

Auditor's Fifth Quarterly Report
Quarter Ending November 16, 1998

1 Introduction

This document represents the fifth 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 Section One, "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

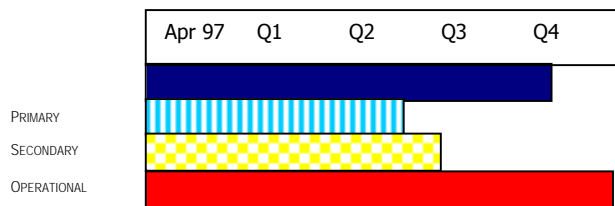
1.1.2 Dates of Project Deliverables

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 or 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 November 15, 1998. In order to allow time for completion of the report, the auditor completed assessment activities on November 20, 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, 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 this 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 fifth quarter, including progress in the critical areas of training and crafting systems of documentation of compliance efforts, as well as in development of an operational EWS. In addition, significant progress has been made in the area of OMI operations and management.

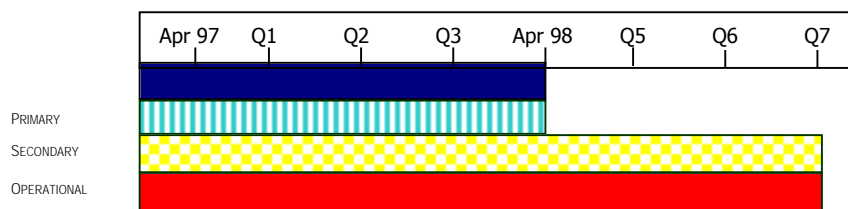
2 Assessment of Compliance

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 fifth Auditor's Quarterly Report contain a detailed assessment of the degree to which the City has complied with the 73 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

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- 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.

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.

Methodology

During the site visit for the fifth quarterly audit, the auditor reviewed the operational EWS for conformance to the requirements of the decree. The review was conducted in the City's CIS conference room, using a "live" and a "training" database from the operational EWS.

The City now has a "production" version of the EWS on-line and operational, as of November, 1998. Entry of pre-consent decree information (from September, 1995 forward) has been completed and is accessible through the EWS database. Programming for the EWS is complete, and the database has been "released" for daily use of PBP personnel. Initial and refresher training of PBP supervisors and command personnel has been completed. During the site visit for the fifth quarterly audit, the auditor reviewed the EWS system, and found it to be operational, and capable of reporting on and monitoring the activity of police personnel in the field.

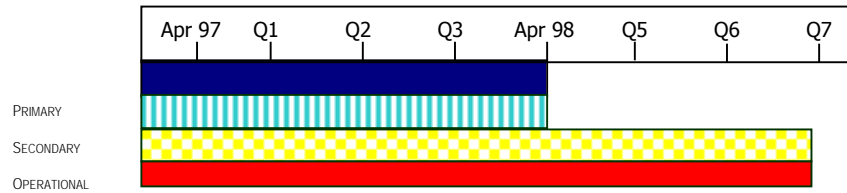
Although some details need to be worked out in order for the system to be fully useful to supervisory personnel (changes in the statistical methodologies used to assess activity levels, for example) the system, as it is currently deployed, is sufficient to allow full implementation of the elements of the decree relating to the EWS. Although the EWS is now fully functional, the Bureau has not yet begun using the system to make management and supervisory decisions, thus the Bureau is found to be in secondary compliance with task 12. This represents a substantial step forward for the City and the Bureau.

Status: Primary: In Compliance
 Secondary: In Compliance

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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.

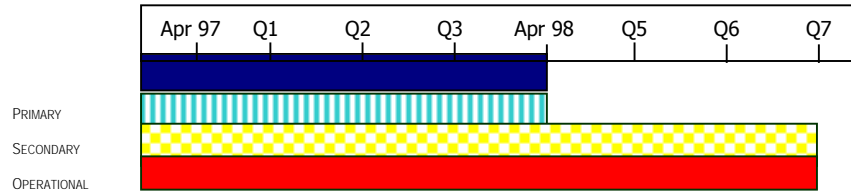
Methodology

During the site visit for the fifth quarterly audit, the auditor reviewed the operational EWS for conformance to the requirements of the decree. The review was conducted in the City's CIS conference room, using a "live" and a "training" database from the operational EWS.

The City's EWS is currently on-line, and reports electronically officer status on each of the elements required by the decree. The system is a well-designed, "user-friendly" reporting system that appears to be at the leading edge of the field of officer management software. The Bureau and the City are judged to be in secondary compliance with task 12-a, Assessment of operational compliance cannot come until the EWS has been operational long enough to assess the degree to which supervisory and command personnel actually use the system to review and assess officer activity.

Status: Primary: In Compliance
 Secondary: 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.”¹

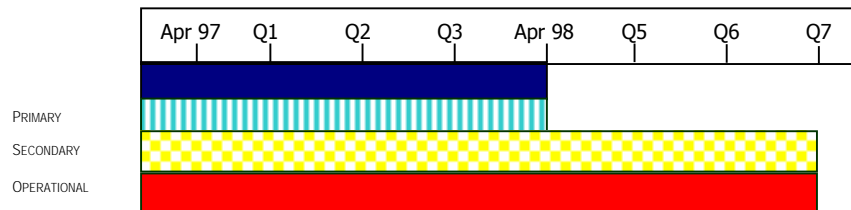
Methodology

During the site visit for the fifth quarterly audit, the auditor reviewed the operational EWS for conformance to the requirements of the decree. The review was conducted in the City’s CIS conference room, using a “live” and a “training” database from the operational EWS.

A review of the capabilities of the EWS indicates that the system is capable of retrieving, analyzing, and reporting data across each of the variables required by the decree. The City and the Bureau are judged to be in secondary compliance with task 12-b. An assessment of operational compliance cannot be conducted until the system has been in place long enough to assess supervisory and command staff use of its capacities.

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

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



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

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.

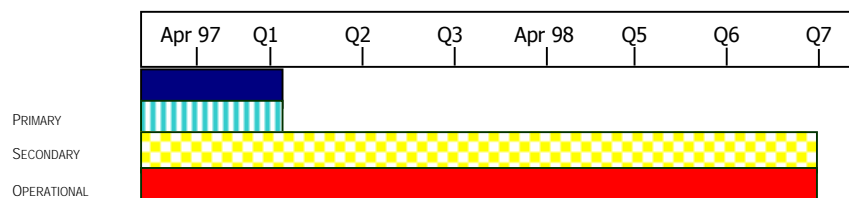
Methodology

During the site visit for the fifth quarterly audit, the auditor reviewed the operational EWS for conformance to the requirements of the decree. The review was conducted in the City's CIS conference room, using a "live" and a "training" database from the operational EWS.

Data retention protocols for the EWS have been established which will meet the requirements of task 12-c. Data entry for the EWS for information related to Bureau activities prior to April 16, 1997 have been completed for all data that could be found which was accurate. In some cases, this does not include all data between April 15, 1995 and April 16, 1998; however, the data that do exist in the EWS are the best available accurate data, based on information obtained from the City, the Bureau and the Computer Information Services department of the City.

Status: Primary: In Compliance
 Secondary: 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;

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- 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. The protocols also address the supervisory and managerial responses required by those reviewing officers' actions.

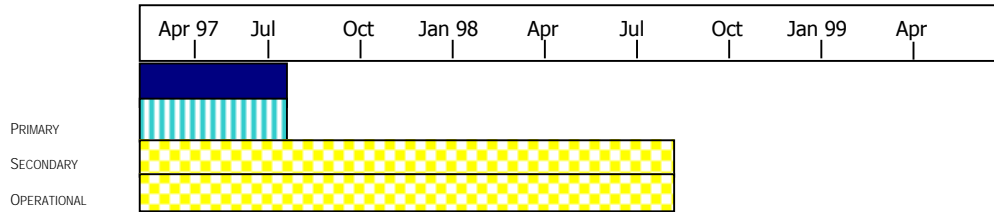
Methodology

During the site visit for the fifth quarterly audit, the auditor reviewed the operational EWS for conformance to the requirements of the decree. The review was conducted in the City's CIS conference room, using a "live" and a "training" database from the operational EWS.

Now that the EWS is on-line and in daily production, the auditor was able to assess each of the 16 factors required of the EWS by the consent decree. The operational system reports and tracks each of the 16 required factors, and does so in a manner that would make it reasonably practicable for a line supervisor or command officer to use the system to monitor officer behavior, in compliance with the requirements of the decree.

Status:	Primary:	In Compliance
	Secondary:	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.

Further, the auditor conducted a thorough review of a 10 percent sample of Subject Resistance Reports completed by PBP personnel during the quarter. This quarter's review of the SRRs indicates a slight decline in the level of performance by the Bureau in reporting and analyzing police use of force. This is true for at least two reasons:

- First, in two of the reports, force was used but reported erroneously in the "Level of Control Used" section. The first reporting error occurred in Zone 1, with an officer reporting in the narrative the use of OC spray, but failing to indicate in the "Level of Control Used" section that OC spray was used. The second reporting error, also in Zone 1, reported the use of a palm strike in the narrative, but not in the "Level of Control Used" section. The third reporting error listed an injury ("Yes" and "cuts to wrists and left ankle"), but no treatment modality.

- Second, supervisory review appears to have slipped somewhat. In both of the reporting incidents described above. For example, the supervisory personnel signed off on the SRR without noting the disparity between the narrative and the “Level of Control Used” sections. None of the three levels of command review noted the disparity. The same was true of the review of the SRR reporting an injury, but no treatment. This, too, slipped past the command review at Zone 6.

Other factors indicate that the monitoring of use of force at the Bureau is taken seriously.

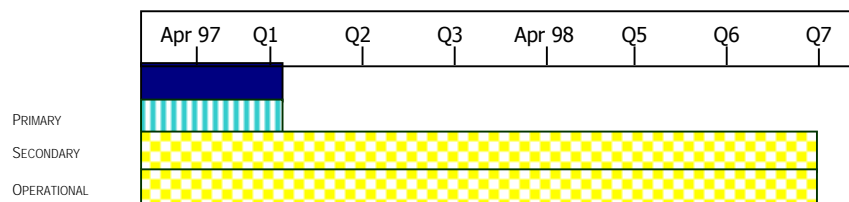
- The SRR forms continue to indicate an active supervisory presence on the street, where use of force generally occurs;
- Second, the files reviewed continue to indicate an apparent under-use of force on the part of the officers of the PBP, e.g., multiple instances in which the articulable facts supported higher levels of police force than was used.

The failure of supervisory and command review is serious. It has occurred, however, in only two of more than 63 SRR reports reviewed, and remains within the 95 percent compliance rate required for the use of force monitoring process.

Continued problems in this area, however, should be monitored closely by the Bureau.

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.

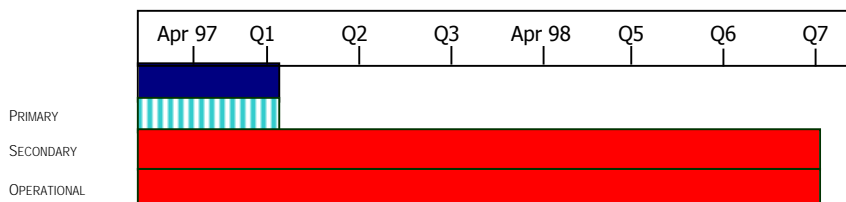
Methodology

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. A review of the training records of the Bureau indicates that the department has trained 1302 of its officers in search and seizure topics, including strip search and body cavity searches. This equates to 95.8 percent of those officers not on extended leave or other non-duty status with the department. In addition, the auditor has reviewed a random selection of 47 completed "Field Contact/Search/Seizure Report" forms generated between August 16 and November 15, 1998. None of those reports documented a strip search during the quarter. It is clear that the Bureau also has review processes in effect for its FCSSR forms. Documentation provided to the auditor indicates that the Bureau's review process identified, and took remedial action on, a strip search conducted in violation of Bureau policies controlling search of persons (PO 45-1).

Based on the existence of the policy, the 95 percent training rate, and evidence of effective control and review, the Bureau is judged to be in operational compliance with the requirements of task 14.

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

Methodology

The auditor reviewed training records for search and seizure and use of force topics. In addition, a randomly selected 10 percent sample of Subject Resistance Reports and Field Contact/Search/Seizure Reports was reviewed to assess the level of accuracy of reporting and supervisory review for these reports. A total of 63 SRRs (based on 29 incidents) was selected for review. A total of 47 FCSSRs was selected for review.

Training regarding Use of Force reporting was completed during last quarter, 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 be moving forward appropriately.

During this quarter, training for "all officers" in search and seizure policies has been substantially completed. As of November 17, 1998, 1,034 of the Bureau's 1,080 active-duty officers, 95.8 percent, had been trained in search and seizure policies. All 1,302 received a passing score on the content examination given by the training academy.

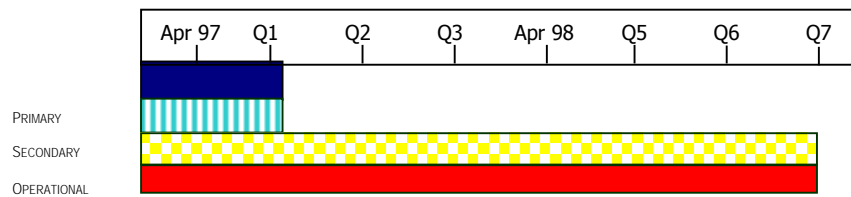
A review of the SRRs indicated that these reports are being reviewed by command personnel within seven days, as required by the decree. With two notable exceptions, all 63 reports were accurately completed (see section 2.8, below).

A review of the FCSSRs indicated that the Bureau still has some work to do to bring reporting and review into compliance with the decree. Of the 47 reports reviewed, 14 contained some form of error. Of these, eight contained reporting errors, such as failure to check "yes" or "no" in the Section B or Section C headers. One contained a misclassification of the type of search (plain view

instead of consent and plain view). Two were not reviewed by command within seven days, and one contained a narrative that did not support the initial contact with a sufficient reason to suspect criminal activity, noting instead that the suspect was “acting suspicious by sitting against” a parked vehicle. Supervisory and command personnel did not, apparently, trigger on this lack of credible evidence to suspect criminal activity.

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

2.6 Assessing Compliance with Task 16: Reporting Traffic Stops

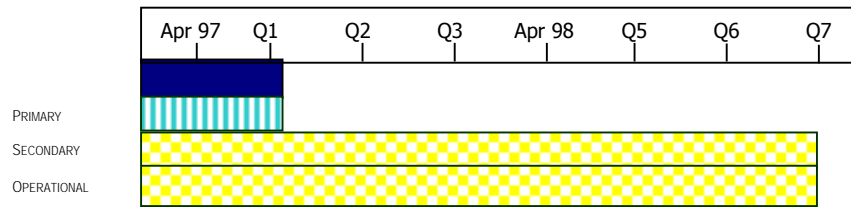


Paragraph 16 requires the City to establish reporting requirements each time a police officer makes a traffic stop. The City has promulgated a protocol requiring officers to report traffic stops, and establishing a review function for these activities. Training for PBP personnel regarding reporting traffic 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 have been entered into the EWS. Assessment of traffic stop reporting will be conducted by the auditor using the EWS during next quarter’s audit period. The EWS system has not been in place and operational for a sufficient period of time to allow the electronic audit of traffic stop information this quarter.

Status: Primary: In Compliance²
 Secondary: In Compliance
 Operational: Not in Compliance

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

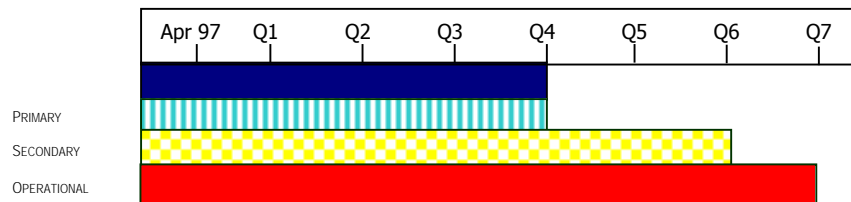
2.7 Assessing Compliance with Task 17: Entry of Data into the EWS



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. Data entry for pre-decree activities has been completed, although some data were not available, or were deemed inaccurate, and thus were not entered into the system. All pre-1998 data that were available and considered accurate have been entered into the EWS system, and are included in that system’s reports processes.

Status: Primary: In Compliance
 Secondary: In Compliance
 Operational: 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 29 *incidents* resulting in the completion of “Subject Resistance Reports” (a ten percent sample of incidents for this quarter). 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:

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- 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, the City is in secondary compliance with the requirements of this section of the decree. Training on use of the SRR form has been completed, and the vast majority of SRRs are properly completed and reviewed. Of the 29 SRR incidents reviewed, all reports from those incidents were reviewed by the chain of command within seven days, as required by section 18-a of the decree.

One serious flaw with the review process did arise, this quarter, however. Of the 63 reports reviewed by the auditor—generated by the 29 incidents selected for review—two had errors in the reporting process that were not noted by the command level review provided by the department. Although the command level reviews were timely, they twice failed to note errors in reporting use of force by PBP officers.

Two reviews missed reporting errors in officers' SRRs. Both errors occurred in Zone 1 reviews. The first review missed an SRR narrative that reported a palm strike, but failed to note a palm strike in the "Level of Control Used" section of the SRR. The failure was compounded through all three levels of review at Zone 1. The second error was similar, but centered around the reported use of OC spray in the narrative, which was omitted from the "Level of Control Used" section of the SRR. This too was compounded through all three levels of review at Zone 1.1.

These errors are serious, but they included only two of a total of 63 SRRs reviewed as a result of the 29 incidents sampled. The error rate is not high enough (three percent) to cause the department to fail to gain compliance with the requirements of task 18. The Bureau should reemphasize the importance of a careful review of the SRRs to ensure that its operational compliance levels remain high.

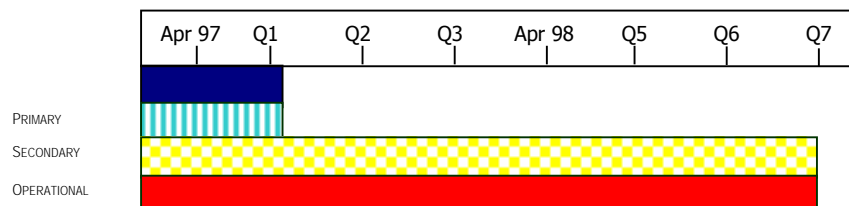
The Bureau has met the requirements for operational compliance with use of force reporting and review, scoring a 96.9 percent compliance rate for reporting

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). Only five of the SRR *incidents* reviewed by the auditor indicated that the subject arrested received medical attention at hospital. OMI selected each of the injury-related SRRs for initiation of investigations this quarter. 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 Compliance³

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



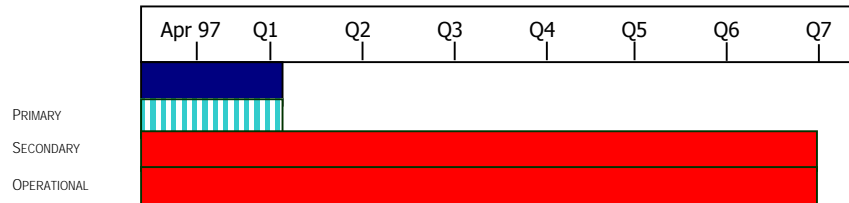
Paragraph 18-b requires senior supervisors to analyze use of force data quarterly. While the EWS has been brought on-line this quarter, it has not been operational long enough for the Bureau to have begun making managerial and supervisory decisions based on information included in the EWS database. No quarterly analyses of use of force has been conducted using the EWS database. The Bureau has, however, completed all of the necessary policies, training, and system development processes to allow such assessments to be made. The

³ Attainment of operational compliance for this task will require resolution of the "serious injury-" OMI investigation issue.

Bureau is judged to be in secondary compliance with the requirements of task 18-b.

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

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 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. During the fifth quarter, 484 FCSSRs have been processed by the Bureau. In addition, a random sample of 47 FCSSRs completed during the fifth quarter was selected and analyzed to ensure the reports met the requirements of task 19-a.

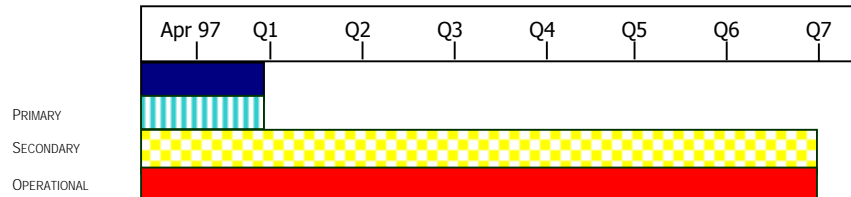
Further, each of the 47 selected reports was reviewed for probable cause (in the event of a search) or reason to suspect (in the event of a field stop and investigation). The narrative of each of the 47 reports was assessed, and supporting documentation, where available, was reviewed. One incident of a search or seizure was noted in which the officer’s narrative failed to support the search-intervention.⁴ Additionally, the reports were assessed for completeness and accuracy. Of the 47 reports reviewed, 14 were deemed to be problematic. Of these, eight failed to check the appropriate box in header B or C of the FCSSR. One misclassified the type of search performed, and two were not

⁴ The officer noted that the suspect was “acting suspicious by leaning against” a parked car. The supervisory and command review failed to note the paucity of support for the intervention, and approved the report.

reviewed by command within seven days. An overall error rate of 29.7 percent, obviously, precludes a finding of secondary (review) operational (day-to-day) compliance for the requirements of task 19-a.

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

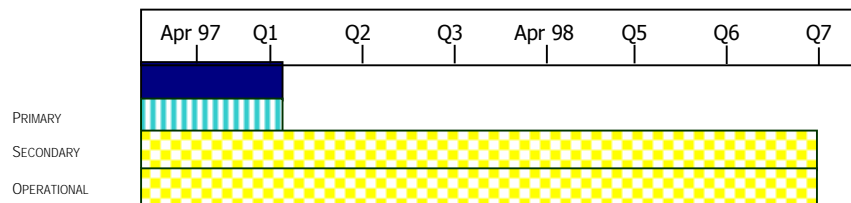
2.9.1 Compliance with Task 19-b: Quarterly Analysis of Search and Seizure Data



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 is now operational, but, unfortunately, has not been operational long enough for the Bureau to have begun making quarterly assessments of search and seizure activities of its officers. The Bureau is judged to be in secondary compliance with the requirements of task 19-b.

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

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



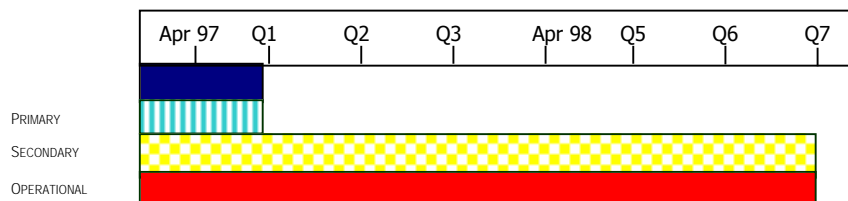
Paragraph 20-a requires the City to review all allegations of racial bias through the officers' chains of command within one week of completion of the investigation. The Bureau currently relies on OMI for notice of allegations of racial bias and requires review after notification.

Methodology

During the course of reviewing OMI completed investigations, the auditor screened these complaints for allegations of racial bias. During the fifth quarter, no allegations of racial bias were lodged with OMI. During the fourth quarter, however, 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. The single sustained complaint alleging racial bias was reviewed by the officer's chain of command within seven days of receipt of notice of the sustained finding from OMI. Appropriate disciplinary action was taken in this case (suspension). The Bureau is judged to be in operational compliance with the requirements of task 20-a.

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

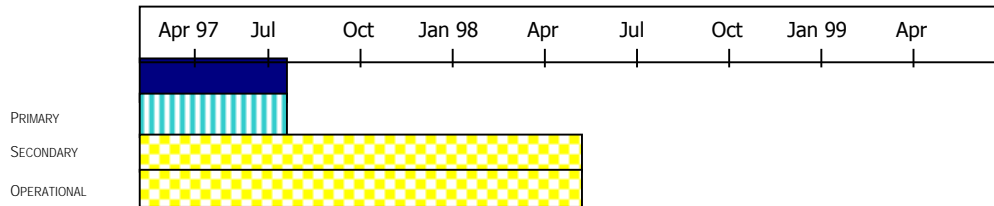
2.10.1 Compliance with Task 20-b: Quarterly Analysis of Racial Bias



Paragraph 20-b requires supervisors to use the EWS on a quarterly basis to assess allegations of racial bias for patterns or irregularities. While the EWS is operational, it has not been available to Bureau personnel over a period time sufficient to allow quarterly analysis of racial bias. Data exist; policies are in place, and the necessary training regarding the use of the EWS has been accomplished. However, since the EWS has not been operational long enough to allow the first quarterly analysis of allegations of racial bias, the auditor was unable to audit for secondary or primary compliance. The Bureau is judged to be in primary compliance with the requirements of task 20-b.

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

2.11 Compliance with Task 21-a: *Imposing Appropriate Remedial Action*



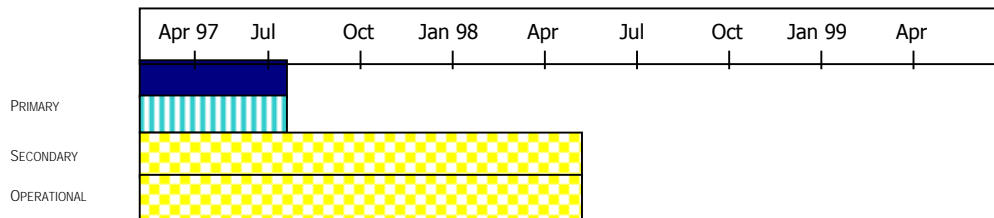
Paragraph 21-a requires the City to impose appropriate remedial action after evaluating officer behavior, and to take appropriate action for officers who have received three or more similar citizens' complaints in a three-year period, or five or more complaints in a two-year period.

Methodology

Based on records provided by the Bureau, nine individual disciplinary actions were taken by the Bureau during the period of time covered by this report. While the Office of Municipal Investigations has sustained eight citizens' complaints during this previous quarter, the investigations were all completed near the end of the quarter. Disciplinary actions for those offenses were taken during this quarter. The auditor reviewed all disciplinary action reported for the fifth quarter, and found the decisions of the command staff to be reasonable, based on the tenets of progressive discipline. In addition, a complete review was conducted of all personnel files at Zone 5. Of the 124 files reviewed (a 100 percent sample), three were found which indicated three or more complaints in the same year, yet, based on the files, no action was taken by the Bureau. The same review noted at least one officer with as many as nine complaints in a two-year period, again with no action noted by the Bureau. While these omissions are serious, they represent only three of 124 officers, thus the Bureau remains in compliance at the 97 percent level.

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

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

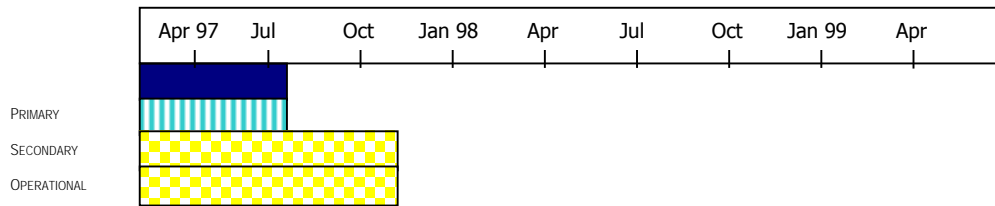
The auditor reviewed the Bureau's disciplinary processes for the period from August 16, 1998 to November 15, 1998. While the Office of Municipal Investigations has sustained one citizen's complaint during this quarter, the investigation was completed near the end of the quarter, and as of this writing, no disciplinary action has been assigned for this sustained complaint. The Bureau has, however, taken disciplinary actions on citizens' complaints sustained last quarter. The auditor has reviewed disciplinary action reports (DARs) for sustained complaints from last quarter. Each of those complaints received appropriate discipline, based on the offenses alleged and sustained. For example, departmental discipline included:

- A one-day suspension for off-duty conduct unbecoming an officer;
- Termination for commission of a felony;
- A five-days suspension pending termination for theft;
- Counseling, retraining, and mandatory counseling for inappropriate use of force;
- Suspension, demotion and transfer for DUI.

Based on the protocols of progressive discipline, the Bureau is responding within its anticipated range of responses in delivering discipline.

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

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



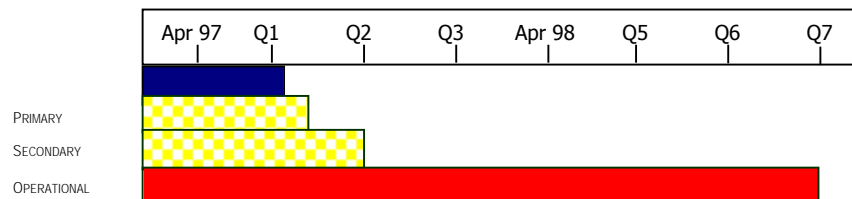
Paragraph 21-c requires the City to consider an officer’s prior record in determining discipline.

Methodology

According to records provided by the Bureau and the Office of Municipal Investigations, several individual disciplinary actions were taken by the Bureau this quarter. Each of the disciplinary actions taken by the Bureau was reviewed for evidence that prior disciplinary records were considered when imposing discipline. At least one disciplinary action was modified in light of the officer’s prior record.

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 changed its audit process this quarter. Instead of randomly sampling officers’ performance files at selected zones, a complete sample was taken of one zone, Zone 5. Every performance file at the zone was reviewed for completeness. This review included:

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- 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 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.

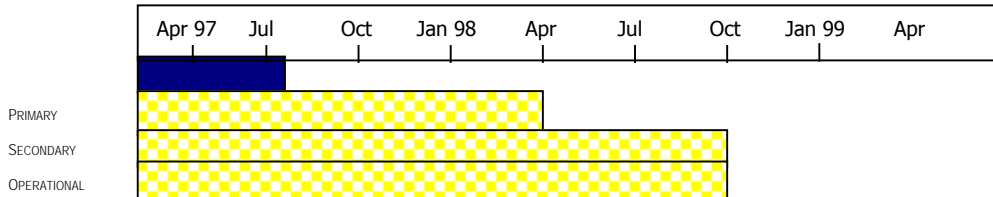
An assessment of the zones' performance on this task indicates that the Bureau is also in secondary with this task: systems for developing, transferring, disseminating, filing and managing officers' performance files have been developed. Operational compliance at Zone 5, however, was not achieved. Of the 124 officers' files at the zone, 40 were found to be inaccurate, an error rate of 32%. Some officers had as many as four OMI complaints missing from their files, and the vast majority of missing complaints were 1998 complaints. Three of the officers missing 1998 complaints from their files had three (or more) complaints in the same year (1998), and as many as nine complaints in two years.

These omissions are serious, showing a break down of the zone performance file system at one zone. While some 1998 OMI complaints were present in some officers' files, the vast majority of OMI complaint information for 1998 appears not to be present in the performance files at Zone 5. The importance of the zone performance file system is lessened by the newly deployed EWS, and this is the first time in three quarters that significant errors have been noted in the performance file system. This lack of 1998 performance file data is a continuation of problems noted in the last quarterly report with filing and use of "performance" data. Again this quarter, the audit has found three officers of 124 with five or more complaints in the past two years. At least two officers from Zone 5 have six and nine complaints, respectively, in the past two years, and no notice is made in the officers' files.

These errors are serious enough to warrant immediate and extensive attention by the Bureau. While they are apparently problematic in only one zone, continued problems in this area will call into question the efficacy of the progressive discipline process and supervisory processes at the zones.

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

2.13 Compliance with Task 23: Annual Performance Evaluation



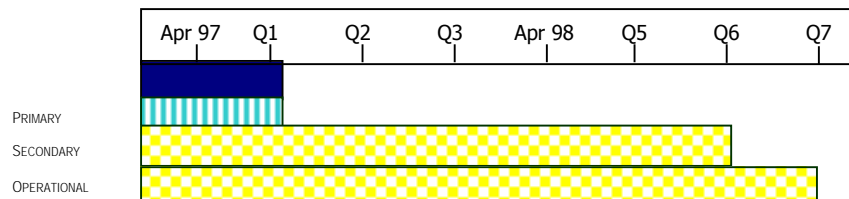
Paragraph 23 requires the City to implement an annual performance evaluation process for all officers, supervisors and senior supervisors. Further, it requires supervisors and senior supervisors to be evaluated based on their ability to prevent and address misconduct by officers. In addition, paragraph 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 Bureau promoted 17 individuals during the last quarter, and each of their performance evaluations was reviewed. No remarks, actions or characteristics were found in any of the 17 files that would have indicated inappropriate decisions were made in any of the promotions. Based on the documents reviewed, it appears that the Bureau continues to be 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



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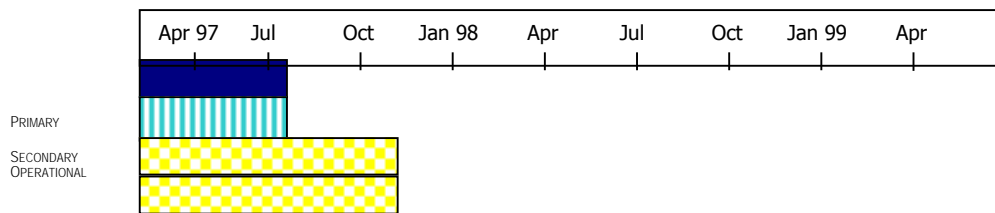
Paragraph 24 requires the City to use performance evaluations as a factor in promotional decisions.

Methodology

The Bureau has developed a performance evaluation policy which meets to meet the requirements of the decree, and the policy was implemented in June, 1998. The Bureau promoted 17 individuals during the last quarter, and each of their performance evaluations was reviewed. No remarks, actions or characteristics were found in any of the 17 files that would have indicated inappropriate decisions were made in any of the promotions.

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

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 one randomly selected unit location (Zone 5) 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.

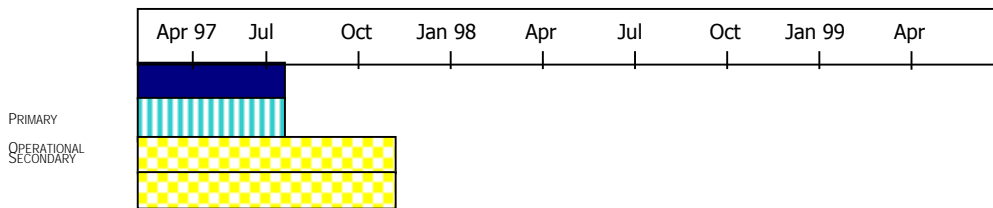
Evidence exists to support the Bureau’s operational compliance with paragraph 25. The review of zone “performance files” indicates that the EAP is being used by departmental personnel and departmental managers. The counselors assigned to the EAP were interviewed during the first quarter by the auditor’s 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, at the zone visited, the flyers were readily visible in the station.

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

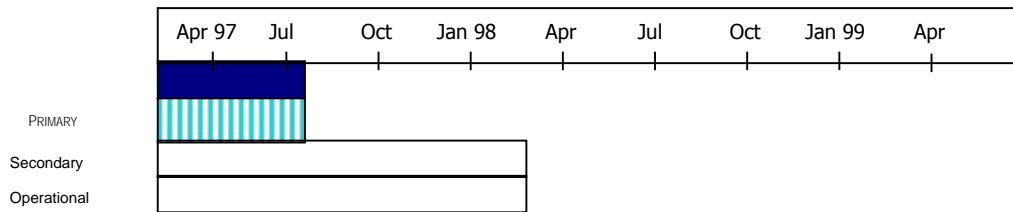
During the auditor’s review of departmental personnel files, the files were assessed for evidence of implementation of PBP Policy 44-5, effective 8-25-97, which requires notification of the chain of command any time:

- 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 September 9, 1998). No settled litigation was noted during the quarter. 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



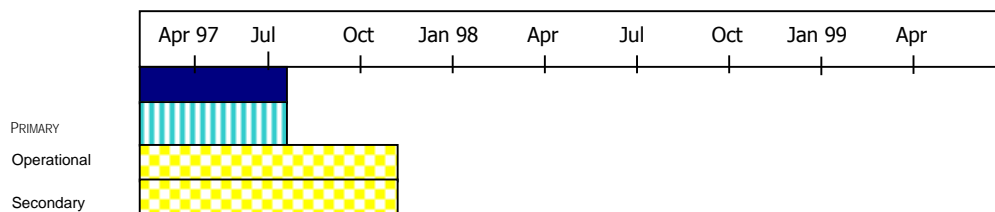
Paragraph 27 requires the Office of Municipal Investigations to monitor all criminal proceedings containing allegations of false arrest or improper search and seizure by PBP officers. This paragraph also requires the Bureau to implement appropriate discipline for officers who are found to have committed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

Methodology

A review of records available during the time frame of the fifth 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.⁵ 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



⁵ Anticipated criminal proceedings are expected against at least one officer during the next quarter. This officer was arrested by the Bureau during the fourth quarter, and criminal charges are expected.

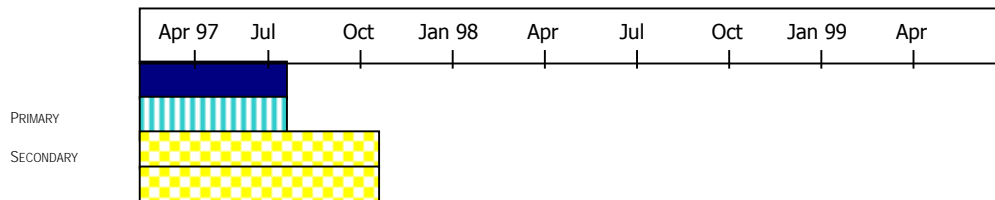
Paragraph 28 requires the City to implement appropriate discipline “as the circumstances and OMI investigation warrant,” in all instances in which PBP officers are the subject of civil litigation.

Methodology

Personnel files were reviewed for evidence of PBP officers involved in settled civil litigation. During the third 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 officers 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.” No notice of settled litigation was received during the fifth quarter. It is clear from the 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.

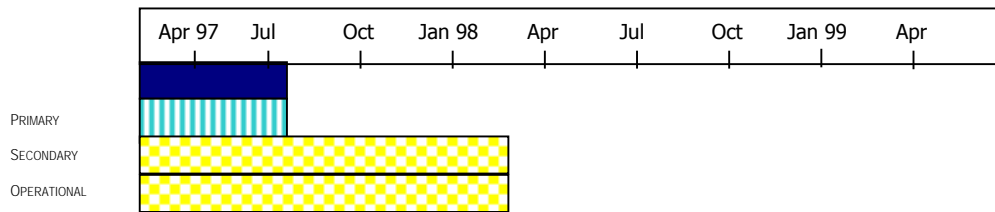
Methodology

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, four during this quarter, and providing in-service training for Bureau officers. In addition, the legal advisor has been involved in mandatory counseling of one officer who was the subject of a sustained citizen's complaint 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



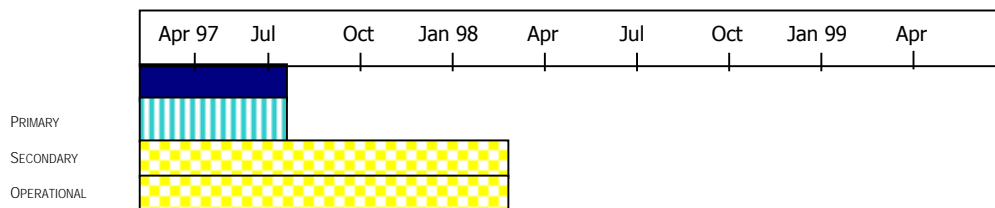
Paragraph 30 requires the PBP to develop a department-wide rotation schedule to ensure that officers are regularly supervised by different sergeants and lieutenants and that they regularly work with different officers.

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



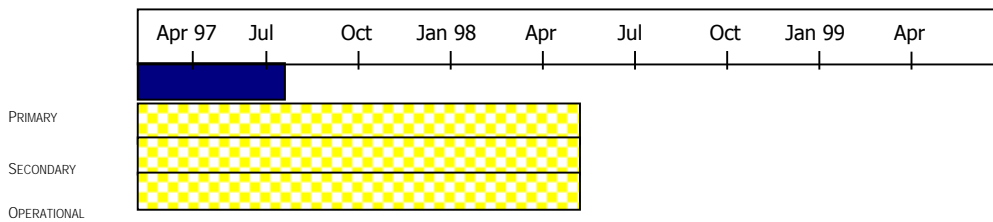
Paragraph 31 requires the PBP to “make every effort” to participate in community meetings, including those oriented toward minority groups.

Methodology

The auditor reviewed monthly attendance logs for police zones for the months of August 16, through November 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 are 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.

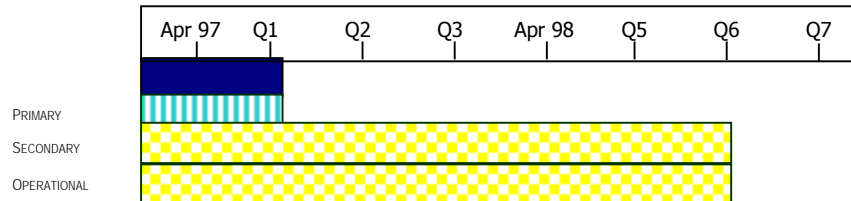
Methodology

The auditor reviewed community meeting logs maintained by OMI staff, and determined that personnel from the unit are in attendance at community meetings. For the last two quarters, 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 November, 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 (1,076) of the department's 1,080⁶ currently-working⁷ officers have received training in cultural diversity.

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

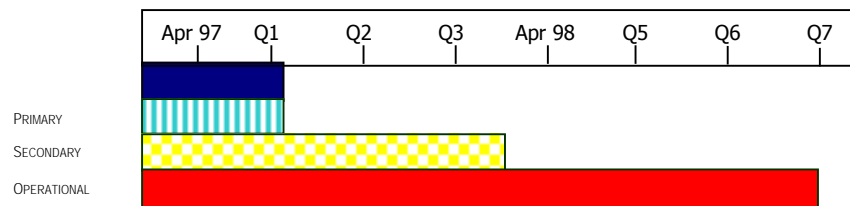
⁶ The Academy's training records appear to have been cleared of retired, terminated, and deceased officers, bringing the total number of employees in the training database to 1,099.

⁷ A total of 19 PBP officers are carried on extended leave or other non-functional status, as of November 15, 1998 when these training records were generated, leaving 1,080 of the PBP's 1,099 officers eligible for cultural diversity training.

assist the training academy in developing the new curriculum. Research for the revised training curriculum is complete, and entails a careful analysis of demographics, linguistics, process and impact of diversity. 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

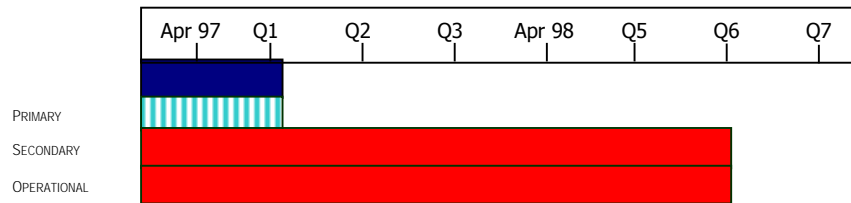
In order to assess this requirement, the auditor reviewed Training Academy records, reviewed the notes of PBP command staff meetings, and reviewed OMI monthly and quarterly reports.

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. While the EWS is now operational, it has not been operational long enough for the command staff to have begun the process of using it to assess training needs.

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

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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.”

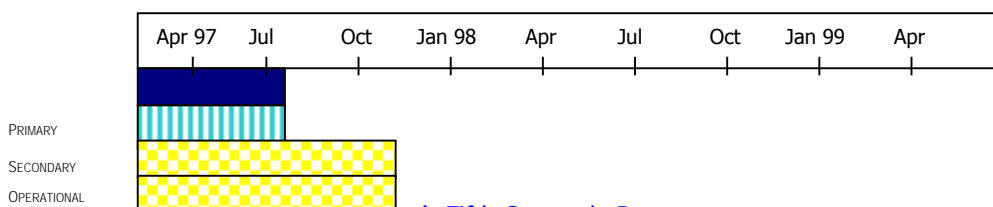
Methodology

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. To date, the Bureau has trained 179 of its 1,080 eligible officers in “verbal judo.”

The Bureau-wide process of reviewing all use-of-force curricula is currently underway, in a joint program between the City Law Department and the Bureau of Police. One staff attorney from the City Solicitor’s office is 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

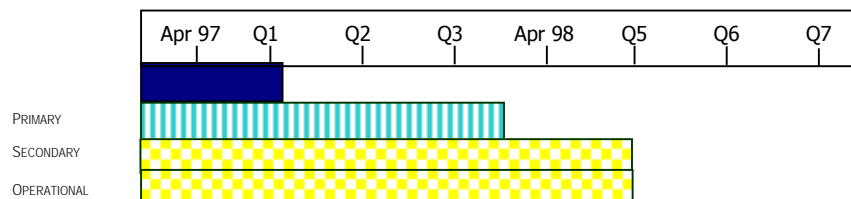


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Paragraph 36 requires the City to provide training for recruits in integrity, ethics, cultural diversity and verbal de-escalation “at the beginning of the training curriculum to serve as a foundation for all other classes.” No recruits were trained in the fifth 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.

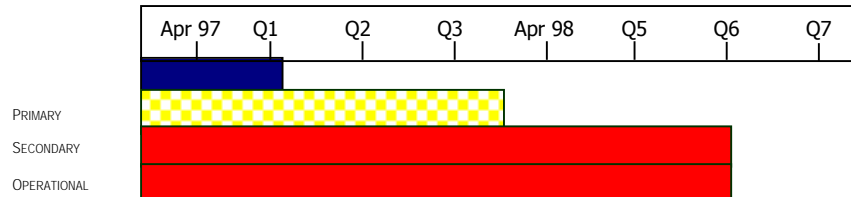
Methodology

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 third quarterly report. According to academy records, all but 33 of the departments 1,080⁸ eligible personnel (97 percent) have received training in ethics.

⁸ 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 1,080 currently working officers, and 19 officers on extended leave or other non-functional assignments.

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

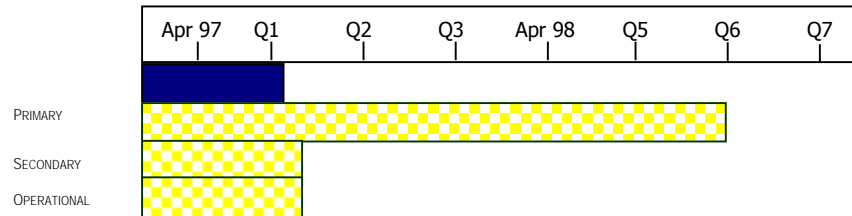
The auditor assessed primary steps necessary to complete the tasks required by this paragraph. The Bureau has completed work on a script for a training video; the script has passed legal review, and the initial taping has been completed. An initial session was presented by the OMI manager to recruits. 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 75 percent of its officers in the OMI process. Status of the training across units is depicted below.

Departmental Unit	Percentage
Training Academy	77%
Administration	67%
Services	03%
COPS	38%
Investigations	88%
SDD	01%
Zone 1	97%
Zone 2	93%
Zone 3	67%
Zone 4	93%
Zone 5	79%
Zone 6	74%

Only one of the individual units, Zone 1, has achieved 95 percent or higher training levels.

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.

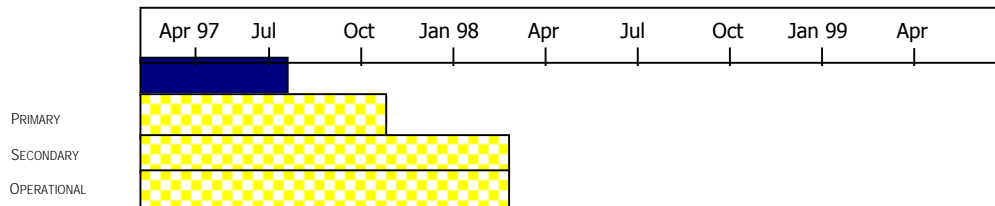
The auditor found all of the 13 officers’ files to be reflective of police careers that would recommend a role as an FTO. The field training officers’ records were clean of any civilian complaints that would require disqualification as an FTO. No new FTOs were appointed during the fourth quarter.

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

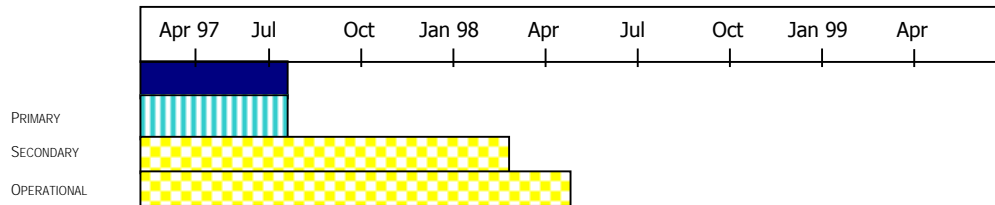
The auditor reviewed the training curriculum for FTOs and instructors provided through contract for the PBP. All instructors and FTOs are first “instructor development certified” by either the Federal Bureau of Investigation or Indiana University-Pennsylvania. FTOs then receive an additional five days 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.”

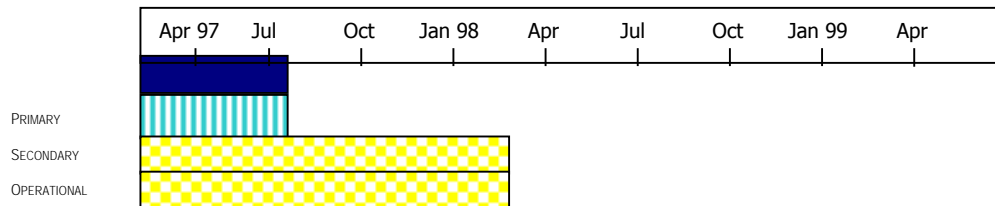
Methodology

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



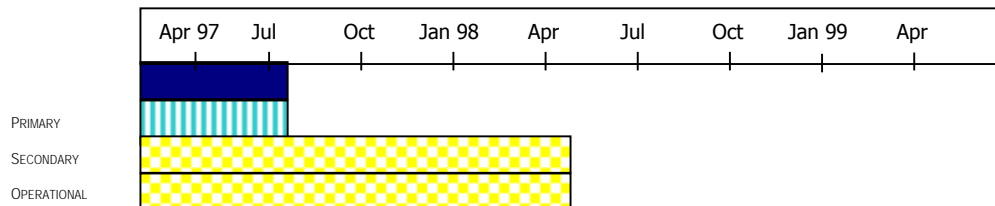
Paragraph 42 requires the City to document in writing all mandatory counselings by name of officer, reasons for the referral, OMI file number, related cross index number, the subject matter of the counseling, and the status of the officer's attendance.

Methodology

During the auditor's review of data for the fifth quarterly report, the department's centralized file which is used to document mandatory counselings was reviewed. One record was found which had required a mandatory counseling for a PBP officer. This mandatory counseling session was related to a use of force issue. The session was 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

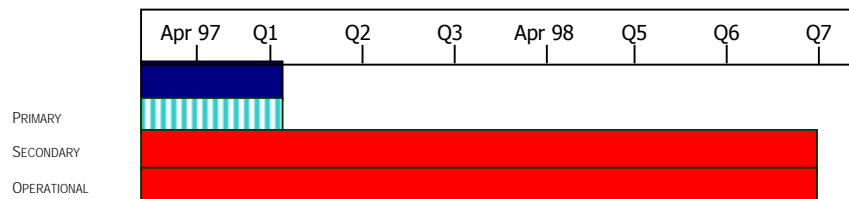
The auditor assessed the training records for PBP senior supervisors. The Bureau continues to move forward with training for its senior supervisors. All supervisors have received the updated ethics training being designed by the Bureau. Test scores for senior supervisors average in the high 80s.

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.

The Bureau continues to avail itself of annual in-service training for command personnel, with topics including cultural diversity, ethics, and command accountability, although some topics are not received annually by all command personnel.

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

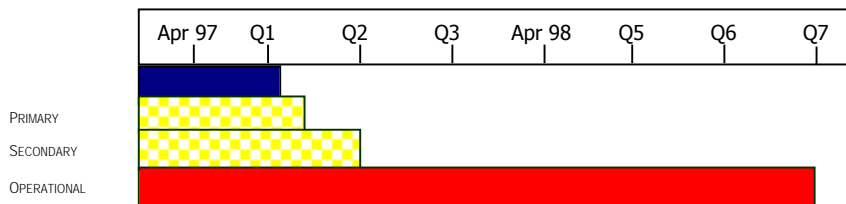
OMI personnel as they worked with the databases, and reviewed output from the databases.

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.⁹ 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. While the EWS is on-line, OMI staff have not been trained in the use of the system, and thus cannot be in compliance with this aspect of task 44. The Office anticipates that all OMI staff will be EWS-trained by the end of next quarter.

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



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

⁹ This undoubtedly is one factor leading to individual officers’ accrual of multiple complaints without management notice, as discussed in 2.2, above.

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 Zone 5 and pulled a 100 percent 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.

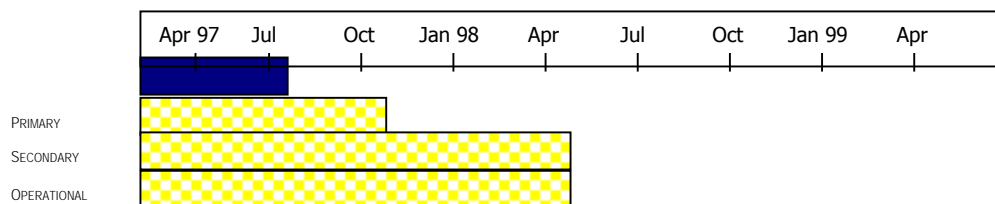
The PBP continues to provide access to police officers’ files in an area of each zone station house which is accessible to sergeants and lieutenants working evening and night turns.

The files at Zone 5 files proved to be problematic. Of the 124 officers’ files at the zone, 41 were found to be inaccurate, an error rate of 33%. Some officers had as many as four OMI complaints missing from their files, and the vast majority of missing complaints were 1998 complaints. Three of the officers missing 1998 complaints from their files had three (or more) complaints in the same year (1998), and as many as nine complaints in two years.

The audit uncovered at least 57 citizens’ complaints (filed against 40 officers) that were not in the zone files. This constitutes an error rate of more than 32%. Since this task is considered a critical task, it pulls the Bureau out of compliance with task 45.

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

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.

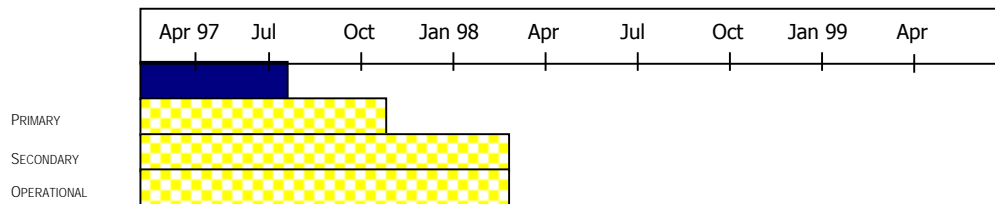
Methodology

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 fifth 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. One new revisions was made this quarter, regarding OMI review of firearms discharges, and it complies with the requirements of the decree.

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 six of twelve 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

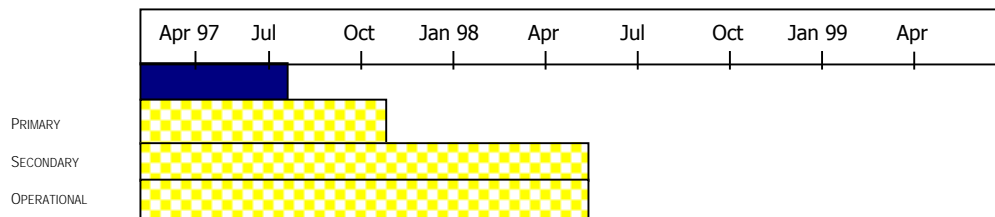
form 103-97 includes a checkbox for each receipt method.¹⁰ Further, the auditor assessed completed OMI complaint investigations to determine if complaints were being received in accordance with the decree.

Evidence was available in the completed investigations to indicate the particular method by which complaints were being received. Of the six investigations reviewed (of twelve 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 six files reviewed included any form completed by a complainant.

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

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

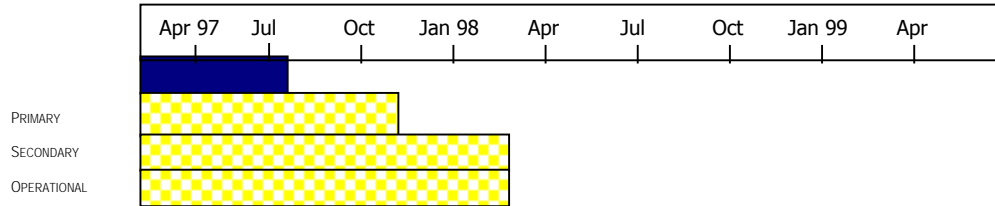
Twelve completed OMI complaints were assessed for the source of the complaint. One, AQR5-A, was a third-party complaint, investigated by OMI, and unfounded. Another, AQR5-D, was an anonymous complaint, investigated by OMI and unfounded. The City is judged to be in operational compliance with task 48.

Status: Primary: In Compliance
 Secondary: In Compliance

¹⁰ Although some of the investigations completed this quarter used the old OMI 103-97, which does not have the check box for method of receipt.

Operational: In Compliance

2.39 Compliance with Task 49: Closure of OMI Investigations



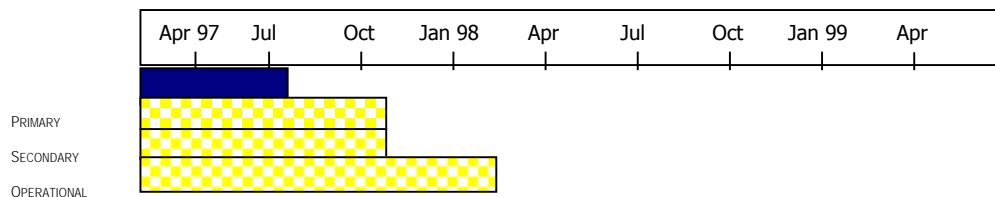
Paragraph 49 of the consent decree requires OMI to refrain from closing an investigation without rendering a disposition solely because a complainant withdraws the complaint or is unavailable to make a statement.

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 eleven completed OMI investigations for last quarter, and six 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. No withdrawn complaints were found during the fifth quarterly audit, although one complaint was found in which the complainant refused any further contact with the Office. The complaint was investigated thoroughly, despite this refusal.

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

2.40 Compliance with Task 50: Relocate OMI



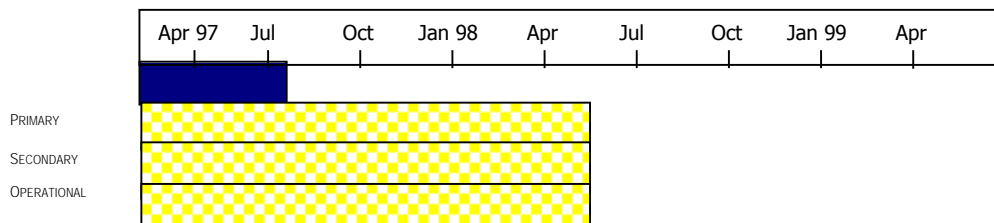
Paragraph 50 requires the City to relocate the Office of Municipal Investigations to an office that is separate from any building occupied by PBP personnel. It further requires that the new facility be convenient to public transportation, and that the City publicize the new OMI location.

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

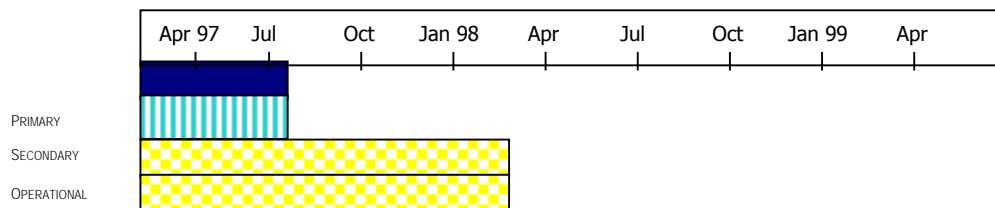
The auditor reviewed six of the twelve citizens’ complaint investigations completed during this quarter to determine if OMI personnel or police personnel required any complainant to come to a City facility to file a complaint or provide a statement. Ample evidence existed, in the Case Investigation Checklist, to indicate that OMI

personnel conduct interviews at complainants' and witnesses' homes. The auditor reviewed attendance logs for OMI's quarterly meetings (held between August 16 and November 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 conformed 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 a 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

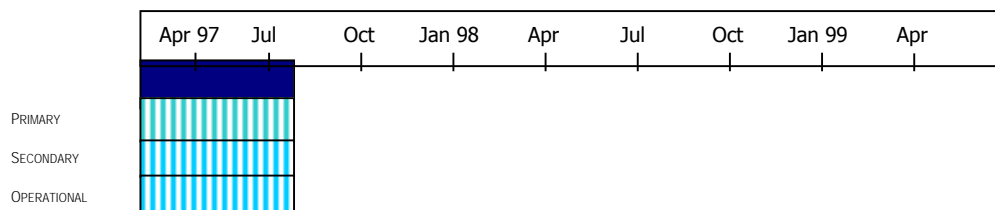
The auditor attempted to track the paper trail from OMI to zone-level senior supervisors, and to find any evidence at the zone level of notification from OMI of use of force, improper search or seizure or racial bias. OMI does issues monthly reports identifying officers complained against, the type of 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, 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



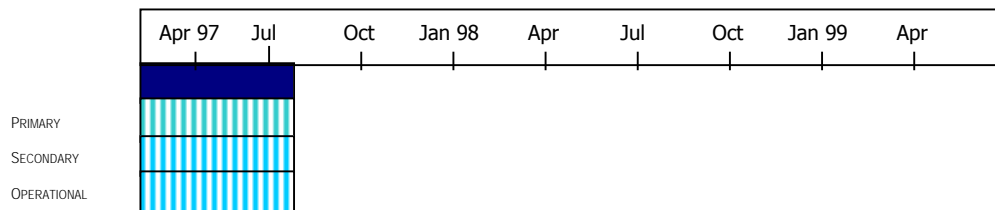
Paragraph 53 requires the City to ensure that responsibility for investigation of citizen complaints rests solely with OMI, to require OMI to monitor the progress of investigations, to require OMI to accept all complaints, to disallow the process of officers attempting to "settle" OMI complaints, and 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 incompleting 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 six of the twelve completed OMI investigations for this quarter reveals no evidence to indicate that the City does not remain in compliance with this task. No cases were found in which the complainant officially notified OMI of his desire to withdraw his complaint, although one complaint was noted in which the complainant, after filing his original complaint, refused to have any further contact with the office. OMI investigated this complaint thoroughly.

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.”

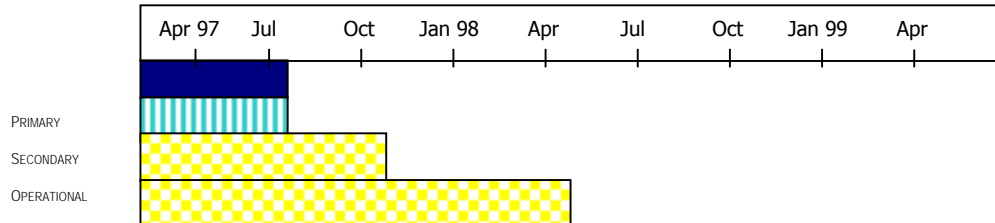
Methodology

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. During this quarter, no citizens’ complaints were filed alleging failure to provide names and badge numbers.

Status: Primary: In Compliance
 Secondary: In Compliance

Operational: In Compliance

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



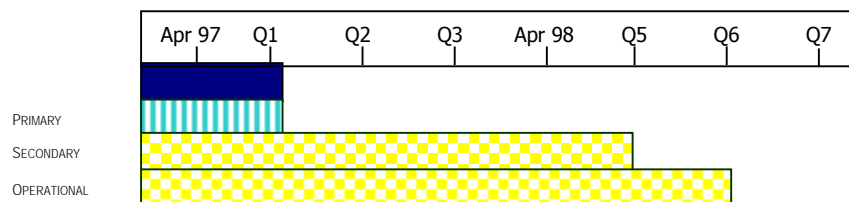
Paragraph 55 stipulates that OMI will interview witnesses at alternative sites if they are unavailable for interviews at OMI offices. The paragraph also requires reasonable notice before all interviews. Section 4-2(B) of the OMI manual stipulates that OMI will arrange to interview complainants “off-site,”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

Methodology

The auditor reviewed completed OMI case investigations to determine if interviews were being conducted “off site.” Among the six 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



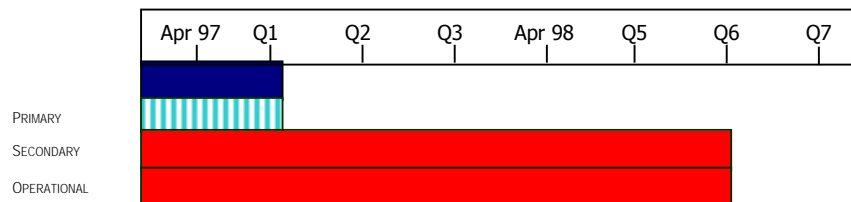
Paragraph 56 requires OMI to tape-record and transcribe all interviews, and to refuse to accept “special reports” in lieu of an interview. Further OMI is required to reserve the right to question all interviewees, and to challenge their version of the facts.

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 six (of twelve) 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 included transcriptions of OMI interviews of officers, witnesses or complainants. One of the cases selected for review (AQR5-J) did not include tape-recorded officer interviews, as the officers declined to provide statements, pursuant to the stipulation of the union contract regarding complaints filed more than 90 days after the alleged event.

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

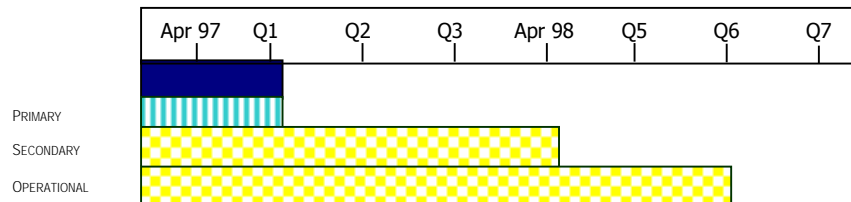
2.47 Compliance with Task 57: OMI Staff Access to EWS



Paragraph 57 stipulates that OMI staff should be provided access to the City’s Early Warning System. Even though the EWS is currently operational, and current plans call for such access; however, this access has not been provided as of this writing.

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



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.

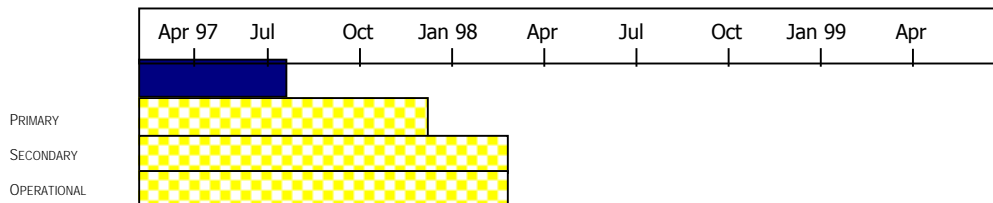
Methodology

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 twelve cases reviewed during the fifth quarter produced an indication that supervisory personnel were present. The OMI investigator interviewed the supervisors, took taped and transcribed statements, and included the statements of the supervisors in the analysis of the cases through the final reports. During this quarter, no evidence was located in completed OMI case files to indicate that supervisory personnel were on-scene.

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

2.49 Compliance with Task 59: OMI to Canvass for Witnesses



Auditor’s Fifth Quarterly Report
 December, 1998
 Public Management Resources
 San Antonio, Texas

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.

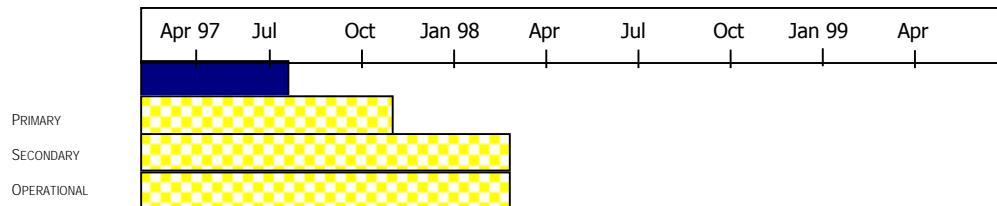
Methodology

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 twelve completed OMI cases for the fifth quarter (August 16 through November 15, 1998) to determine if OMI personnel were conducting canvasses as required by this paragraph of the decree. Of the six cases reviewed, all included documented efforts to reach witnesses.

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

2.50 Compliance with Task 60: OMI to Review Police Shootings



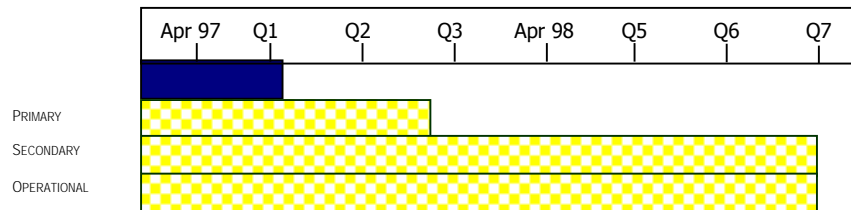
Paragraph 60 requires OMI to review all police firearms discharges, and all reports prepared by the coroner relating to deaths caused by police shootings.

Methodology

The auditor assessed, through departmental records, the number of police-involved shootings which occurred during the fifth quarter and found none. The Office is judged to have remained in compliance with this task.

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

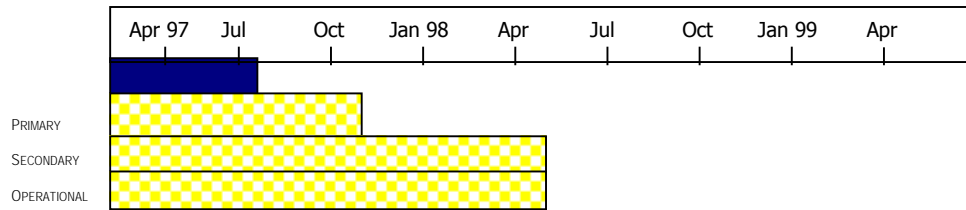
The auditor reviewed a 50 percent sample of OMI investigations completed from August 16 through November, 15 1998, to assess the level of compliance with paragraph 61.

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 fifth quarter, personnel assigned to OMI continued to experience a substantial increase in training.

Of the six investigations assessed for the fifth quarter, all appeared to have been professionally conducted, and to meet minimum standards for professional internal investigations. Some of OMI’s case investigations were excellent examples of internal investigations, and could be used as training mechanisms for other investigators.

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

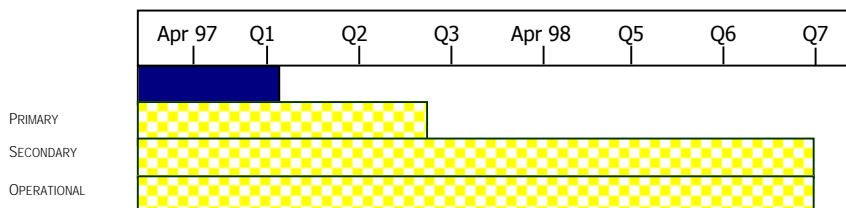
Methodology

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 August 16 and November 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. None were found which could result in allegations of collateral misconduct. The auditor was, then, unable to audit this requirement. Based on past performance, however, the Office is judged to remain “not in compliance” with this task element.

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

2.53 Compliance with Task 63: OMI to Issue Final Reports



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 San Antonio, Texas

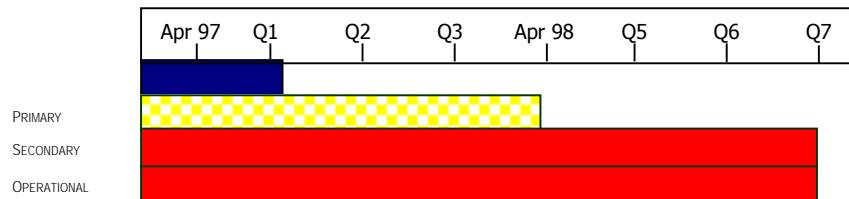
Paragraph 63 requires OMI to issue final reports on all investigations. The final report is required to identify any misconduct noted, to provide a summary of evidence gathered, document credibility determinations, document findings, and identify the officer’s complaint history. The final report is required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

Methodology

The auditor reviewed a sample of six investigations completed by OMI between August 15 and November 16, 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. Each of the six files assessed contained evidence of substantial improvement in form, style and substance. All requisite reports, checklists, forms and documentation were present in each of the six. All investigations were conducted in a manner that meets minimum standards for internal investigations, and some of the completed investigations could be used as “teaching tools” for new investigators.

Status: Primary: In Compliance
 Secondary: In Compliance
 Operational: 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 authorized a staffing level of four full-time investigators assigned to Police Bureau cases. Case loads for

the four OMI investigators have risen steadily over the past year. The Office was receiving approximately 90 new cases per quarter in 1997. That number is closer to 150 new cases per quarter now.

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. In addition, the City has prepared budget requests to increase OMI staff by two more police-only investigators. This enhanced staffing, if completed as requested, will result in a 100 percent increase in OMI staff, buttressing four police-only investigators with an intake coordinator, case analyst, and two additional police-only investigators.

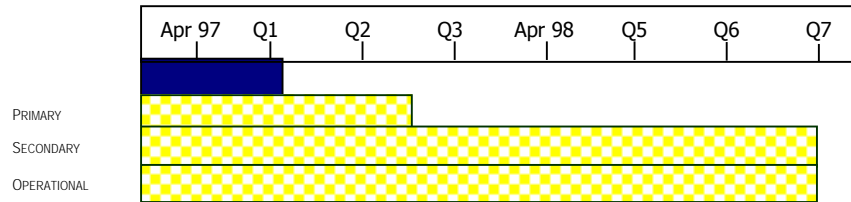
Productivity of the Office reflects a “new systems” flavor. It jumped significantly during the fourth quarter, with twenty-two completed case investigations, an increase of 550 percent over last quarter. Fifth quarter productivity dropped 45 percent, to 12 completed cases. This can be considered “normal” for organizations internalizing new systems, and can be expected to continue for another few months.

Case backlog for the Office continues to be troubling, however. Currently, the office has a backlog of more than 300 cases, and case intake continues to outpace case completion by a four-to-one ratio. Many of the older cases in the OMI backlog were filed nearly two years ago. The Office should carefully consider how it will complete these pending investigations, maintain pace with new intakes, continue its new-found level of quality, and institutionalize its new management processes.

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



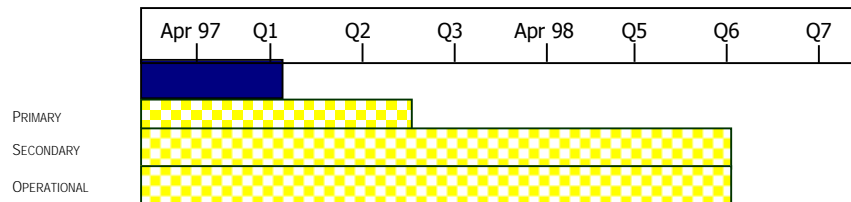
Paragraph 65 requires OMI to use the preponderance of the evidence standard in determining findings on cases assigned for investigation.

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)¹¹, OMI investigators appear to have begun to use the preponderance of evidence standard in developing their conclusions. This is the second quarter in a row that OMI case decisions have adhered to the “preponderance of evidence” standard.

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

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



¹¹ Section 7.4 of the OMI Manual was revised in May, 1998 to provide a more complete definition of “preponderance of the evidence.”

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.

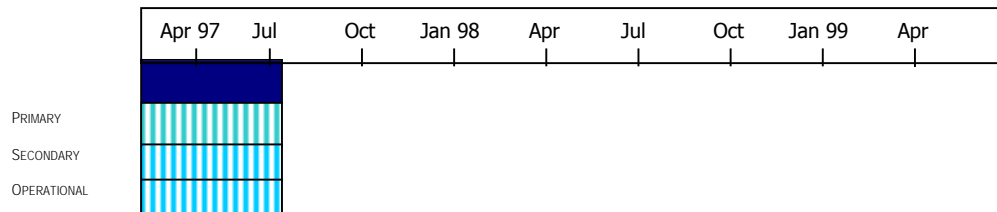
Methodology

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 six of the twelve OMI investigations of citizens’ complaints completed during the fifth quarter for conformance to this requirement. In each of these six, 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.

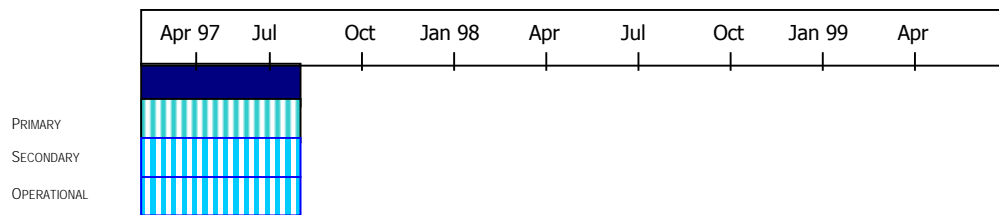
Methodology

The auditor reviewed all OMI investigations completed between August 16 and November 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. As a result, a sample of completed OMI investigations for the fourth quarter were reviewed to determine if any of the Office’s findings were “reversed” by Bureau personnel. None of those reviewed were found to have been reversed. 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”



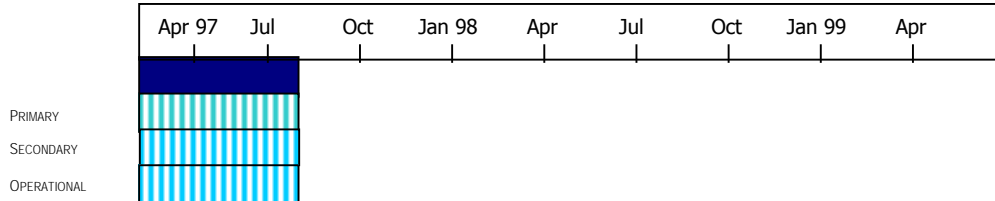
Paragraph 68 requires the City to change the OMI disposition category of “Not Sustained”

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 August 16 through November 16, 1998, to determine if the disposition of “Not Resolved” was appropriately used. In the two cases reviewed that produced evidence which should be classified as “Not Resolved” one case was so classified. The other resulted in a finding of “Unfounded,” (AQR5-J). This case involved a complaint concerning an incident that occurred in April, 1995. The complaint was filed in April, 1998, and completed in October, 1998. The complainant refused to talk with investigators. While the findings in this case are technically incorrect—the investigation did not develop enough evidence to “unfound” the complaint—this is the first such instance since August of 1997 in which the auditor has found a case that should have been “not resolved,” which was classified differently. The City continues to be judged in compliance with this task. The Office should pay particular attentions to the “rules of classification,” however, to ensure that cases continue to be correctly classified.

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

2.59 Compliance with Task 69: OMI to Issue Quarterly Reports



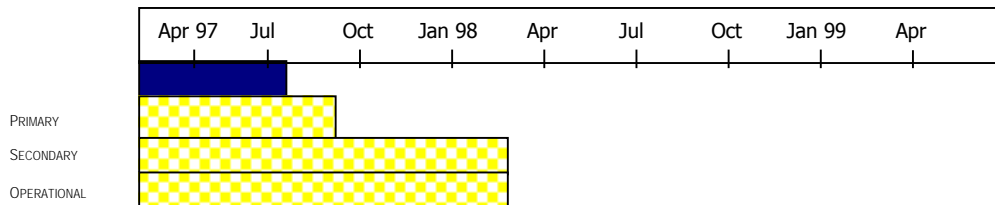
Paragraph 69 requires OMI to issue quarterly reports on its activities. The report is required to list each investigation's significant dates, general allegations, disposition and resulting discipline.

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 fifth quarterly report is offered as compliance with the requirements of Task 71. In addition, sufficient numbers now exist in the OMI/PBP databases to begin the process of reporting statistically concerning number and types of complaints filed with OMI and on discipline imposed on sustained complaints. The next quarterly report will include sections on both of these characteristics.

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

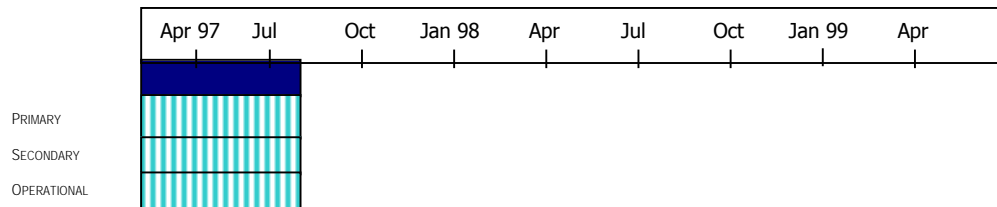
The auditor has reviewed six of the twelve OMI investigations of citizens’ complaints completed between August 16 and November 15, 1998. All completed investigations reviewed for the fifth quarter were conducted in a manner which meets minimum standards for professionally conducted internal investigations. Some completed investigations were suitable for use as training devices for new investigators.

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



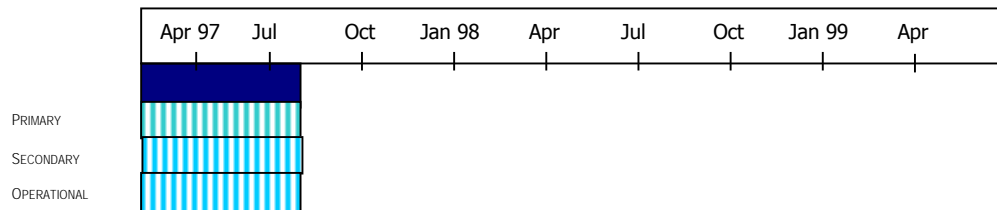
Paragraph 74 requires the City to maintain all records necessary to document their compliance with all terms of this decree. Further, it requires the City to maintain records required by or developed under this decree.

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



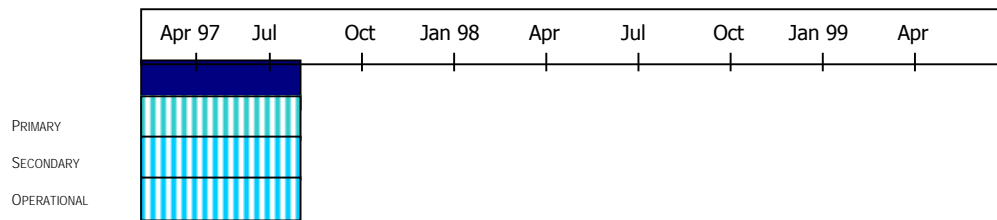
Paragraph 75 requires the City to provide the auditor with unlimited access to PBP records relating to the decree and conformance thereto. Further, access to all staff and facilities as needed to effectively monitor the decree is also required.

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



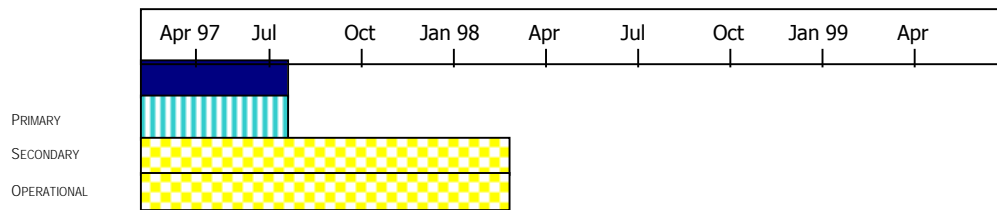
Paragraph 76 requires the City to provide the Department of Justice with access to documents, databases, and other data necessary to evaluate compliance with this decree. Further it requires access to staff and facilities upon appropriate notice.

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



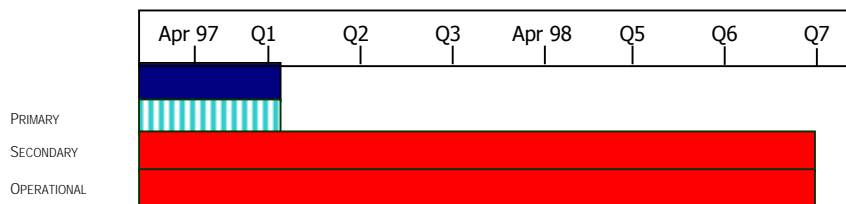
Paragraph 77 of the decree requires the City to provide copies of the consent decree to all officers, and to explain the terms of this decree to all current and future officers, OMI employees, and all DPS employees with oversight or responsibility for PBP operations. All such individuals are further 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 video¹². 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



¹² 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.

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 73¹³ provisions to which the City should have complied by now. The City is in **secondary compliance** with 61 of the 73 provisions due as of August 15, 1998. It is also in **operational compliance** with 51 of the 73 tasks, due as of August 15, 1998.¹⁴

¹³ Two of the 73 tasks in the decree accrue to the auditor.

¹⁴ The auditor was unable to audit two secondary and 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 requests 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 and the Pittsburgh Bureau of Police are nearing the end of the first phase of one of the most complex organizational change projects in the history of American policing. The consent decree has outlined changes to nearly every administrative component of the Bureau. As the first phase ends, the second phase calls for Bureau personnel to begin to institutionalize the changes forged under the first phase. The City and the Bureau continue to pursue both the letter and the spirit of the decree.

The City has recorded a **primary compliance** rate of 100 percent, a **secondary compliance** rate of 83 percent, and an **operational compliance** rate of 69 percent.¹⁵ While a substantial amount of work remains to be done, the City is making steady progress toward complete compliance.

¹⁵ The auditor was unable to audit two 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., quarterly reviews of Bureau actions using the EWS etc. Thus, the auditor found the City in operational compliance with 51 of the 68 tasks which could be audited this quarter.