found. Of the four, one allegation was sustained.

Status: Primary: In Compliance  
 Secondary: In Compliance  
 Operational: In Compliance

**2.45 Compliance with Task 55: Interview of Complainants at Alternative Sites**



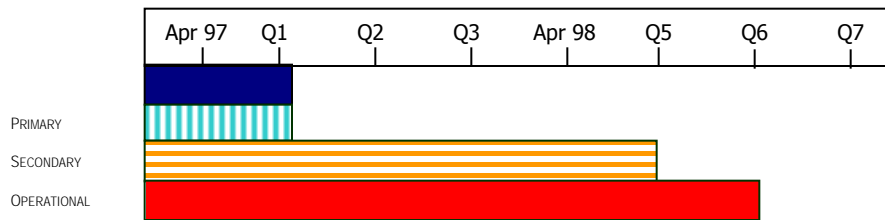
Paragraph 55 stipulates that OMI will interview witnesses at alternative sites if they are unavailable for interviews at OMI offices. The paragraph also requires reasonable notice before all interviews. Section 4-2(B) of the OMI stipulates that OMI will arrange to interview complainants "off-site," if necessary.

Methodology

The auditor reviewed completed OMI case investigations to determine if interviews were being conducted "off site." Among the eleven completed investigations assessed during this quarter, ample evidence of OMI investigators conducting interviews off-site (usually at the witnesses' home) was noted. The frequency of these off-site interviews was high enough to indicate that these interviews were a normal practice for the Office.

Status:           Primary:       In Compliance  
                       Secondary: In Compliance  
                       Operational: In Compliance

**2.46 Compliance with Task 56:       OMI to Tape and Transcribe Interviews**



Paragraph 56 requires OMI to tape-record and transcribe all interviews, and to refuse to accept "special reports" in lieu of an interview. Further OMI is required to reserve the right to question all interviewees, and to challenge their version of the facts.

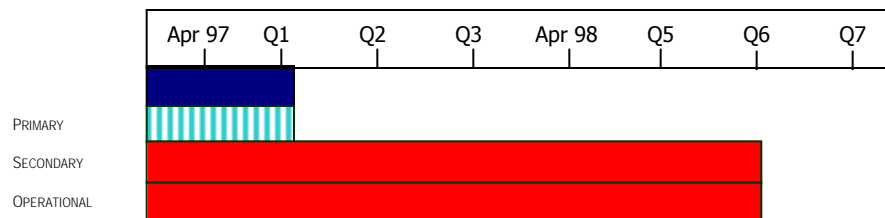
Methodology

The OMI manual stipulates a "Tape Recorded Statement Form" and Section 4-2 stipulates that all statements will be tape recorded. Section 6-3 stipulates that all tape-recorded statements will be transcribed. The auditor reviewed eleven (of twenty-two) completed investigations of citizens' complaints provided by OMI based on a selection by the auditor's staff. These cases were reviewed to ensure that all interviews were tape-recorded and transcribed. All cases reviewed

except one (AQR4-S) included transcriptions of OMI interviews of officers, witnesses or complainants. One of the cases selected for review (AQR4-S) included a written report from an officer, rather than taped and transcribed interviews.<sup>10</sup>

Status: Primary: In Compliance  
 Secondary: In Compliance  
 Operational: Not in Compliance

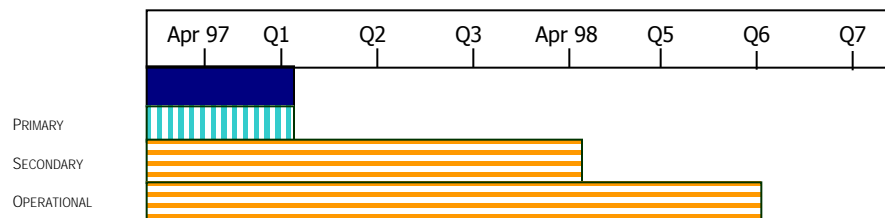
**2.47 Compliance with Task 57: OMI Staff Access to EWS**



Paragraph 57 stipulates that OMI staff should be provided access to the City's Early Warning System. Current plans call for such access; however, this access cannot be audited until the EWS comes on-line.

Status: Primary: In Compliance  
 Secondary: Not in Compliance  
 Operational: Not in Compliance

**2.48 Compliance with Task 58: OMI to Interview Supervisors at Scenes of Incidents Leading to Allegations of Misconduct**



<sup>10</sup> This case was filed with OMI in October of 1997, and was investigated prior to the Bureau's negotiated agreement with the Fraternal Order of Police regarding transcribed officer's statements. In addition, the case was filed more than 90 days after the alleged incident, and, according to the contract with the FOP, officers are not required to give written statements concerning such events.

Paragraph 58 requires that OMI identify all supervisors and senior supervisors who were at the scene of events which result in allegations of misconduct, and to detail their handling of the situation during and after the alleged incident. The supervisors and senior supervisors will be interviewed concerning their observations of the complainant and the accused officers.

Methodology

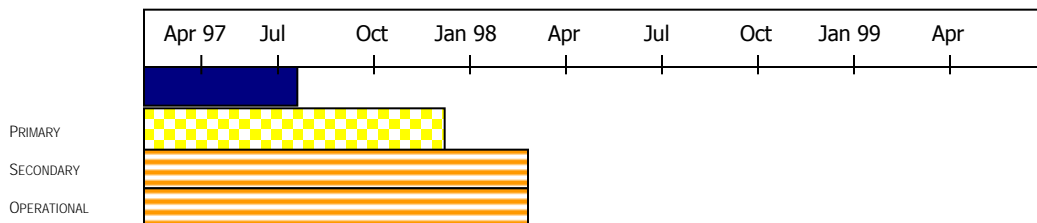
The auditor reviewed the OMI manual for revised language stipulating that supervisors and senior supervisors be interviewed. Section 6-1(M) of the OMI manual identifies a requirement that OMI locate any supervisors or senior supervisors, and interview them regarding incidents in which they "participated" or were involved.

As noted in the first auditor's quarterly report, the OMI manual contains language concerning the need to interview senior supervisors and supervisors; its revised version requires OMI investigators to determine the supervisors' "handling of ... situation[s] during and after the alleged incident[s]" and their "observations of the complainant[s] and the accused officers."

Further, OMI case reports which were reviewed were assessed for any evidence that the investigator had attempted to locate any potential supervisors at the scene. Two of the eleven cases reviewed produced an indication that supervisory personnel were present. The OMI investigator interviewed the supervisors, took a taped and transcribed statements, and included the statements of the supervisors in the analysis of the cases through the final reports.

Status:           Primary:       In Compliance  
                       Secondary:   In Compliance  
                       Operational: In Compliance

**2.49 Compliance with Task 59:           OMI to Canvass for Witnesses**



Paragraph 59 requires OMI to canvas the scene of an incident for witnesses “as soon as possible” after receiving a complaint where canvassing could “reasonably yield” additional information.

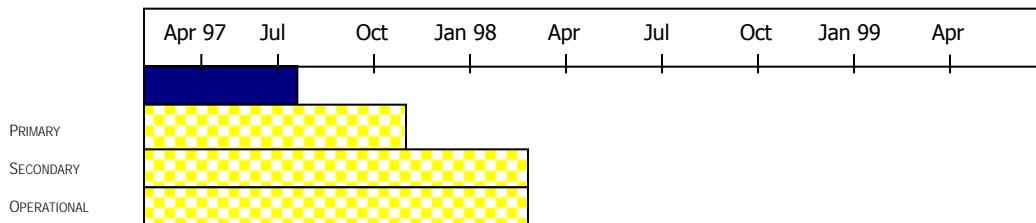
Methodology

The auditor reviewed the OMI manual, Section 6-1G, which requires neighborhood canvasses, “as soon as possible” after receiving a complaint. Case tracking forms also include a “check off” box for witnesses located through the canvassing process.

The auditor reviewed a sample of eleven completed OMI cases for the fourth quarter (May 16 through August 15, 1998) to determine if OMI personnel were conducting canvasses as required by this paragraph of the decree. Of the eleven cases reviewed, all included documented efforts to reach witnesses—through the process of a neighborhood canvas—who may have observed the event. One case AQR4-R was noted, however, in which the canvas appeared—from the investigator’s report—to be less than aggressive, consisting, if one is to judge from the report, of one telephone call to a supervisor of a key witness. While the effort met the technical requirements of the decree, it brings the Office to the cusp of losing compliance in this critical area. Supervisory personnel at the Office are encouraged to carefully monitor this area of Office performance for the November audit.

Status:           Primary:        In Compliance  
                       Secondary:   In Compliance  
                       Operational: In Compliance

**2.50 Compliance with Task 60:           OMI to Review Police Shootings**



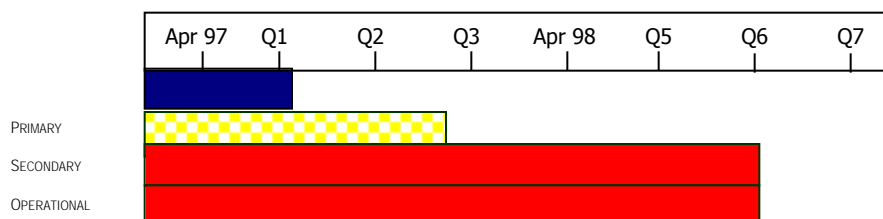
Paragraph 60 requires OMI to review all police firearms discharges, and all reports prepared by the coroner relating to deaths caused by police shootings.

Methodology

The auditor assessed, through departmental records, the number of police-involved shootings which occurred during the fourth quarter and found one. The discharge resulted in an OMI investigation, as required by the consent decree (See AQR4-G). A review of this investigation indicated a careful and thorough analysis of the discharge, and a finding that appeared appropriate, given the fact situation.

Status:           Primary:       In Compliance  
                       Secondary: In Compliance  
                       Operational: In Compliance

### **2.51 Compliance with Task 61:           OMI to Aggressively Investigate Allegations of Misconduct**



Paragraph 61 requires that OMI investigators “aggressively” investigate allegations of misconduct, collecting themselves documents and information needed to resolve allegations of misconduct.

#### Methodology

The auditor reviewed a 50 percent sample of OMI investigations completed from May 16 through August 15, 1998, to assess the level of compliance with paragraph 61.

The investigations were evaluated regarding complaint receipt and processing, case management, investigation and documentation, findings and determinations and reporting. Further, training for OMI personnel was also reviewed, as, in the auditor’s opinion, training is the key to acceptable performance. During the fourth quarter, personnel assigned to OMI continued to experience a substantial increase in training.

Of the eleven investigations assessed for the fourth quarter, four proved problematic for one reason or another. These included the following cases.

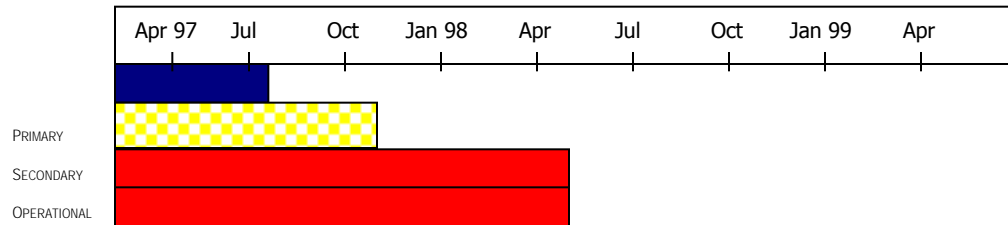


- AQR4-R, a complaint concerning Conduct to the Public which exhibited a burden on the complainant, evident in the investigator's use of the notation that "No phone number given by complainant" as a reason for not contacting two witnesses listed by the complainant. Further, this investigation included a key witness who was, apparently, important to the investigation, but whom the investigator, apparently, attempted to contact only once, through a letter to the witnesses supervisor. Apparently no follow-up telephone calls were made to attempt to interview the witnesses. The same lack of follow through was apparent with other witnesses, some of whom were discounted because there was no response to a single telephone call—even though no message was left by the investigator.
- AQR4-N, a domestic violence incident in which, apparently, two officers forced their way into the complainant's home, according to independent witnesses, by threatening to break the door down, after both the parties involved in the dispute had refused the officers access. The fact situation evident from the investigation should have initiated a collateral misconduct investigation to ensure that the officers had adhered to the department's domestic violence policies and warrantless entry policies. No such assessment was done. Further, based on the officers' testimony, the violent portion of the episode was initiated when the officers "grabbed for the telephone" the male homeowner was holding. The investigation failed to inquire as to the reasons the officers would take such an action, and failed to assess if such a decision and command were reasonable, given the fact situation.
- AQR4-U, which involved allegations of false arrest and excessive force. The complaint was filed more than 90 days after the event, and the investigation was "unfounded," with the Office citing the working agreement between the Union and the City. Both officers refused to give statements. The allegation of false arrest is certainly one that "could" lead to criminal charges, depending on the reasons the officers had for entering the complainant's home without a warrant. The investigation includes no assessment of the potential for criminal charges, and simply adheres to the "90 day rule."
- AQR4-S, which is another "90 day rule" case in which the original complaint was one of false arrest and verbal abuse. Although no difficulties were apparent in the investigation of the illegal detention, credible evidence exists to suggest that there may have been an illegal arrest made by Bureau officers. An independent witness informed OMI investigators that, despite knowing that they had the wrong individual, one insisted that the

complainant be arrested on a discretionary charge of disorderly.” Despite repeated warnings from fellow officers that the complainant was not the suspect they sought the officer persisted, citing the complainant for disorderly conduct. Further, it appears from the record in the case that potential collateral misconduct occurred during the investigation as officers all denied using profanity with the suspect, yet an independent witness quoted one of the Bureau officers as referring to the suspect, to his face, as an “asshole.” Despite this contradiction, no investigation was conducted by OMI into the potential allegation of untruthfulness.

Status:           Primary:        In Compliance  
                       Secondary:   Not in Compliance  
                       Operational: Not in Compliance

**2.52 Compliance with Task 62:           OMI to Act on Behavior “Outside the Four Corners”**



Paragraph 62 requires OMI to act on behavior it notices, during the course of an investigation, that is in violation of policy or procedure, but which may not have been a part of the original allegation. Commonly, these types of findings are labeled “outside the four corners” of the original complaint.

Methodology

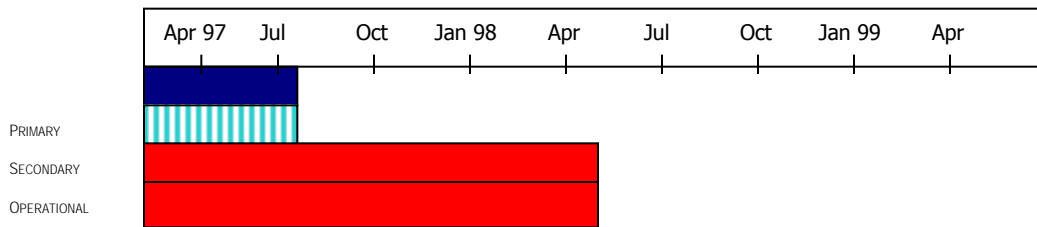
The auditor reviewed the OMI manual for reference to the requirement to note conduct “outside the four corners” of the complaint which violates departmental policy or procedures. The OMI manual refers to such complaints as “collateral misconduct,” and stipulates in Section 6-8 that “if, during the course of an OMI investigation, an OMI investigator has reason to believe that ... collateral misconduct [occurred] the investigator must investigate and make findings with regard to such collateral misconduct.

The auditor also reviewed a 50 percent sample of citizens’ complaint investigations completed by OMI between May 16 and August 15, 1998. Each complaint was evaluated to determine if any behavior could be noted that would

be “outside the four corners” of the original complaint. Four were found (three of the four are discussed in Section 2.51, above). One of the four resulted in an investigation of collateral misconduct (failure to apply for approval for secondary employment) which sustained the allegation.

Status:           Primary:       In Compliance  
                       Secondary:   Not in Compliance  
                       Operational:  Not in Compliance

**2.53 Compliance with Task 63:       OMI to Issue Final Reports**



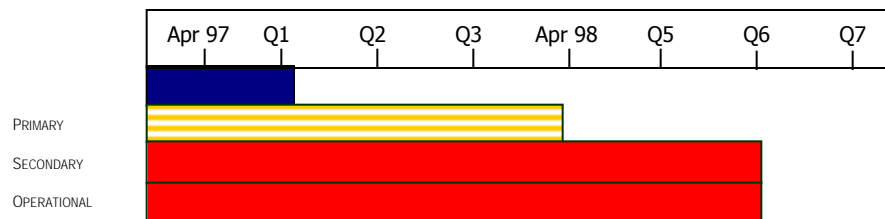
Paragraph 63 requires OMI to issue final reports on all investigations. The final report is required to identify any misconduct noted, to provide a summary of evidence gathered, document credibility determinations, document findings, and identify the officer’s complaint history. The final report is required to be part of the OMI investigative file.

**Methodology**

The auditor reviewed a sample of eleven investigations completed by OMI between May 16 and August 15, 1998. Each of the investigative files contained a final report. The final reports were assessed for completeness, conformance to established practice in internal investigations, and conformance to the requirements of the consent decree. While each file contained a final report, five were incomplete, not in conformance with established practice for internal investigations, or were not in compliance with the requirements of the consent decree. Deficiencies noted included: placing the burden for investigation on the complainant, failure to include intake forms, checklists or other standard investigative reports, and failure to assess collateral misconduct. Detailed assessments will be provided to the Office, identifying needed changes in investigative reporting and process. The auditor has observed marked changes in the format, structure and content of the Office’s final reports. For the most part, the style, content, structure and organization of the reports are a major improvement. Some work remains to be done, however, to bring all reports into compliance with the consent decree.

Status:           Primary:       In Compliance  
                       Secondary:   Not in Compliance  
                       Operational: Not in Compliance

### 2.54 Compliance with Task 64: OMI to be Adequately Staffed



Paragraph 64 requires the City to provide OMI with “sufficient staff, funds and resources to perform the functions required” by the decree, and establishes requirements for selection as an OMI investigator.

#### Methodology

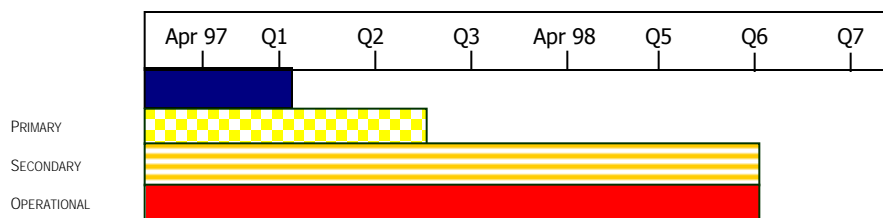
During the first quarterly audit, the auditor conducted a routine desk audit of OMI practices, caseload and work product. OMI is currently staffed by five full-time investigators, one of whom is assigned to non-police investigations. The four remaining investigators received approximately 89 cases during the first quarter, and during the fourth quarter that number appears to be increasing slightly.

Some progress has been made by tightening up the management control of investigations: providing needed training for investigators and managers, and by providing a full-time intake coordinator’s position—which removes investigators who are in the office writing case reports from telephone duty. The intake coordinator also provides other services which free up investigators for case work. Further, one additional OMI employee has been hired and has been assigned the function of case analysis and development of case conclusions, based on facts gathered by the investigators. Productivity of the Office has increased significantly during this quarter. Twenty-two completed case investigations were forwarded to the Bureau by the Office, an increase of 550 percent over last quarter. Fourth quarter productivity is comparative to first-quarter levels, albeit with a major improvement in the quality of case investigations compared to the first quarter.

The Office Municipal Investigations has received approval to increase OMI staffing assigned to police investigations by 75 percent, with the addition of three staff (an intake coordinator, who has been hired, and two additional investigative positions, one of which has been filled). The Office is assessing other staffing solutions, and has reviewed some of these plans with the auditor. Staffing is, of necessity, a decision made carefully; however, the auditor remains of the opinion that, currently, inadequate staffing levels are present in OMI to handle existing and anticipated workload, although plans have been made and partially implemented to improve this situation.

Status:           Primary:       In Compliance  
                       Secondary:   Not in Compliance  
                       Operational:  Not in Compliance

### **2.55 Compliance with Task 65: OMI to Use the Preponderance of Evidence Standard**



Paragraph 65 requires OMI to use the preponderance of the evidence standard in determining findings on cases assigned for investigation.

#### Methodology

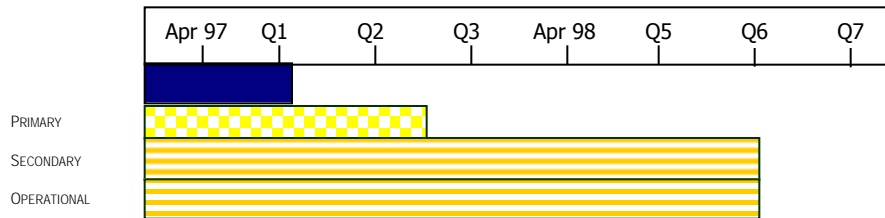
The auditor reviewed the OMI Manual of Policy & Procedure, which states at Section 7-4 that "all findings by OMI shall be based upon the 'preponderance of the evidence standard.'" The revised (5/98) document defines this standard for the reader, using applicable civil law definitions. Despite this guidance, which, in all fairness was made available to investigators only May of 1998 (despite an erroneous date on Section 7-4 of 11/97)<sup>11</sup>, OMI investigators appear to have begun to use the preponderance of evidence standard in developing their conclusions. Unlike previous quarters, this quarter's OMI investigations tended to track the required standard more closely. There remains some confusion regarding the logical interpretation of evidence—or the development of written

<sup>11</sup> Section 7.4 of the OMI Manual was revised in May, 1998 to provide a more complete definition of "preponderance of the evidence."

analyses of evidence—but this does not approach the level of non-compliance, and is best dealt with through use of the auditor’s “Internal Investigation Screening Form” comments provided to OMI personnel on each case reviewed.

Status: Primary: In Compliance  
 Secondary: In Compliance  
 Operational: In Compliance

**2.56 Compliance with Task 66: No Preference for Officers’ Statements**



Paragraph 66 stipulates that “there shall be no automatic preference of an officer’s statement over a complainant’s statement,” and further requires that OMI investigators shall consider the officer’s history of complaints and disciplinary records and the complainant’s history in making credibility determinations, which shall be explained fully in writing.

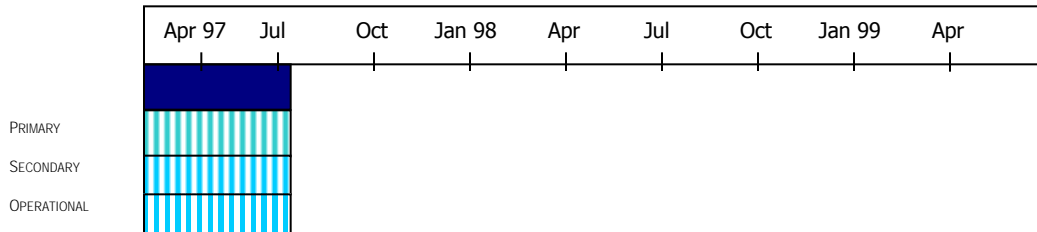
Methodology

The auditor reviewed the OMI Manual of Policy and Procedure for references to preferences to officer’s statements, and found a reference in the revised (5/98) Section 6-9. There were also references to credibility determinations (Section 6-9) which conform to the requirements of paragraph 66.

In addition, the auditor reviewed eleven of the twenty-two OMI investigations of citizens’ complaints completed during the fourth quarter for conformance to this requirement. In each of these eleven, credibility assessments were documented in the final report. None of these were found to give preference to the officers’ statements.

Status: Primary: In Compliance  
 Secondary: In Compliance  
 Operational: In Compliance

**2.57 Compliance with Task 67: OMI Retains Final Investigative Authority**



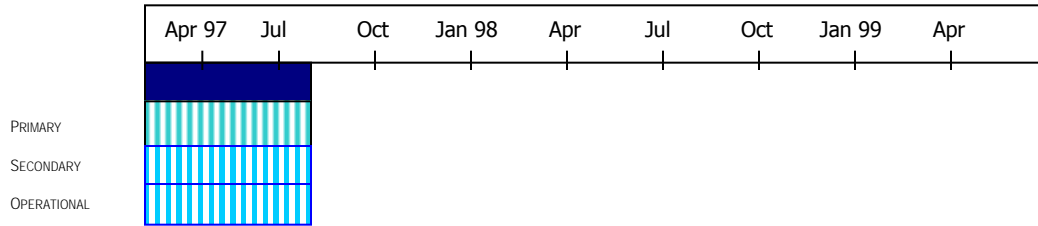
Paragraph 67 stipulates that OMI will retain final authority for investigations of police personnel. It stipulates that OMI retains final authority for determining findings and dispositions of all investigations, and specifically precludes supervisors and senior supervisors from modifying or reversing any OMI disposition of complaints.

**Methodology**

The auditor reviewed all OMI investigations completed between May 16 and August 15, 1998, searching for a case which resulted in a sustained finding, with evidence of a "reversed" OMI finding by a supervisor or senior supervisor. No such evidence was found. The reader should note, however, that all OMI investigations completed this quarter were completed late in the cycle, and had not yet had time to be reviewed by the Bureau. Based on previous performance, however, and the fact that no contrary evidence has been uncovered, the City is deemed in compliance with this task.

Status:        Primary:        In Compliance  
                   Secondary:    In Compliance  
                   Operational: In Compliance

**2.58 Compliance with Task 68: Change “Not Sustained” to “Not Resolved”**



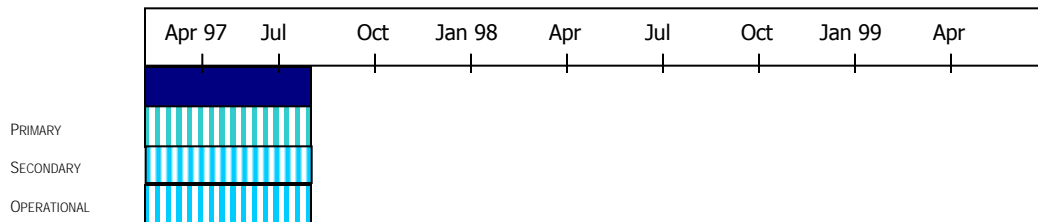
Paragraph 68 requires the City to change the OMI disposition category of “Not Sustained”

Methodology

The auditor reviewed the OMI manual, which stipulates at 7-1B, that cases which generate “evidence that is insufficient to prove or disprove that accountability standards have been violated” will be classified as “Not Resolved.” Further, the auditor assessed all completed OMI investigations for the period May 16 and August 15, 1998, to determine if the disposition of “Not Resolved” was appropriately used. In the cases reviewed that produced evidence which should be classified as “Not Resolved” the case was so classified.

Status: Primary: In Compliance  
 Secondary: In Compliance  
 Operational: In Compliance

**2.59 Compliance with Task 69: OMI to Issue Quarterly Reports**



Paragraph 69 requires OMI to issue quarterly reports on its activities. The report is required to list each investigation’s significant dates, general allegations, disposition and resulting discipline.

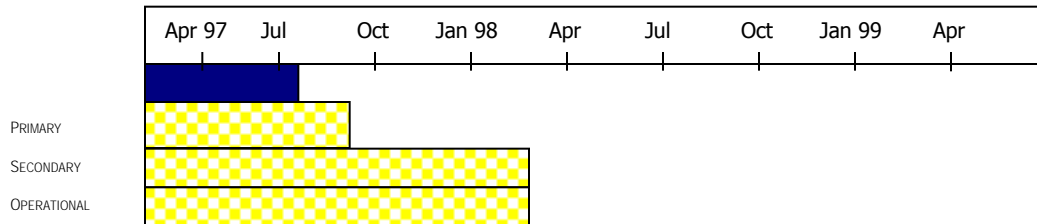
Methodology



The auditor reviewed the last quarterly report completed by OMI for conformance to the requirements of paragraph 69, and found that the report met the requirements of the Decree.

Status:           Primary:       In Compliance  
                       Secondary:   In Compliance  
                       Operational: In Compliance

**2.60 Compliance with Task 70: Appoint Auditor within 90 Days**



Paragraph 70 requires the appointment of an auditor for the consent decree by July 16, 1997.

Methodology

Conformance with this paragraph is measured by noting the date of the auditor’s appointment. A contract for the audit has been issued, dated December 4, 1997. The City is in compliance with the process of appointing the auditor, although tardy in doing so. For the purposes of the audit, the City is considered to be in operational compliance.

Status:           Primary:       In Compliance  
                       Secondary:   In Compliance  
                       Operational: In Compliance

**2.61 Compliance with Task 71: Auditor to Perform Quarterly Assurance Checks**

Paragraph 71 requires the auditor to perform quarterly assurance checks of the following:

- OMI final reports;
- Substance and timeliness of 50 percent of all OMI investigations completed;
- Statistical information on the number and types of complaints filed with OMI;
- Statistical information on discipline imposed on sustained complaints;
- Assessments of officer use of force, searches and seizures, and traffic stops.

## Methodology

This fourth quarterly report is offered as compliance with the requirements of Task 71.

### **2.62 Compliance with Task 72: Auditor to Recommend Reopening of Incomplete OMI Investigations**

Paragraph 72 requires the auditor to “reopen” investigations which are deemed to be incomplete. Further, the auditor is required to provide written directions on steps that should be taken to complete the investigation.

## Methodology

The auditor has reviewed eleven of the twenty-two OMI investigations of citizens’ complaints completed between May 16 and August 15, 1998.<sup>12</sup> Based on that review, the auditor has recommend that OMI reopen four investigations completed during the fourth quarter. These include:

- AQR4-R, a complaint concerning Conduct to the Public which exhibited a burden on the complainant, evident in the investigator’s use of the notation that “No phone number given by complainant” as a reason for not contacting two witnesses listed by the complainant. Further, this investigation included a key witness who was, apparently, important to the investigation, but whom the investigator, apparently, attempted to contact only once, through a letter to the witnesses supervisor. Apparently no follow-up telephone calls were made to attempt to interview the witnesses. The same lack of follow through was apparent with other witnesses, some of whom were discounted because there was no response to a single telephone call—even though no message was left by the investigator.
- AQR4-N, a domestic violence incident in which, apparently, two officers forced their way into the complainant’s home, according to independent witnesses, by threatening to break the door down, after both the parties involved in the dispute had refused the officers access. The fact situation evident from the investigation should have initiated a collateral misconduct investigation to ensure that the officers had adhered to the department’s domestic violence policies and warrantless entry policies. No such

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<sup>12</sup> See footnote four, above.

assessment was done. Further, based on the officers' testimony, the violent portion of the episode was initiated when the officers "grabbed for the telephone" the male homeowner was holding. The investigation failed to inquire as to the reasons the officers would take such an action, and failed to assess if such a decision and command were reasonable, given the fact situation.

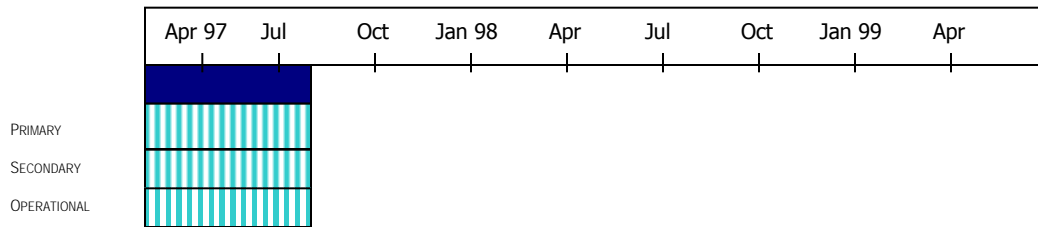
- AQR4-U, which involved allegations of false arrest and excessive force. The complaint was filed more than 90 days after the event, and the investigation was "unfounded," with the Office citing the working agreement between the Union and the City. Both officers refused to give statements. The allegation of false arrest is certainly one that "could" lead to criminal charges, depending on the reasons the officers had for entering the complainant's home without a warrant. The investigation includes no assessment of the potential for criminal charges, and simply adheres to the "90 day rule."
- AQR4-S, which is another "90 day rule" case in which the original complaint was one of false arrest and verbal abuse. Although no difficulties were apparent in the investigation of the illegal detention, credible evidence exists to suggest that there may have been an illegal arrest made by Bureau officers. An independent witness informed OMI investigators that, despite knowing that they had the wrong individual, one insisted that the complainant be arrested on a discretionary charge of disorderly." Despite repeated warnings from fellow officers that the complainant was not the suspect they sought the officer persisted, citing the complainant for disorderly conduct. Further, it appears from the record in the case that potential collateral misconduct occurred during the investigation as officers all denied using profanity with the suspect, yet an independent witness quoted one of the Bureau officers as referring to the suspect, to his face, as an "asshole." Despite this contradiction, no investigation was conducted by OMI into the potential allegation of untruthfulness.

### ***2.63 Compliance with Task 73: City to Prepare Progress Reports***

Paragraph 73 of the decree requires the city to prepare a status report 90 days after entry of the decree, e.g., July 16, 1997, and every six months thereafter. The first report was issued July 11, 1997; the second was issued January 16, 1998. The third was issued in July, 1998.

Status:	Primary:	In Compliance
	Secondary:	In Compliance
	Operational:	In Compliance

**2.64 Compliance with Task 74: City to Maintain Records Necessary**



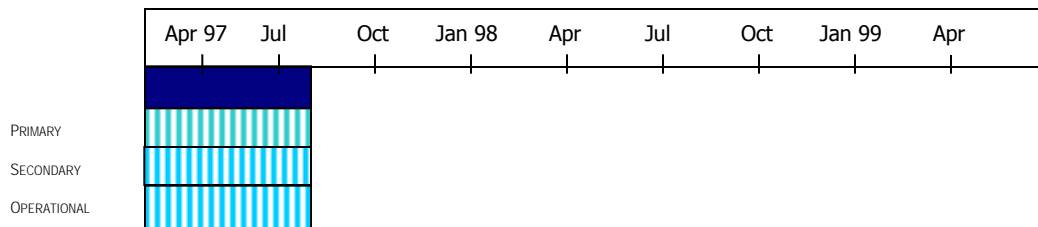
Paragraph 74 requires the City to maintain all records necessary to document their compliance with all terms of this decree. Further, it requires the City to maintain records required by or developed under this decree.

Methodology

The auditor asked for all pertinent copies of records required to document compliance with the decree, and received same in a timely manner.

Status:       Primary:       In Compliance  
                   Secondary:   In Compliance  
                   Operational: In Compliance

**2.65 Compliance with Task 75: Unrestricted Access for Auditor**



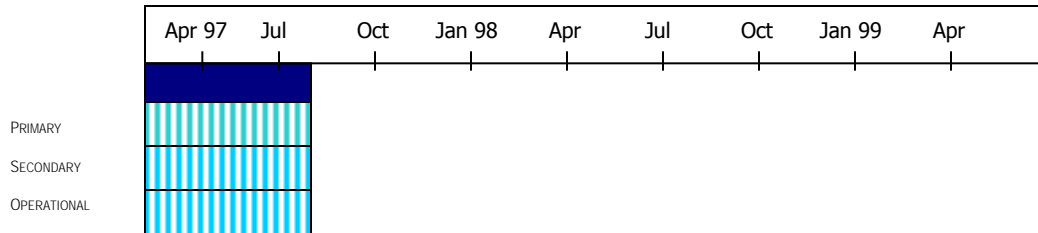
Paragraph 75 requires the City to provide the auditor with unlimited access to PBP records relating to the decree and conformance thereto. Further, access to all staff and facilities as needed to effectively monitor the decree is also required.

Methodology

During the course of development of the first Auditor’s Quarterly Report, the auditor made dozens of specific requests of the City, OMI and the Pittsburgh Bureau of Police. All requests were responded to in a professional and timely manner.

Status: Primary: In Compliance  
 Secondary: In Compliance  
 Operational: In Compliance

**2.66 Compliance with Task 76: Unrestricted Access for Justice**



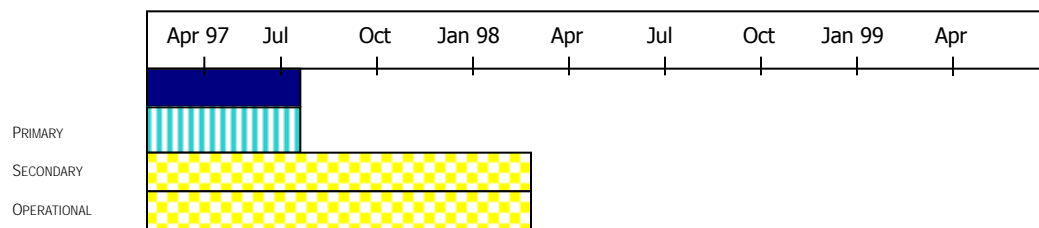
Paragraph 76 requires the City to provide the Department of Justice with access to documents, databases, and other data necessary to evaluate compliance with this decree. Further it requires access to staff and facilities upon appropriate notice.

Methodology

During the course of the implementation of this decree, the Department of Justice has made numerous requests for information, data and access. These requests have always been honored.

Status: Primary: In Compliance  
 Secondary: In Compliance  
 Operational: In Compliance

**2.67 Compliance with Task 77: Copies of Consent Decree to All Officers**



Paragraph 77 of the decree requires the City to provide copies of the consent decree to all officers, and to explain the terms of this decree to all current and future officers, OMI employees, and all DPS employees with oversight or responsibility for PBP operations. All such individuals are further required to sign

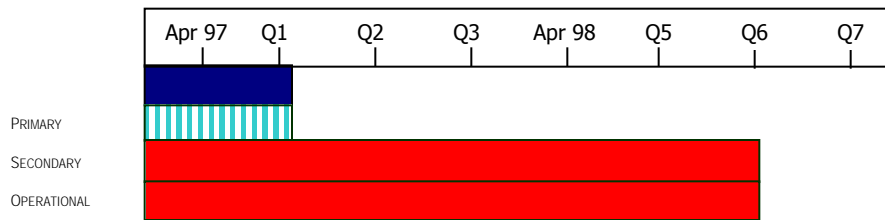
a statement indicating that they have received, read and understand the statement. The City is required to retain these statements

Methodology

The auditor has reviewed signature records retained by the City acknowledging receipt, reading and understanding of the decree. These have been signed by all supervisors, senior supervisors, command personnel, OMI personnel, and appropriate individuals at the Department of Public Safety. A video has been developed explaining the consent decree, and all on-duty sworn personnel have viewed the video<sup>13</sup>. The auditor has reviewed the video, and has found that it adequately explains both the letter and spirit of the decree, as well as the City’s approach to compliance. Currently, the department has trained all current active-duty officers, and received officer signatures stating understanding of the decree, except for those on extended leave or otherwise not available.

Status:           Primary:       In Compliance  
                       Secondary: In Compliance  
                       Operational: In Compliance

**2.68 Compliance with Task 78: 90 Day Timeline for Conformance**



Paragraph 74 establishes a default timeline of 90 days for conformance to all provisions not specifically given another timeline by the decree.

Methodology

Each of the separate provisions of the decree is assessed for compliance to established timelines in the pages above. With the passage of April 16, 1998, an additional set of tasks came “on-line,” those involving automation of the EWS. The City is currently in **primary compliance** with 100 percent of the 74<sup>14</sup>

<sup>13</sup> Officers on extended leave and who are otherwise excused for duty for extended periods of time have not viewed the video, nor have they signed the statement of understanding.

<sup>14</sup> Two of the 76 tasks in the decree accrue to the auditor.

provisions to which the City should have complied by now. The City is in **secondary compliance** with 48 of the 74 provisions due as of August 15, 1998. It is also in **operational compliance** with 43 of the 74 tasks, due as of August 15, 1998.<sup>15</sup>

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<sup>15</sup> The auditor was unable to audit four secondary compliance statistics and five operational compliance statistics, as noted previously in the report. This inability to audit was in all cases due to a lack of occurrences of events related to the task, e.g., no promotions during the quarter or no completed disciplinary action reports during the quarter, etc.

### 3.0 Summary

The City, the Bureau and the Office of Municipal Investigations have improved compliance with the elements of the consent decree during the last quarter. They have continued to take a professional approach towards the decree, insisting on complying with both the letter and the spirit of the decree, and moving with deliberate speed to ensure compliance. All of the auditor's request for information have been responded to with rapid compliance, and the routine response of the City to the auditor's suggestions has been to implement them enthusiastically.

The City has recorded a **primary compliance** rate of 100 percent, and an **overall compliance** rate of 62 percent.<sup>16</sup> While a substantial amount of work remains to be done—particularly in the training area and with the EWS and the automated support provided by this system—the City is making steady progress toward complete compliance.

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<sup>16</sup> The auditor was unable to audit five operational compliance statistics, as noted previously in the report. This inability to audit was in all cases due to a lack of occurrences of events related to the task, e.g., no promotions during the quarter or no completed disciplinary action reports during the quarter, etc. Thus, the auditor found the City in operational compliance with 43 of the 69 tasks which could be audited this quarter.