

Auditor's Ninth Quarterly Report  
Quarter Ending November 16, 1999

## 1 Introduction

This document represents the ninth 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

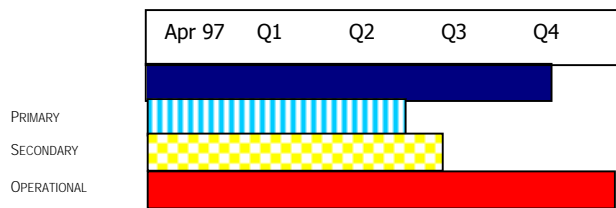
#### 1.1.2 Dates of Project Deliverables

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" now known to the Bureau of Police as the Performance Assessment and Review System (PARS). 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 action (most 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, 1999. In order to allow time for completion of the report, the auditor completed assessment activities on November 12, 1999.

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 was 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.

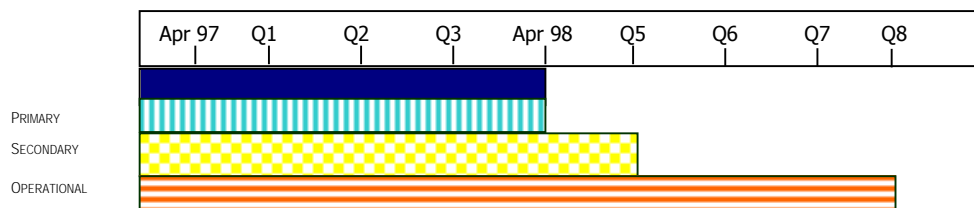
## 2 Assessment of Compliance

### 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 ninth Auditor's Quarterly Report contain a detailed assessment of the degree to which the city has complied with the 74 tasks to which it agreed on April 16, 1997.

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



Paragraph 12-a of the decree requires the city and the PBP to automate the database tracking system currently in use to assess police officer performance, and to add functionality to the system, transitioning it to an "early warning system" which will assist the bureau in identifying and managing officer performance which may need improvement. The bureau has expanded the EWS concept into a Performance Assessment and Review System (PARS).

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 PARS. The decree requires development of protocols in the following areas:

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

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

The city has completed work on the various protocols designed to serve as policy guidance for the PARS, and is currently revising these protocols based on the results of the first quarterly analysis of PARS data, which took place in August, 1999.

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 patrol activities conducted by personnel under their command. The 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 the city's protocols, and has assessed their viability in sections 2.2-2.6, following.

Recent developments include implementation of a "production version" Early Warning System, now known as PARS, consisting of an Officer Management System component which allows PBP command and supervisory personnel to monitor the activity levels of individual personnel, and PARS, which allows unit-wide analysis. The production version of the PARS/EWS has been in-place—and under near-constant review and revision—since October, 1998.

#### Methodology

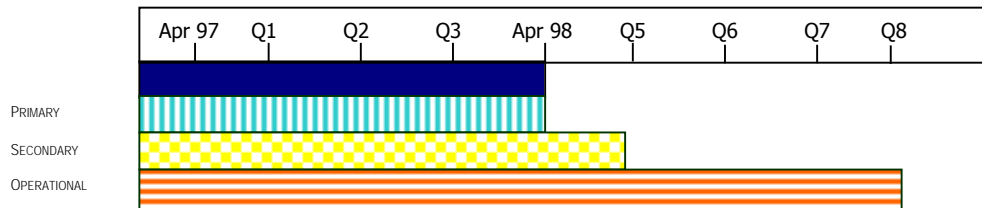
During the site visit for the ninth quarterly audit, the auditor reviewed the operational PARS for conformance to the requirements of the decree. The review was conducted in the city's CIS conference room, using the "live" database from the operational PARS. As part of this review, data were assessed for all 1,040 police officers, assessing particularly the officers whose activity levels were assessed to be one or more standard deviations above the mean for their workgroups in the areas of citizen complaints, search and seizure activity, and use of force.

The city currently has had an operational version of the PARS on-line and operational. Entry of pre-consent decree information (from September, 1995 forward) has been completed and is accessible through the PARS and OMS database. The city has resolved earlier bugs in the OMS, and as of the last audit, both PARS and the OMS are fully functional, and being used by supervisory and command staff personnel to manage the bureau.

During the site visit for the ninth quarterly report, the auditor reviewed the accuracy and accessibility of the PARS by comparing data in PARS with available “hard copy” data regarding police officer activity. A total of 48 separate tests were conducted. The PARS performed accurately in each test. Minor reporting issues were noted, such as problems with statistical comparisons of some officers assigned to two or more units during the quarter; however, these minor difficulties did not seriously affect the overall usefulness of the system.

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

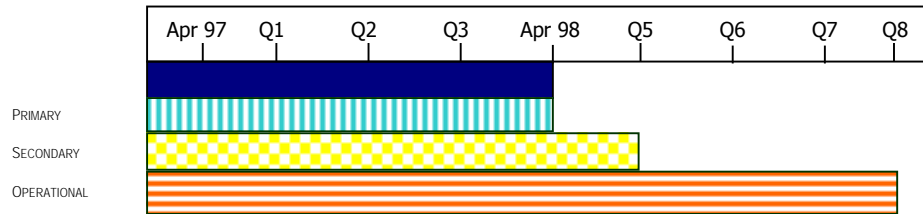
During the site visit for the ninth quarterly audit, the auditor reviewed the city’s automated information system with which it has replaced the previous version of the EWS. The new system, labeled “PARS” for Performance Assessment and Review System, is now completely operational, and was used by the PBP command staff to conduct its first quarterly analysis during the month of August, 1999. The auditor’s review for the ninth quarter was conducted three days prior to the command staff review, in the city’s CIS conference room, using the production database from the operational PARS.

The bureau and the city continue to inspect and audit the records in the PARS, and quality control is an on-going process. During the week of the auditor’s site-visit, the command staff conducted its second quarterly analysis of PARS data. During that analysis, the command staff reviewed the performance parameters of 21 officers who, based on their performance records during the eighth quarter, required additional supervision, training or counseling. As would be expected, some of these 21 officers showed marked improvements in their performance.

Others indicated a continuing need for supervisory monitoring. The PARS reports on each of the parameters required by the consent decree.

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

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



Paragraph 12-b of the decree requires the city to build into the PARS the ability to retrieve information from the PARS by officer, squad, zone, unit, regarding the execution of “discretionary arrests,”<sup>1</sup> traffic stops, searches and seizures, and use of force.

**Methodology**

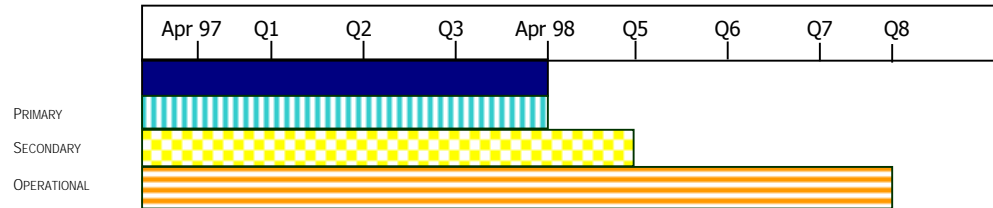
During the site visit for the ninth quarterly audit, the auditor reviewed the operational PARS for conformance to the requirements of the decree. The review was conducted in the city’s CIS conference room, using a “live” database from the operational PARS.

A review of the capabilities of the PARS indicates that the system is capable of retrieving, analyzing, and reporting data across each of the variables required by the decree. A total of 48 separate tests were performed, using the PARS and its supporting OMS. The OMS reported accurately in each of the 48 separate tests, and the PARS accurately reflected the data contained in the OMS. The problem with duplicate reporting, evident in the earlier versions of OMS, is not carried forward into the reporting formats of the PARS. The command staff notification system (red and yellow “bars” for officers registering more than one standard deviation above the mean) reported accurately during the testing. Modifications to the PARS have been made allowing tabular data to be reported along with graphic information in the PARS.

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

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

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



Paragraph 12-c of the decree requires the city to archive the records in the PARS for three years after the involved officers' separation from service, and requires 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

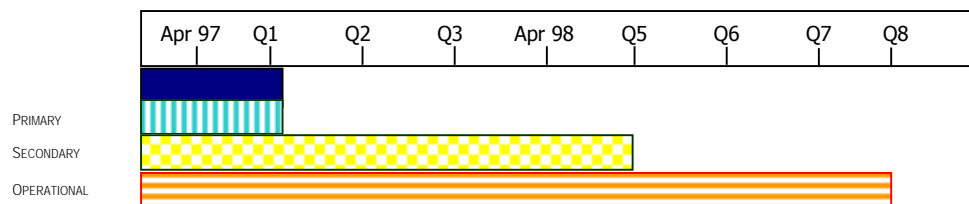
During the site visit for the ninth quarterly audit, the auditor reviewed the operational PARS for conformance to the requirements of the decree. The review was conducted in the city's CIS police systems room, using a "live database" from the operational PARS.

Data retention protocols for the PARS have been established which will meet the requirements of task 12-c. Data entry for the PARS for information related to bureau activities prior to April 16, 1997 has been completed for all data that could be found which were accurate. In some cases, this does not include all data between April 15, 1995 and April 16, 1999; however, the data that do exist in the PARS are the best available accurate data, based on information obtained from the city, the bureau and the Computer Information Services department of the city. After implementation of the PARS and Officer Management System during the fifth quarter, some data which had been entered into the system were found to be inaccurate. The city has implemented steps to clean that data, and inaccurate data have been eliminated from the system. This major process of cleaning existing data was finally completed, as of the auditor's last site visit, in August, 1999. Based on an independent review of 48 officers' records, and matching those records with paper files at the zones and OMI records, it appears that data in the PARS are reasonably accurate and reliable. All 48 officers' records, as reflected in the PARS, matched records included in the zone performance files and OMI records.



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

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



Paragraph 12-d requires the city to develop a protocol for use of the PARS 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 PARS;
- 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 PARS, 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. These protocols have been revised by the city, based on training provided by the auditor in August, 1999.

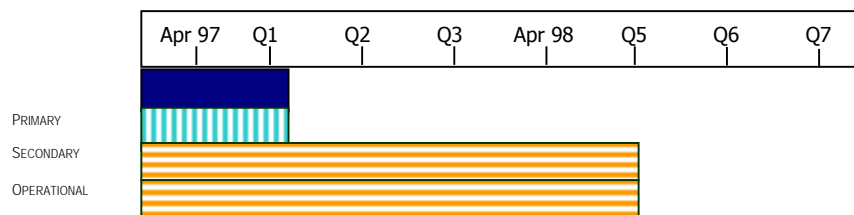
**Methodology**

During the site visit for the ninth quarterly audit, the auditor reviewed the operational PARS for conformance to the requirements of the decree. The review was conducted using a live database from the operational PARS.

Now that the PARS is on-line and in daily production, the auditor was able to assess each of the 16 factors required of the PARS 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 performance, in compliance with the requirements of the decree. The first use of the PARS for quarterly analyses of PBP operational performance was conducted August 6, 1999. The system provided all necessary information, as required by this section of the decree, and given the implementation of the new protocols, the city is deemed to be in operational compliance with this section of the decree. A second quarterly audit was performed by the command staff during the week of this quarter's site visit (November 8-12). No operational problems with PARS or OMS were noted.

Status:       Primary:       In Compliance  
                   Secondary: In Compliance  
                   Operational: 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 random sample of 51 of the 254 Subject Resistance Reports generated by PBP personnel during the quarter. The review conducted by the auditor indicates an acceptable level of command review, suggested by the fact that numerous reports were noted in which requests for additional information or re-writes of SRRs were made by supervisory, command or executive staff. Bureau SRRs were reviewed appropriately in 100 percent of the cases selected for review. This figure exceeds the required 95 percent compliance rate.

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

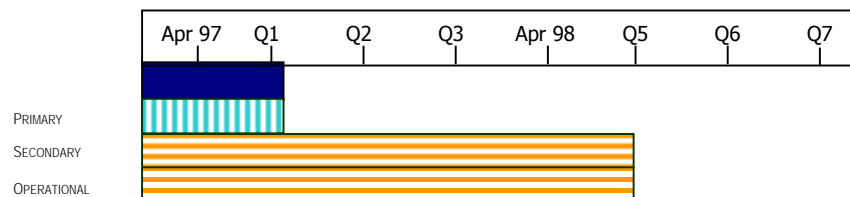
- First, the files reviewed continue to indicate an apparent under-use of force on the part of the officers of the PBP, e.g., multiple instances were observed in which the articulated facts supported higher levels of police force than was used.
- Second, evidence exists, in the form of follow-up memoranda by command staff personnel to indicate that the PBP command staff are carefully scrutinizing field reports (SRRs and Field Contact Reports) for sufficiency. Further, incomplete reports, or reports that indicate officers took actions outside PBP policy, are returned to the reporting officers' chains of command, along with requirements for appropriate re-training or counseling; and
- Third, in instances in which supervisory or command personnel **approved** problematic reports, they are being counseled, retrained or disciplined.

During the eighth quarter, the auditor noted that the "active supervisory presence" noted in previous audits of SRR reporting—comments from supervisors noting that they had been on the scene of the event documented in

the report—was not present in the reports reviewed by the auditor for this quarter.” This process was improved somewhat during the ninth quarter, with a renewed “presence” obvious from comments in the SRRs from supervisors who noted they were on-scene during the events reported on.

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, as of May, 1999, the department had trained all active duty officers in its strip search policy.<sup>2</sup> In addition, the auditor has reviewed a randomly selected sample of completed “Field Contact/Search/Seizure Reports” (FCSSRs) forms generated between August 16 and November 15, 1999.

In addition, the auditor reviewed **all** completed electronic records dealing with FCSSRs for the quarter, and found one that reported a strip search. While the report, completed by detectives, labeled the search a “strip search,” it was actually a search incidental to arrest that involved the officer reaching into an arrestee’s inner clothing to retrieve what he reasonably believed to be narcotics.

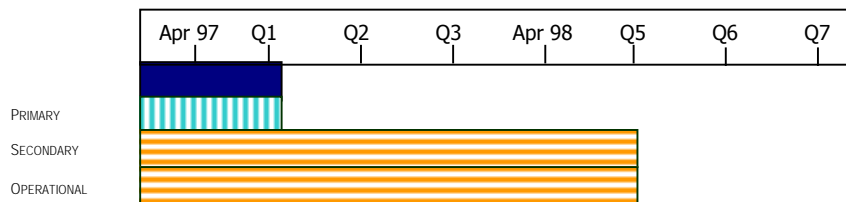
<sup>2</sup> The only officers not yet trained are those on extended medical, or similar, leave, and not performing law enforcement functions.

The search was supervised and authorized by a sergeant, and did not involve removing any clothing from the suspect.

As noted in earlier quarterly audit reports, however, the department has established an effective review policy, and has, in the past through its inspections and audit process, noted the conduct of strip searches which fell outside of policy. The officers conducting these inappropriate strip searches were retrained, in addition to receiving written memoranda regarding their actions. The bureau is judged to remain in operational compliance on this task.

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 that are in conformance with the requirements of the decree, c.f., policies 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 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 sample of SRRs written on 23 incidents (51 reports) was selected for review, constituting a 20 percent sample of all SRRs for the quarter. In addition a sample was selected of 165 of the 971 incidents warranting completion of search and seizure reports prepared by officers of the bureau this quarter.

Training regarding Use of Force reporting was completed during the fourth 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 moving forward.

During the fourth quarter, training for "all officers" in search and seizure policies was substantially completed. As of May 15, 1999, all of the bureau's 1,040 active-duty officers had been trained in search and seizure policies, except those on extended medical, or similar, leave. All had received a passing score on the content examination given by the training academy.

The average review time for all SRRs and FCSSRs continues to be well within the required seven day period (at around three days), and evidence exists to indicate that the supervisory review is an active review, often requiring additional information, re-writing of reports, or other actions on the part of the originating officer.

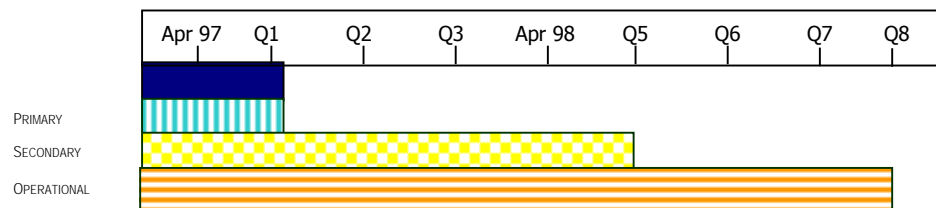
In preparation for the ninth quarterly audit, the auditor's staff reviewed 51 of the 254 SRRs completed by the bureau this quarter, a 20 percent sample. None of the 51 SRRs reviewed for this quarter exhibited problems with reporting or review. The "error rate" of zero falls within the required 95 percent compliance rate for critical areas of the decree. The auditor's staff also selected a 24% sample of 165 reports from the 971 incidents resulting in completion of FCSSRs during the ninth quarter. These reviews indicate that the PBP is requiring written reports of specific police actions, as required by the decree.

Of more import, perhaps, is that the PBP has established a formalized, universal command review of its FCSRRs and SRRs. Personnel at the command staff level now review for sufficiency **every SRR and FCSSR report** filed by PBP personnel, and return for revision those which exhibit problems. Ample evidence was seen in the sample reviewed by the auditor that this command level review is effective. Fully 100 percent of all reviewed SRRs were completed acceptably, and 100 percent of all reviewed FCSSRs were completed accurately. More

importantly, however, many officers who prepare, and supervisors and commanders who approve, problematic reports are scheduled for retraining, counseling or discipline. See section 2.8 for an assessment of the effectiveness of these review processes.

Status:       Primary:     In Compliance  
                   Secondary: In Compliance  
                   Operational: 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. 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 PARS. The eighth quarter was the first quarter in which detailed assessment of traffic stop information was possible, as the tabular data from the PARS regarding traffic stops was available through the PARS as of this audit cycle.

### Methodology

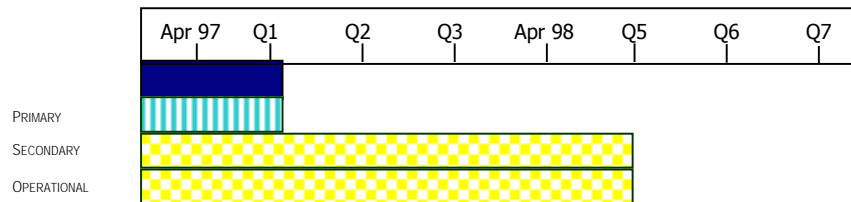
During the auditor's site visit for the ninth quarter, the auditor conducted a quarterly analysis of PARS data, including traffic stop data, reported both in graphic and tabular form. The auditor identified two officers whose traffic stop demographics were substantially higher than the group norm. Both of these officers had small numbers of traffic stops, allowing for the possibility of skewed data.

All but one of the zone commanders reported checking traffic stop data as part of their routine quarterly analysis, and both of the officers identified by the auditor were also noted by zone commanders. The process of checking traffic stop data requires a comparison of the non-minority/minority ratio of drivers stopped for each officer checked, compared to similar statistics for the officer's work group.

Officers with substantially different “stop rates” than their peer work group are easily identified.

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

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



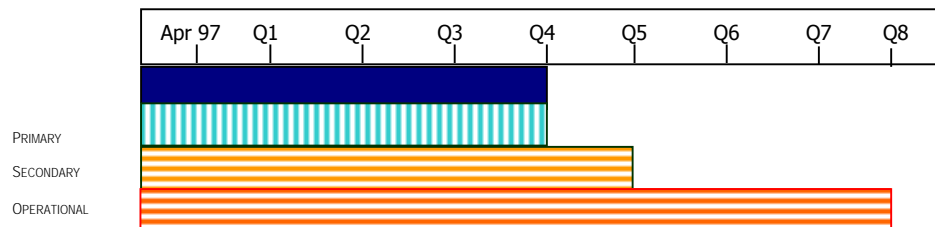
Paragraph 17 requires the city to enter data regarding use of force, traffic stops, warrantless searches and seizures, and other indicators of police activity levels into the planned automated Early Warning System. The city has developed protocols requiring entry of data as required by the consent decree.

**Methodology**

The auditor has reviewed these protocols and found them to be acceptable. During his ninth quarterly site visit, the auditor tested data entry protocols by performing 48 individual tests of the system. The PARs and OMS reported accurately in each of these 48 tests.

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 23 **incidents** resulting in the completion of 51 “Subject Resistance Reports” (a 20 percent sample of reports 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:

- 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.

The city is also in secondary and operational compliance with this task. Of the 51 SRRs reviewed, based on 23 incidents, all were appropriately reviewed. An error rate of zero is laudatory. More promising, however, is the PBP’s internal command review, established during the eighth quarter, for SRRs. The assistant chief for administration’s staff reviews every SSR completed by PBP personnel, and returns those reports deemed problematic for revision. In addition, officers completing poor reports, or conducting searches or seizures outside PBP policy, are retrained or counseled. Commanders and supervisors who approve problematic reports are counseled, retrained or disciplined by the bureau.

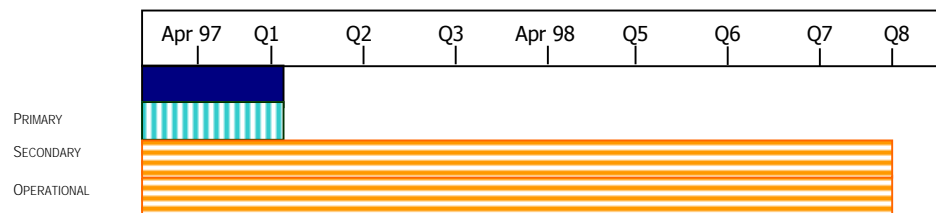
The city is currently assessing Section 18-a of the consent decree, which requires an OMI investigation of use-of-force incidents which result in “serious injury,” which is defined (at 11-f of the decree) as “any injury that results in death or that the city has reason to know requires or results in professional medical care or treatment” (decree, p. 5). Progress has been made in managing the investigative process for use-of-force incidents which result in “serious injury”. Of the 23 incidents reviewed this quarter, only two of the SRR reports reviewed by the auditor indicated that the subject arrested received medical attention at hospital for injuries other than those attributable to OC spray. OMI selected each of the injury-related SRRs for review this quarter. Current OMI practice is to select for investigation all SRRs reporting professional treatment at hospitals.

Currently, the city is working to resolve this implementation issue. The re-interpretation of “serious injury” has been agreed to by the parties. New policies are currently being developed. Until this area of the decree is better-defined by written policy, however, the current working definition established by the decree was used to assess compliance.

During the ninth quarter, OMI selected for review two incidents resulting in “serious injury” to suspects. Also during the eighth quarter, OMI forwarded one of these cases to the auditor for review. The OMI review was reasonably complete and thorough. The city is judged to be in operational compliance with the requirements of this task.

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

### **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. The bureau has completed its second quarterly analysis of use of force data, using the Officer Management System and PARS. The analysis identified use of force trends, as well as focusing on officers who recorded higher than average use-of-force rates. The command staff used the OMS and PARS to identify officers receiving complaints of excessive force, officers who had higher-than average levels of use-of-force rates in any one of the past four quarters, and to assess overall trends in use of force. These assessments became part of the quarterly “Computer Statistical Trend Analysis and Review” (COMSTAR) meeting minutes, along with recommendations for counseling, retraining or other solutions to issues raised with specific officers’ use of force practices. Protocols require follow-up at the next quarterly PCS meeting to evaluate the effectiveness of these solutions.

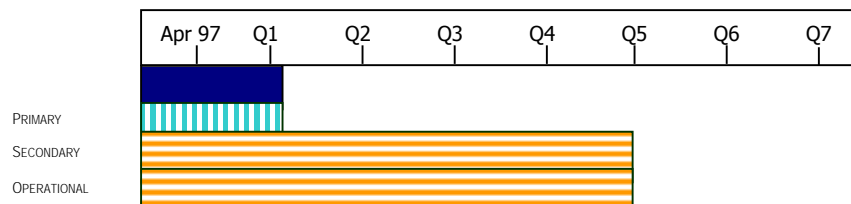
#### Methodology

Using the PARS/OMS system, the auditor identified, during the ninth quarterly audit, six officers whose use of force statistics (or associated activity levels)

were substantially higher than their group norms, and who, in the auditor’s opinion, required further scrutiny. All zone commanders checked subject resistance report data as part of their routine quarterly analysis, and all six of the officers identified by the auditor were also noted by zone commanders. The process of checking use of force data requires a complete PARS/OMS review, including actually pulling paper reports, for all officers who score one or more standard deviations above their work group norm in reporting use of force. Officers with substantially different “use of force rates” than their peer work group are easily identified.

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

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



Paragraph 19-a requires the city to review search and seizure reports, through the officers’ chains of command, within one week of the search or seizure. The protocol for searches and seizures has been approved, and training and implementation have been completed.

**Methodology**

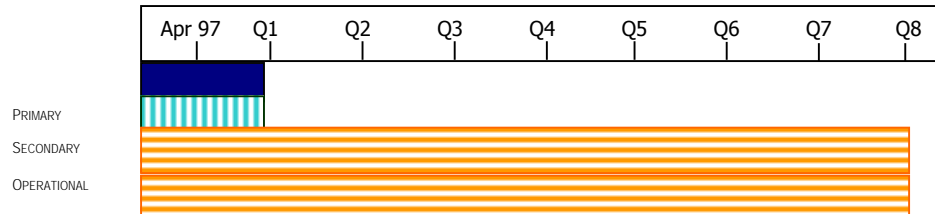
During the ninth quarter, the bureau completed 971 reports of field contacts or search and seizure activity. A random sample of 165 FCSSRs completed during the ninth quarter was selected and analyzed to ensure the reports met the requirements of task 19-a.

Further, each of the 165 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 165 reports was assessed, and supporting documentation, where available, was reviewed.

Of the 165 reports reviewed, none were judged to be problematic. The error rate for FCSSRs for the ninth quarter is zero. The bureau remains in operational compliance with this task.

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

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



Paragraph 19-b requires the city to analyze the search and seizure activity of its officers on a quarterly basis.

**Methodology**

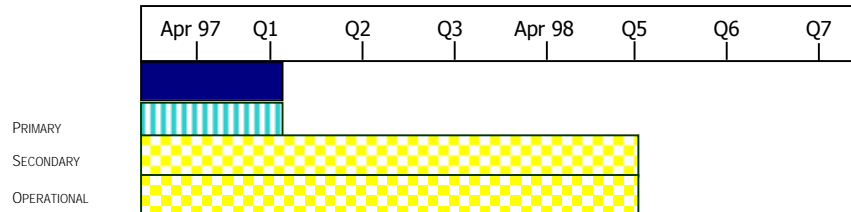
The auditor has reviewed protocols and policies for search and seizure reporting. Training and implementation are completed. The PARS is now operational, and has been used for the past two quarters to review bureau performance in the area of field contacts and search and seizure. Command staff used search and seizure data, generated by PARS, to assess officers' performance, identifying officers who were above average in this category. These officers were noted to be of two types: those who were active in search and seizure processes, but whose reports indicated no problematic behavior, and those whose activities indicated additional training, counseling, or supervision. The command staff selected the first group of officers for potential commendation, and the second group for potential remediation.

Overall, PARS data showed a substantial increase in the number of search and seizure reports completed by PBP operations personnel during the third quarter of the reporting year (the quarter most closely matching the date range of the ninth quarterly report of audits of performance).

Using the PARS/OMS, the auditor identified nine officers whose FCSSR data indicated a need for further scrutiny. All of the zone commanders reviewed each officer under their command whose FCSSR data exceeded work group norms by one or more standard deviation. This review included a thorough review of both electronic data, and a review of actual FCSSR completed by these officers. The command staff review noted each of the nine officers earlier identified, independently, by the auditor as indicating a need for further scrutiny.

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

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



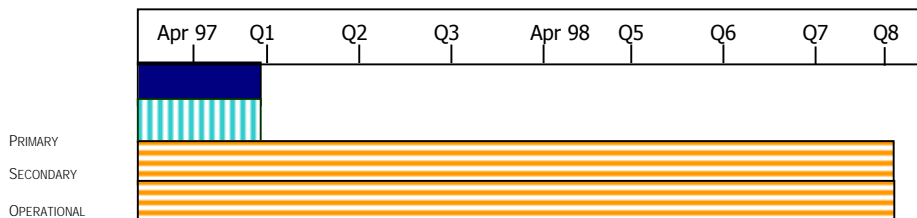
Paragraph 20-a requires the city to review all allegations of racial bias through the officers' chains of command within one week of completion of the investigation. The bureau currently relies on OMI for notice of allegations of racial bias and requires review after notification.

**Methodology**

During the course of reviewing OMI completed investigations, the auditor screened these complaints for allegations of racial bias. During the ninth quarter, two allegations of racial bias on the part of bureau officers were completed by OMI. Both of these cases were completed during the week of the auditor's site visit, thus the command review cannot be assessed until the next quarterly report. Additionally, the auditor has remanded one of these cases to OMI for additional investigative work (see section 2.62).

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 PARS on a quarterly basis to assess allegations of racial bias for patterns or irregularities. The bureau, during the week of August 2, 1999, developed a specific protocol for quarterly analysis of potential indicators of racial bias. The protocol requires the command staff to review an officer's complete PARS file if any of eight events involving the officer occur during any given quarter.

These events include:

- Notation on the Supervisor's Daily Activity Report (SDAR) of any indication of racial or gender bias on the part of a given officer;
- A complaint by a supervisor of racial or gender bias against an officer;
- A peer complaint of racial or gender bias;
- An OMI complaint of racial or gender bias;
- Filing of a lawsuit, in which the officer is named, contending racial or gender bias;
- Any indication, during a normal review of routine police reports (offense reports, arrest reports, search and seizure reports, subject resistance reports, etc.) that an officer indicates potential racial or gender bias;
- Comments made by an officer indicating racial or gender bias; or
- A non-OMI complaint of gender or racial bias.

During the week of August 2, 1999, the command staff updated the protocol for quarterly analysis of potential racial bias. The protocol requires the command staff to review an officer's **complete PARS file** (use of force, search and seizure, discretionary arrests and traffic stops) if any of eight specific events (noted above) involving the officer occur during any given quarter.

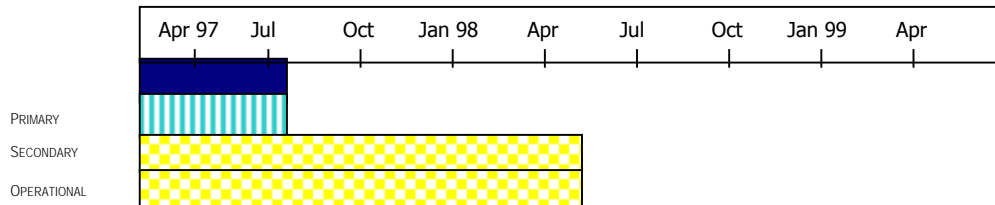
The quarterly analysis conducted by command staff during the week of November 12, 1999 identified three officers with at least one of these "trigger" events. In addition, all command personnel reviewed use of force and search and seizure data, reported in PARS, for **all** of their personnel indicating activity levels one or more standard deviations above their work group norms in these areas

In each of the three cases noted by the auditor as requiring additional scrutiny, the command staff reviewed the officers' entire OMS/PARS files, and recommended appropriate remedial or supervisory measures. In addition, all zone and unit commanders conducted a thorough and perceptive review of officer activity in the areas of use of force, and search and seizure, **pulling and reviewing paper file reports of use of force and search and seizure activity** for officers indicated as one or more standard deviations above the mean in either category. The bureau is judged to be in operational compliance with the requirements of task 20-a.

Continuing steps are being taken to move responsibilities for this type of review to the supervisory ranks of sergeant and lieutenant, in addition to the responsibilities currently assigned to the command staff. Continued compliance is dependent upon satisfactory performance of sergeants and lieutenants as they review OMS/PARS data on the officers under their command, and respond reasonably to indications of potential problems and indicators of superior performance.

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

**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**

The auditor reviewed all discipline imposed by the bureau for the ninth quarter. Based on records obtained from the office of the chief of police, 20 individual disciplinary actions were taken by the bureau during the period of time covered by this report—up substantially from the eighth quarter. Of these 20, only three involved citizen complaints or interactions with citizens. Disciplinary actions for those three incidents were taken during this quarter. The auditor reviewed all disciplinary actions reported for the ninth quarter, and found the decisions of the command staff to be reasonable, based on the tenets of progressive discipline. For example, departmental discipline included:

- An oral reprimand for failure to attend anger management classes (arising from a citizen's complaint for conduct toward the public and conduct unbecoming a police officer);
- A three-day suspension for conducting a self-assigned investigation; and

- A one-day suspension, retraining in verbal judo, counseling and restriction from off-duty details for one year for inappropriate conduct toward the public.

In addition, the bureau has taken aggressive disciplinary action based on inappropriate officer behavior that it has discovered through its own supervisory processes. These actions included:

- Command review of officers' driving records, leading to discovery of an officer operating a police vehicle with a suspended license;
- A five-day suspension for violation of the law enforcement code of ethics;
- A five-day suspension, pending termination, for neglect of duty and conduct unbecoming a police officer; and
- A five-day suspension, pending termination, for conduct unbecoming a police (supervisor).

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

As noted in Section 2.35 below, the Bureau has been taking consistent action with officers who receive three "similar" citizen's complaints in a three-year period, or five citizen's complaints of any nature in a five-year period. The Bureau protocol calls for a "Preliminary Complaint Review" to be conducted with officers meeting either of these trigger thresholds. Each quarter, for the past nine quarters, the on-site audit has included an on-site assessment of performance files at the zones (randomly selected each quarter). Part of this on-site audit at the zones is to ensure that officers who have met the three-in-two or five-in-two thresholds are processed appropriately.

With the exception of the fifth quarterly report, the Bureau has been in compliance with the requirements of the decree in dealing appropriately with officers exhibiting citizen complaints in excess of the numbers stipulated. That compliance continues this quarter, as confirmed by a zone audit at zones two and four. A review by the auditor noted three officers in these two zones meeting the three-in-two or five-in-two threshold. Each of these officer's performance files in the zones included a Preliminary Complaint Review form noting a supervisory review, with the officer, upon the officer reaching the complaint threshold. In addition, all but one of the zone commanders who had officers meeting the three-in-two or five-in-two threshold noted these officers during the quarterly PARS/OMS analysis.

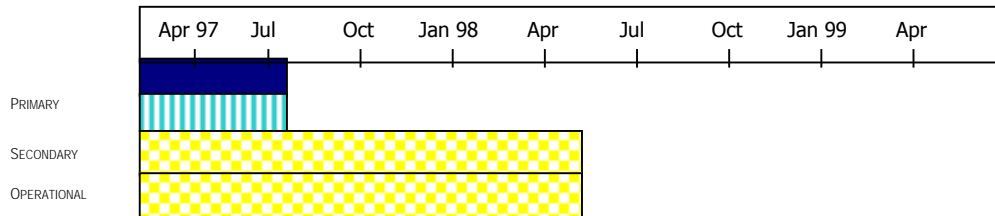
Status:            Primary:            In Compliance

Auditor's Ninth Quarterly Report  
January, 2000  
Public Management Resources  
San Antonio, Texas



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 review of officer behavior.

**Methodology**

The auditor reviewed the bureau’s disciplinary processes for the period August 16 to November 15, 1999. The bureau’s disciplinary process was reviewed in detail in Section 2.11, above. In addition to a review of the data included in that section, the audit team reviewed disciplinary action reports for all officers disciplined during the quarter. Disciplinary action taken by the bureau included retraining, counseling, one-on-one discussions with the legal advisor, and other appropriate forms of “retraining” and “counseling.” Two incidents of assigned discipline related to a requirement for counseling in response to a sustained citizen’s complaint. Discipline assigned this quarter as a result of citizen’s complaints includes a one-day suspension, a three-day suspension, retraining, psychological evaluation, counseling, and no off-duty details for a one-year period. Other discipline, indirectly related to a citizen’s complaint, included an oral reprimand for refusal to keep an appointment for anger management classes and for the use of profanity during an altercation with the complaining citizen.

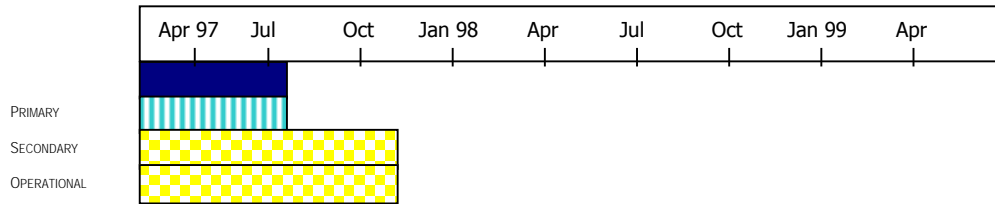
As important as these disciplinary actions are in maintaining bureau professionalism, they are supported by an active retraining, counseling and documentation process for inappropriate or erroneous reporting of search and seizure and use of force data. During the ninth quarter, the department has counseled or retrained nine police officers, five sergeants and one commander regarding proper articulation and assessment of probable cause, making traffic stops in unmarked vehicles, or articulation of “reasonable suspicion.”

Status: Primary: In Compliance

Auditor’s Ninth Quarterly Report  
 January, 2000  
 Public Management Resources  
 San Antonio, Texas

Secondary: In Compliance  
 Operational: In Compliance

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



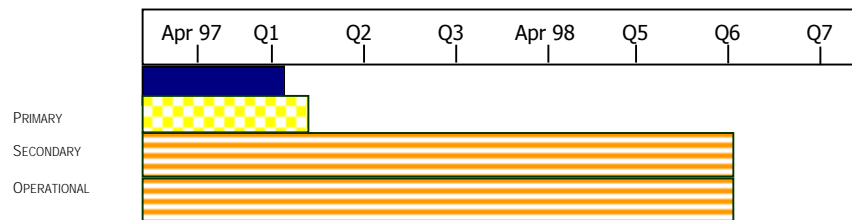
Paragraph 21-c requires the city to consider an officer’s prior record in determining discipline.

**Methodology**

According to records provided by the bureau and the Office of Municipal Investigations, 20 individual disciplinary actions were taken by the bureau this quarter. Each of the 20 disciplinary actions taken by the bureau was reviewed for evidence that prior disciplinary records were considered when imposing discipline. None of the disciplinary actions taken this quarter indicated a modification to discipline based on past record. However, given the bureau’s previous performance in this area the bureau is deemed to continue, absent evidence to the contrary, in operational compliance with this task.

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

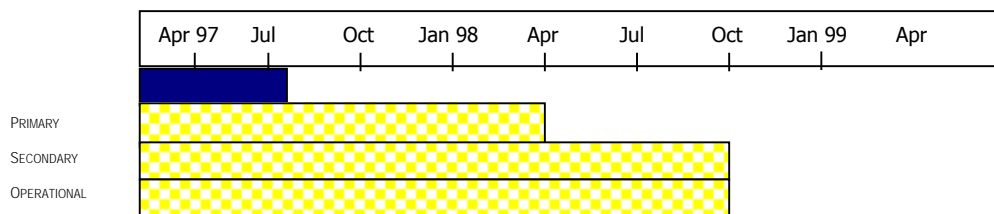
The audit of the “performance files” at the zone levels for this quarter consisted of assessing both electronic and paper files. Officers’ electronic files were assessed at two zones this quarter, zones two and four, to determine if any of the officers had, in the last quarter, received a sufficient number of citizens’ complaints, disciplinary actions, etc. to require new entries in their performance files. The electronic review, using the on-line Officer Management System indicated that zones two and four had three active officers each who would have been required to have updates made to their performance files this quarter. All of the officers’ files were found to have had the appropriate updates made in their performance files. In addition, 15 other officer’s files were reviewed for accuracy during this assessment.

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 compliance with this task: systems for developing, transferring, disseminating, filing and managing officers’ performance files have been developed. Based on the complete sample of records in zones two and four, the bureau is judged to be in operational compliance with the requirements of this task.

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

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



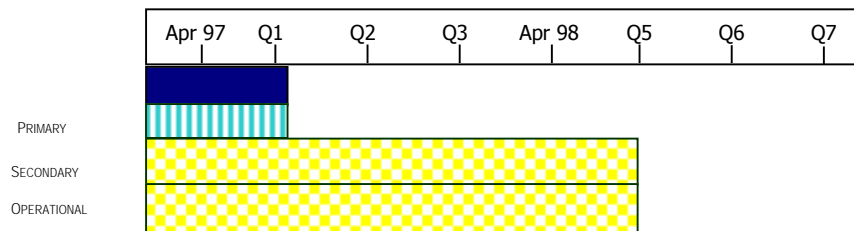
Paragraph 23 requires the city to implement an annual performance evaluation process for all officers, supervisors and senior supervisors. Further, it requires supervisors and senior supervisors to be evaluated based on their ability to prevent and address misconduct by officers. In addition, paragraph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

Methodology

The bureau has developed a performance evaluation policy which meets the requirements of the decree, and which was approved and disseminated in April, 1998. Training regarding the performance evaluation system has been completed. The third wave of performance evaluations was completed in June, 1999, and the fourth wave is planned for December, 1999. During the course of its review of zones two and four, the audit team reviewed selected officers' files for the presence of completed performance reviews. All of the officers' files were found to be complete, with performance review documentation present in each.

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

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



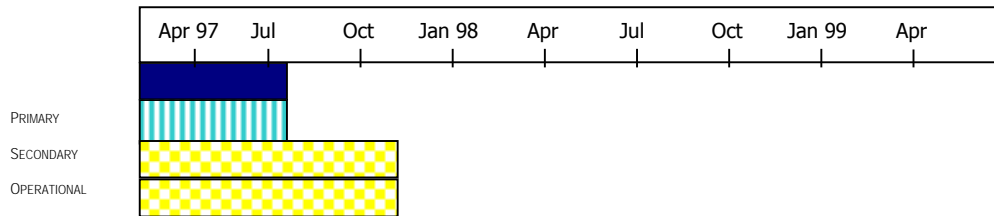
Paragraph 24 requires the city to use performance evaluations as a factor in promotional decisions.

Methodology

The bureau has developed a performance evaluation policy which meets the requirements of the decree, and the policy was implemented in June, 1998. The bureau promoted 17 individuals during the fifth 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. No promotions were made during the ninth quarter. The bureau is judged to remain in compliance with this task.

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

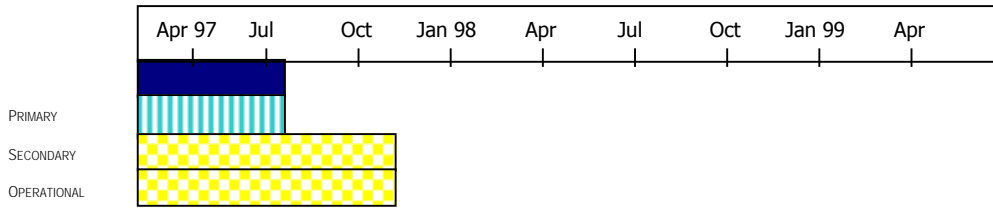
The auditor's team visited two randomly selected unit locations (zones two and four) to assess the degree of compliance with paragraph 25. During the site visits, the auditor conducted walk through inspections of zone facilities such as bulletin boards and office space.

Evidence exists to support the bureau's operational compliance with paragraph 25. Past reviews of zone "performance files" indicate 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. Bureau discipline continues to use the EAP as part of its progressive discipline campaign. One officer was referred to anger management classes during the eighth quarter as a result of a confrontation with a citizen. The bureau has followed up on this referral to ensure the officer appears as directed, and has disciplined the officer once for failure to keep appointments.

Departmental policy requires the posting of EAP flyers at each of the zone stations. At the zones 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**

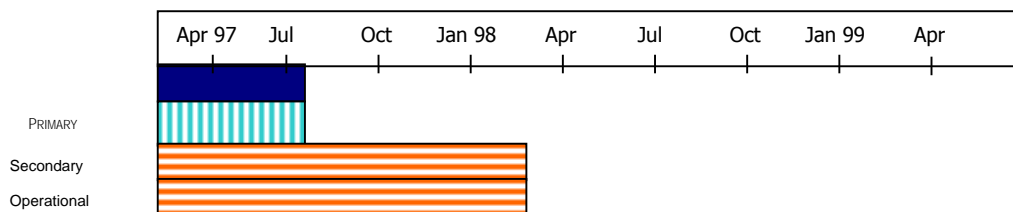
During the auditor’s review of departmental personnel files, the files were assessed for evidence of implementation of PBP Policy 44-5, effective 8-25-97, which requires notification of the chain of command any time:

- 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.

A review of Bureau records indicates that the bureau continues to monitor its officers’ activities for adverse involvement. One such notice was found, involving notice of involvement in a civil suit, which was delivered during the ninth quarter. The bureau continues to monitor these activities and provide appropriate discipline, where necessary. None of the DARs filed by the bureau this quarter involved adverse involvement reports.

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

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



Auditor’s Ninth Quarterly Report  
 January, 2000  
 Public Management Resources  
 San Antonio, Texas

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

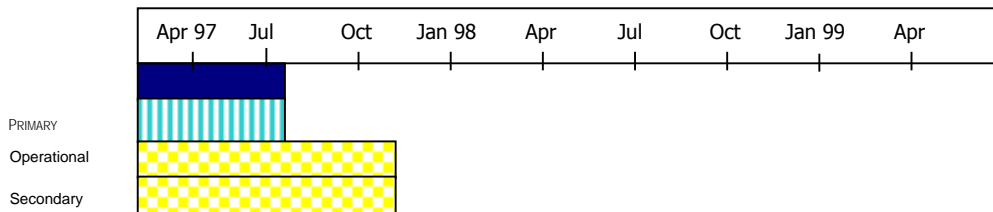
A review of records available during the time frame of the ninth quarterly audit indicated three criminal proceedings in progress against PBP officers, none of which involve allegations of false arrest. One of the criminal charges does involve an allegation of an unconstitutional and unwarranted strip search. This case, along with two others, have been monitored by OMI since the seventh quarterly report. The office has completed investigations involving these three officers, and has forwarded these investigations to the bureau for review.

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. This agreement includes notice of suppression hearings lost as a result of illegal activity. Further refinement of this process was achieved during the sixth quarter, with publication of deputy chief's memo DCOP 98-309, requiring officers who have arrested PBP officers for any criminal charge to file a memorandum "detailing the results of the hearing."

PBP policy calls for these memoranda to be forwarded to OMI for their review. Based on concerns expressed by the auditor that the DA's office has forwarded no notifications of lost suppression hearings, etc., the chief of police has modified the reporting practice between the district attorney and the bureau. Court liaison personnel have begun to specifically inquire monthly, about lost suppression hearings, and allegations of false arrest or improper searches on the part of PBP officers. During the ninth quarter, three such inquiries were made of the DA's staff. The auditor reviewed reports of these inquiries, which noted no lost suppression hearings due to poor probable cause, etc.

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

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



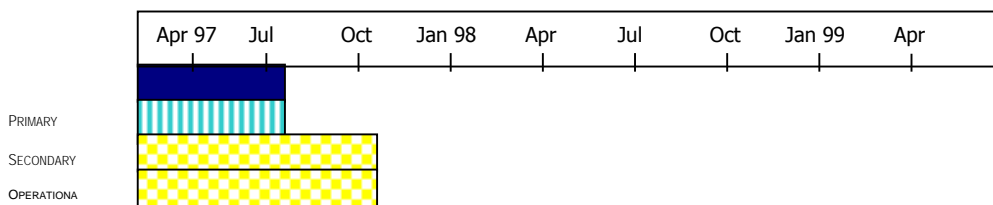
Paragraph 28 requires the city to implement appropriate discipline “as the circumstances and OMI investigation warrant,” in all instances in which PBP officers are the subject of civil litigation.

**Methodology**

Personnel files were reviewed for evidence of PBP officers involved in settled civil litigation. No settled litigation was noted during the ninth quarter. During the sixth quarterly audit, the department received notification of settled litigation involving two Bureau officers. During the seventh quarter, this case was reviewed by command staff, and disciplinary action was taken in April, 1999. It is clear from the review that the department continues to be in compliance with this task. The only civil litigation action noted for the ninth quarter was a note to a bureau officer from the city regarding litigation that was decided in the city’s favor.

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.

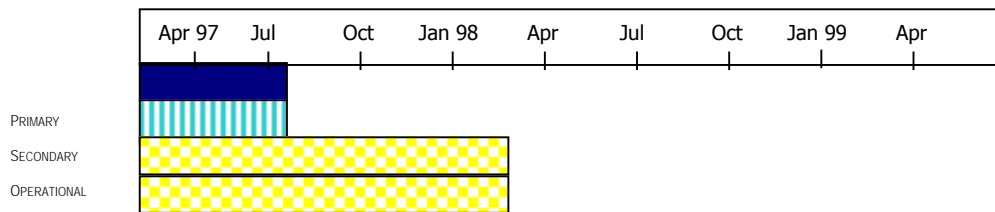
**Methodology**



The auditor has 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, seven during the ninth quarter, and providing in-service training and remedial training for Bureau officers. The legal advisor is also active in reviewing Field Contact/Search and Seizure reports filed by Bureau officers. 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**



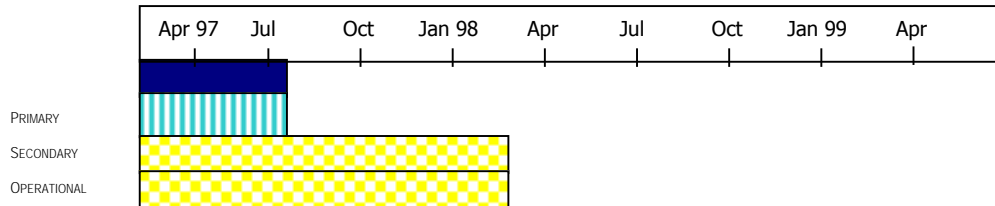
Paragraph 30 requires the PBP to develop a department-wide rotation schedule to ensure that officers are regularly supervised by different sergeants and lieutenants and that they regularly work with different officers.

**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 95 officers transferred in December, 1998, and an additional 157 officers transferred in September, 1998. Transfers have continued through the ninth quarter, with 29 officers transferred to new duty assignments during the quarter. Many of these transfers are routine transfers of personnel, necessitated by normal operational decisions. Decree-related, large-scale transfers are planned annually, for implementation in January. The next cycle of consent-decree transfers is anticipated in January, 2000. As of the ninth quarter, the chief of police has distributed transfer notices for another 155 police officers, sergeants and lieutenants, effective in October, November, 1999 and January, 2000.

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

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



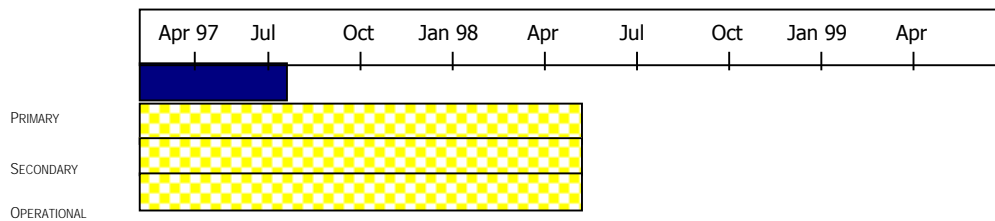
Paragraph 31 requires the PBP to “make every effort” to participate in community meetings, including those oriented toward minority groups.

**Methodology**

The auditor reviewed monthly attendance logs for police zones for the months of August 16, 1999 through November 15, 1999. The logs show multiple community meetings attended by PBP personnel, although the volume of meetings was 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: Televisе 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

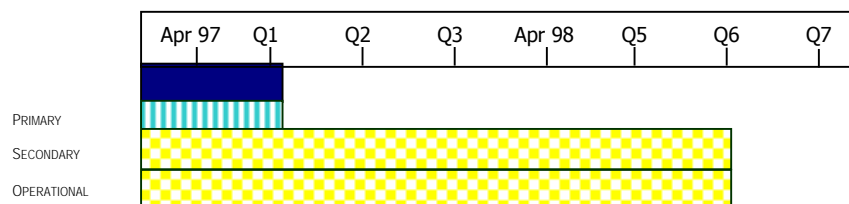
personnel present at community meetings, and to publish and distribute pamphlets describing the OMI complaint process.

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 six 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 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. Members of the audit team noted the presence of these brochures at all zones visited (two and four) during the site visit for the ninth quarterly report. Information was obtained from one OMI complaint investigations that officers at one police zone may have refused to take a citizen’s complaint over the telephone. The auditor has requested that this case be reopened and that this allegation be fully investigated.

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 two site-visits of the training academy, and

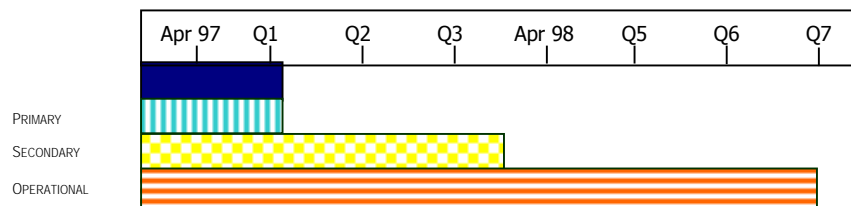
have interviewed many of the personnel assigned to the training academy. The bureau has developed (through contract) curricula for the cultural diversity training, and has begun implementation. Throughout 1999, the bureau has continued to train its officers in the topics of cultural diversity, “effective communication” and ethics. To date, according to the training academy’s records, all but eleven bureau personnel have received training in cultural diversity for the 1998-99 training cycle.

More importantly, perhaps, the department is currently engaged in a re-engineering effort for its cultural diversity program. The revised curriculum for this topic was developed by a Cultural Diversity Task Force Team, which assisted 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. The entire curriculum is now complete, and during the ninth quarter, the academy has begun delivery of this new curriculum.

Not all personnel have received the new curriculum, but progress is being made monthly in the delivery of the new cultural diversity component.

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.

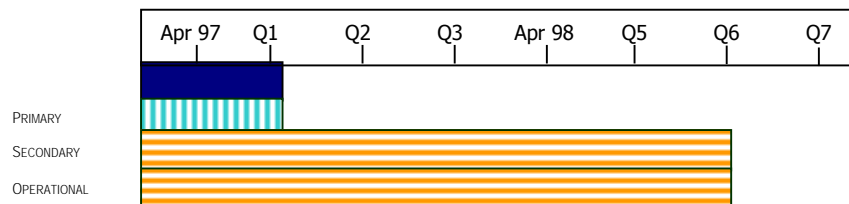
Methodology

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. During the eighth and ninth quarter, training academy staff completed a review of citizens complaints and use of force reports with the aim of improving, where applicable, training curricula. Reports from the academy continue to be reviewed, assessed and critiqued by command staff.

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

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



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

Methodology

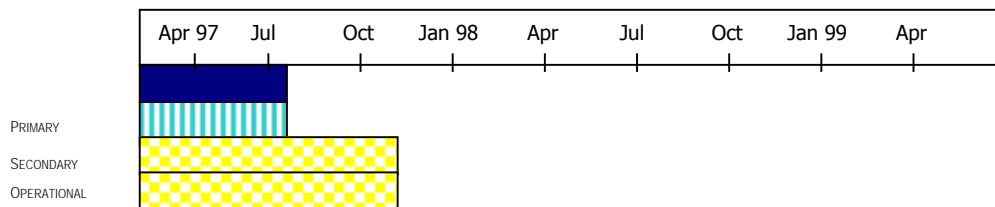
The city and the bureau continue to make progress toward compliance with this task. The city is currently under contract with a nationally recognized consultant to deliver a series of classes on “verbal judo,” a process of verbal de-escalation which is recognized nationally as effective in reducing police-involved violence. To date, the bureau has trained all but one of its 1,040 eligible officers (with the exception being those on extended medical or similar leave, and thus not performing police duties) in “verbal judo” and/or tactical communications. As of October, 1999, the latest date for which data are available, retraining for 1999 in verbal judo nearly has been completed.

The bureau-wide process of reviewing all use-of-force curricula has been completed, and a new “use of force” training curriculum has been implemented by the bureau. Nearly 40 percent of the bureau’s sworn personnel have been through the new curriculum. An additional 686 officers remain to complete the new curriculum; however, coupled with previous use of force training, and based on plans to complete the “cycle” for the new curriculum in use of force, the bureau remains in compliance with this task.

The “neck restraint” method trained previously has been replaced with a more reliable and effective maneuver, and this process has been classified—appropriately—as deadly force. These changes have not been incorporated into PBP policy as of the ninth quarterly audit; however, the auditor has noted a significant drop in the occurrences of one problematic use of force maneuver, the “chokehold to recover narcotics.” All of these factors are related to the new “integrated training” processes identified by the bureau—standardizing all training components related to use of force, such as verbal de-escalation.

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

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



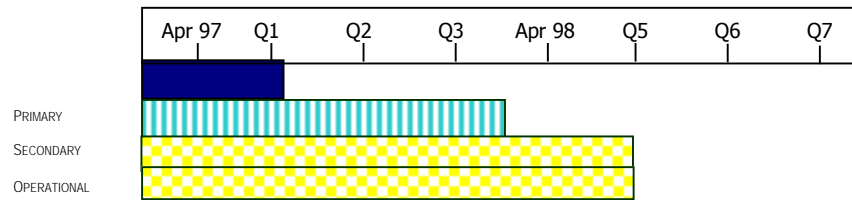
Paragraph 36 requires the city to provide training for recruits in integrity, ethics, cultural diversity and verbal de-escalation “at the beginning of the training curriculum to serve as a foundation for all other classes.” No recruits were trained in the ninth quarter. The last recruit class offered 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

Auditor’s Ninth Quarterly Report  
 January, 2000  
 Public Management Resources  
 San Antonio, Texas

Secondary: In Compliance  
 Operational: In Compliance

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



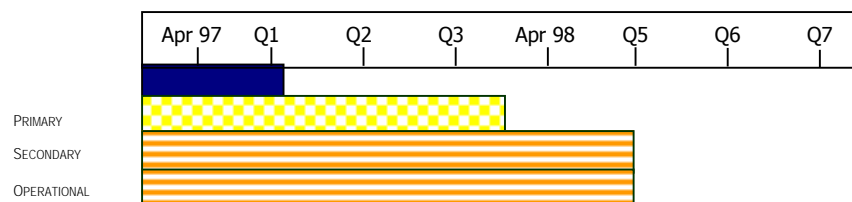
Paragraph 37 requires the city to train all officers in integrity, ethics, the PBP’s mission and values, and cultural diversity. The training requires inclusion of the topics of truthfulness, reporting misconduct by fellow officers, the importance of avoiding misconduct, and professionalism.

**Methodology**

The auditor has reviewed the bureau’s curriculum outlines for cultural diversity and ethics. According to academy records, all but five of the department’s sworn personnel have received training in ethics through the bureau’s new “career and personal survival” training component. The bureau has contracted with a nationally-recognized provider of training in police ethics, and has substantially revised the curriculum for the 1999 calendar year. The latest ethics training was conducted in October, 1999 as part of the State of Pennsylvania’s mandatory training cycle.

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

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



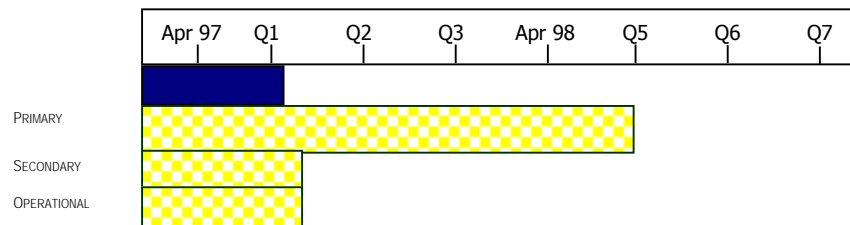
Paragraph 38 requires the city to train all police officers regarding the OMI complaint process, and their obligation to cooperate with OMI investigations.

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 been completed for all officers except those on extended leave. Based on a review of the training records, the department has trained approximately 100 percent of its officers in the OMI process.

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

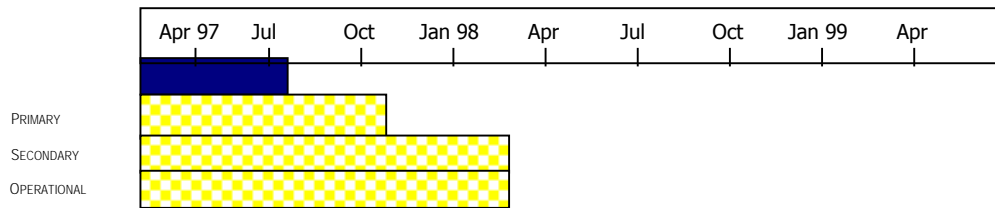
Methodology

The bureau is currently planning the addition of nearly 40 new FTOs. Discussion at the last quarterly COMSTAR meeting addressed methods for ensuring that quality FTOs are recruited, trained and deployed. The bureau remains in compliance with this task based on past performance. A second thorough review of FTO recruiting and selection processes will be conducted during the tenth quarter.

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

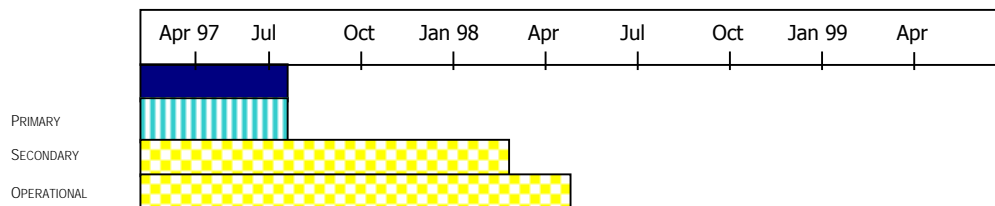
The auditor reviewed the training curriculum for FTOs and instructors provided by the PBP. All instructors and FTOs are first “instructor development certified” by either the Federal Bureau of Investigation or Indiana University-Pennsylvania. FTOs then receive an additional five days of training at the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

During the audit for the ninth quarter, the auditor conducted a second site visit at the training academy, and randomly pulled training documentation files for police instructors. A comprehensive assessment was also conducted of records documenting training processes at the academy for the last twelve months. All instructors' files assessed were found to be in order, with one exception. While the documentation supporting one instructor's training and certification in defensive tactics was not found in the instructor's files, it was located elsewhere in academy files. The academy file was instantly updated by academy staff.

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**

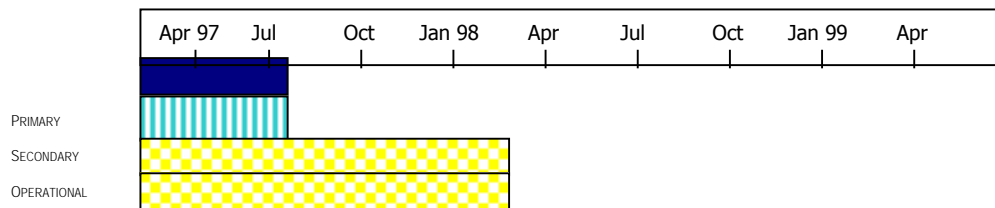
The auditor conducted a thorough ninth-quarter review of the Academy's training records during a site visit to the Academy. Selected training curricula were assessed, and specific documents were selected for further analysis. This included training records for state-mandated and consent decree-related 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 continue to evolve. In addition, 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 are subjected to error checking and correction processes. The Academy currently forwards training records to the auditor electronically. The bureau continues to be in

compliance with this task. A review of new training curricula and syllabi during the ninth quarter indicates continued adherence to national standards regarding documentation of the training process.

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

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



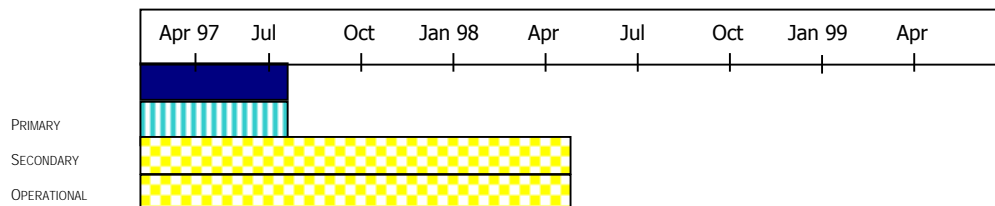
Paragraph 42 requires the city to document in writing all mandatory counselings by name of officer, reasons for the referral, OMI file number, related cross index number, the subject matter of the counseling, and the status of the officer's attendance.

**Methodology**

During the auditor's review of data for the ninth quarterly report, the department's centralized file that is used to document mandatory counselings was reviewed. Two mandatory counseling sessions were ordered this quarter for PBP personnel. A sergeant was counseled and retrained on the bureau's grievance procedure and a commander was counseled regarding the city's electronic communications policies.

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

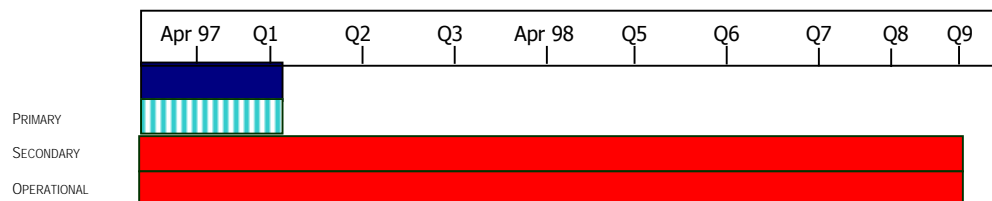
The auditor assessed the training records for PBP senior supervisors (commanders and above). The bureau continues to move forward with training for its senior supervisors. All supervisors have received the updated ethics training being designed by the bureau, and 18 of 19 command personnel have received the training. Scores for some command personnel were not recorded in the training database, however. Test scores for senior supervisors continue to average in the high 80s.

It appears, from the records available at this time, that seven of 19 command personnel have been trained at Pennsylvania State University’s “POLEX” command staff training program. An in-service component on “integrity” has been developed, and all senior supervisors have received this updated training, offered by one of the most respected names in the field.

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. A total of 17 of 18 command personnel have been trained in conflict resolution; 18 of 18 received the newly developed “Career and Personal Survival” component; 18 of 18 received training in conflict resolution; and 18 of 18 received the component on “Integrity and Leadership.” All command personnel received training in at least three of the four training topics/programs for 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**

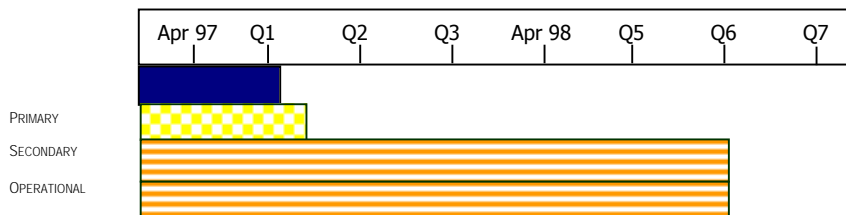
The auditor and the auditor’s team assessed the records management systems and electronic databases currently in place within the OMI office. They observed OMI personnel as they worked with the databases, and reviewed output from the databases.

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 1999. 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. As of September 1, 1999, the OMI manager, the intake coordinator and one investigator have been trained in the new PARS program.

Given several innate weaknesses in the OMI database, the system is currently being re-written, transitioning it into a more suitable management tool. The audit team met with representatives of CIS during the November site visit and discussed plans for revision of the OMI management information system. The auditor reviewed the prototype of the new system during the August site visit, and has found it to be an acceptable response to the requirements of this section of the consent decree. Projections call for the new OMI management system to be on-line in January, 2000.

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

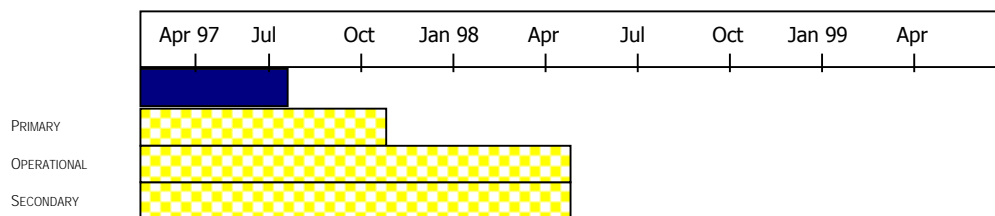
The auditor has reviewed Chief’s Orders 97-009 and 97-024 which established the zone “performance files.” These orders required the creation of disciplinary files at the zone level which “contain all OMI and non-OMI complaints that have been filed against the officer,” (CO 97-009). CO 97-024 requires that performance files “shall be available to personnel within the officers’ chain of command ... responsible for the officers’ training, counseling, or discipline.”

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.

All officers at zones two and four who had received three complaints of a similar nature in the past two years or five complaints within the last two years were appropriately noted in the performance files. Performance files also contained copies of appropriate performance evaluations, commendations, Supervisor’s Daily Activity Reports, and preliminary complaint review forms. The bureau remains in compliance with this task.

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

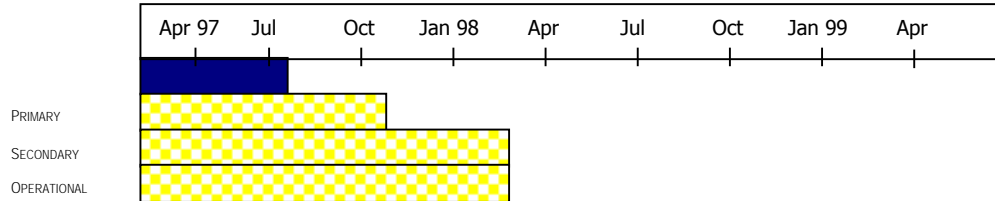
Methodology

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 new civilian OMI investigators have received on-site training during the ninth quarter, and the office continues to implement its training plan for investigative personnel.

The Office is in primary compliance with the requirements relating to promulgation of an OMI manual, and provision of training for OMI staff. In addition, the Office has developed an annual training plan for 1998-99, and made all suggested revisions in the OMI manual during the last quarter. No new revisions were made this quarter. The Office is undergoing rapid change—both in the nature and number of personnel and in organizational structure. No assessment of the Office’s training process was conducted this quarter in deference to the understood difficulty of training in a rapidly changing environment. The auditor anticipates a full training review during the tenth quarterly audit’s site visit phase.

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**

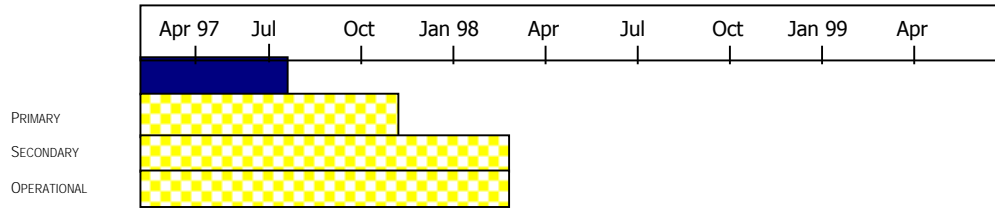
The auditor reviewed 20 of 31 final reports of completed OMI investigations of citizens’ complaints to assess the method of receipt and to determine if any complainants were “required” to complete any OMI form prior to receipt of the complaint and initiation of the investigation.





Secondary: In Compliance  
 Operational: In Compliance

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



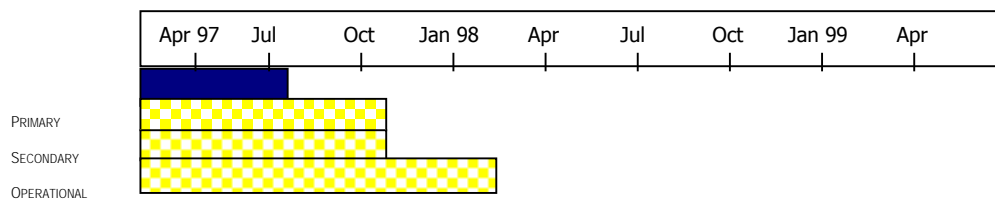
Paragraph 49 of the consent decree requires OMI to refrain from closing an investigation without rendering a disposition solely because a complainant withdraws the complaint or is unavailable to make a statement.

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. During the ninth quarterly review, the auditor found eight complaints filed with the Office of Municipal Investigations which were either “officially” withdrawn by the complainant filing the complaint, or in which the complainant refused further cooperation with the Office. All of these complaints were investigated to completion by the Office.

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

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



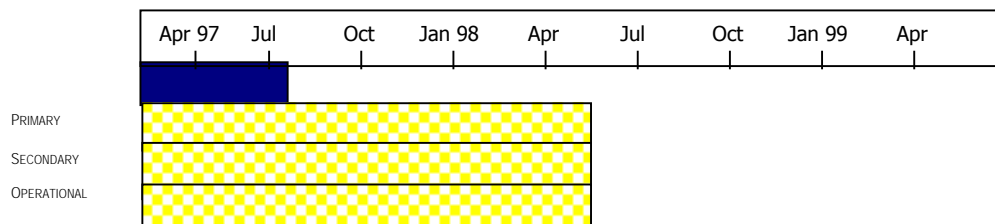
Paragraph 50 requires the city to relocate the Office of Municipal Investigations to an office that is separate from any building occupied by PBP personnel. It further requires that the new facility be convenient to public transportation, and that the city publicize the new OMI location.

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 brochures have been printed and distributed noting the Office’s new location. These brochures were available at all city buildings visited by the auditor this quarter.

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 supporting documentation for 20 of the 31 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, over the telephone, and by meeting individuals at locations convenient to them. Of the 20 cases reviewed this quarter, evidence existed in nine cases suggesting that the Office routinely makes itself

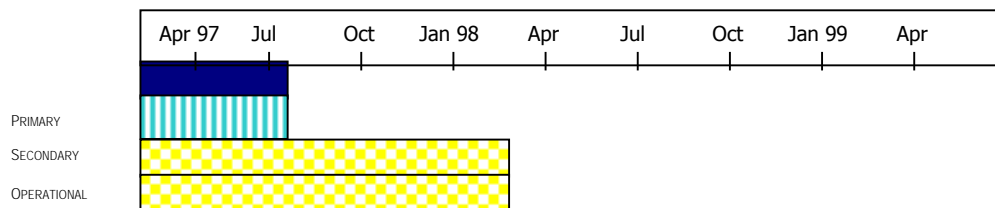
available to citizens “in the field,” either at alternative sites, the complainant’s home, or over the telephone. The auditor reviewed attendance logs for OMI’s quarterly meetings (August through November, 1999), and reviewed the newly revised OMI manual to determine policy or procedural guidance relative to attendance at quarterly community meetings.

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. OMI did complete one investigation this quarter based on information obtained from OMI-staff attendance at meetings of the Civilian Review Board.

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.

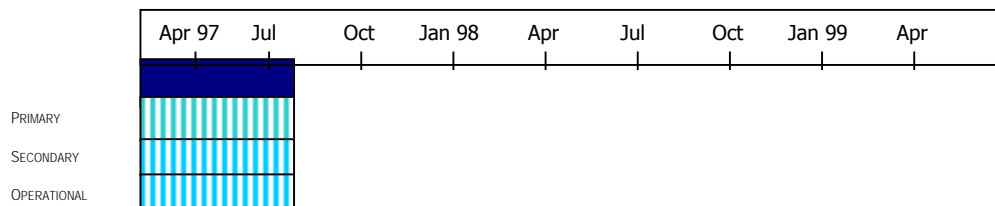
Methodology

The auditor tracked the paper trail from OMI to zone-level senior supervisors, and for 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, and through them to the zone commanders. 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). Each quarter, OMI sends updated complaint listing to each zone commander, listing all civilian complaints filed against personnel in each zone.

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. During the site visits at zones two and four, the auditor reviewed the zones’ performance files and found them to be accurate and in order. 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**



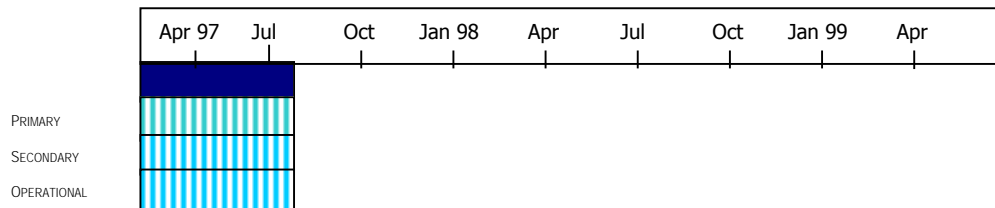
Paragraph 53 requires the city to ensure that responsibility for investigation of citizen complaints rests solely with OMI, to require OMI to monitor the progress of investigations, to require OMI to accept all complaints, to disallow the process of officers attempting to “settle” OMI complaints, and 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 all 31 of the completed OMI investigations for this quarter reveals no evidence to indicate that the city does not remain in compliance with this task. Eight cases were found in this quarter in which the complainants either officially notified OMI of their desire to withdraw his complaint, or in which the complainant refused to cooperate further with the Office. These complaints nonetheless, were investigated to completion by the office.

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**

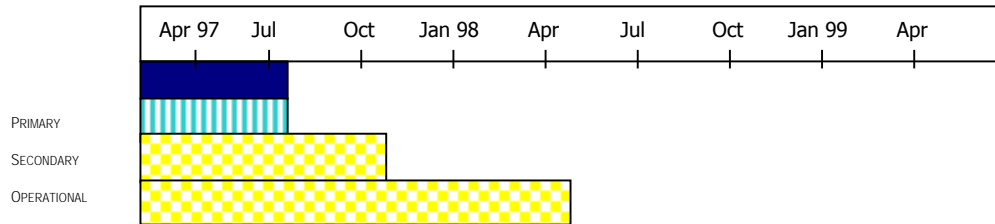
The auditor reviewed a sample of completed OMI cases for the ninth quarter (August 16, through November 15, 1999) to determine if allegations of failure to provide name and badge number were made to OMI. One such allegation was found. The investigation did not sustain the allegation; however, the auditor has remanded this case to OMI to be reopened (see 2.62, below). The bureau did sustain one allegation of failure to provide name and badge number during the sixth quarter, however. The bureau is judged to remain in compliance with this task.

Status: Primary: In Compliance

Auditor’s Ninth Quarterly Report  
 January, 2000  
 Public Management Resources  
 San Antonio, Texas

Secondary: In Compliance  
 Operational: In Compliance

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



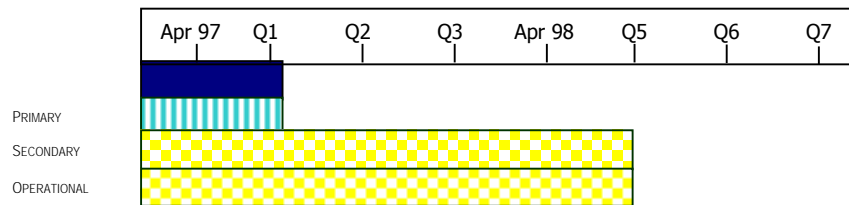
Paragraph 55 stipulates that OMI will interview witnesses at alternative sites if they are unavailable for interviews at OMI offices. The paragraph also requires reasonable notice before all interviews. Section 4-2(B) of the OMI manual stipulates that OMI will arrange to interview complainants “off-site,”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

**Methodology**

The auditor reviewed completed OMI case investigations to determine if interviews were being conducted “off site.” Among the 20 completed investigations assessed during this quarter, ample evidence of OMI investigators conducting interviews off-site (usually at the witnesses’ homes) was noted. The frequency of these off-site interviews was high enough (three of 20 cases) 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

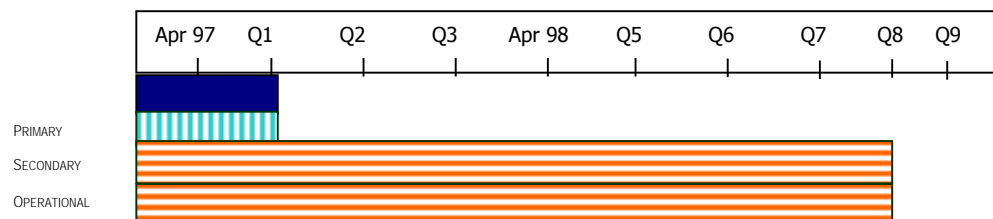
to reserve the right to question all interviewees, and to challenge their version of the facts.

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 20 of 31 cases completed this quarter 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 in which interviews were conducted after resolution of the Fraternal Order of Police's "test case" on this issue included transcriptions of OMI interviews of officers, witnesses or complainants.

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

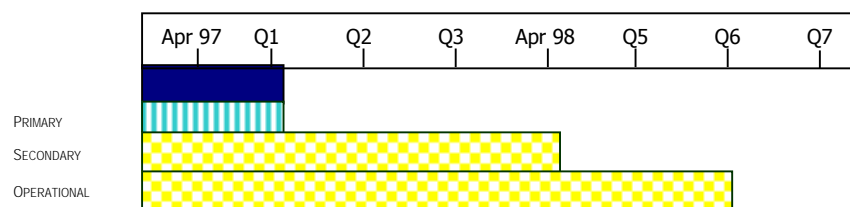
**2.47 Compliance with Task 57: OMI Staff Access to PARS**



Paragraph 57 stipulates that OMI staff should be provided access to the city's PARS. The manager of OMI, the intake coordinator and one investigator have been trained in the use of the PARS. The office currently has virtually unlimited access to OMS/PARS to prepare complaint histories, assignment histories, etc.

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

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



Auditor's Ninth Quarterly Report  
 January, 2000  
 Public Management Resources  
 San Antonio, Texas

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.

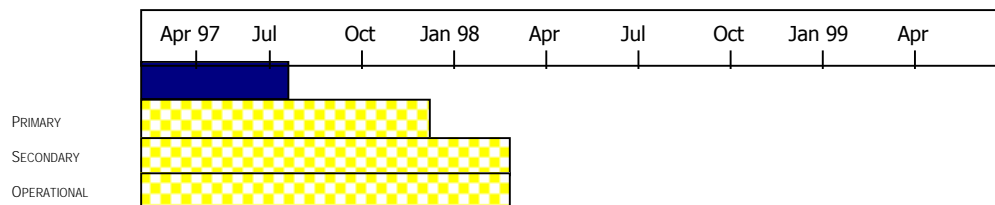
Methodology

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. One of the 20 cases reviewed during the ninth quarter produced an indication that supervisory personnel were present (AQR9-AC). This case file included an interview with the on-scene supervisor; however, the questions put to the supervisor were poorly crafted. The city remains in compliance with the requirements of this task, based on past performance. Additional attention to development of relevant questions for supervisors is necessary to maintain compliance, however.

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

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



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

Methodology

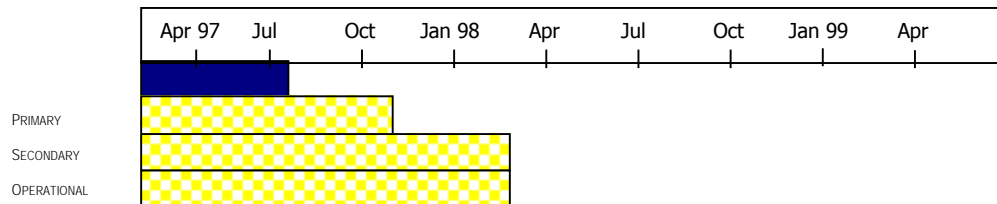


The auditor reviewed the OMI manual, Section 6-1G, which requires neighborhood canvasses, “as soon as possible” after receiving a complaint. Case tracking forms also include a “check off” box for witnesses located through the canvassing process.

The auditor reviewed 20 of 31 completed OMI cases for the ninth quarter (August 15 through November 16, 1999) to determine if OMI personnel were conducting canvasses as required by this paragraph of the decree. Ten of these cases which appear to involve fact situations or locations in which a canvass would potentially produce witnesses. An effective canvass was conducted in only six of these cases. In the other four, the canvass was either not done, or was done ineffectually. Three of the four cases in which an effective canvass was not done involved cases more than a year old. The Office has been compliance with task 59 since March, 1998; however, renewed training and a heightened managerial focus on appropriate conduct of canvasses for witnesses may be required to maintain this compliance.<sup>3</sup>

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**

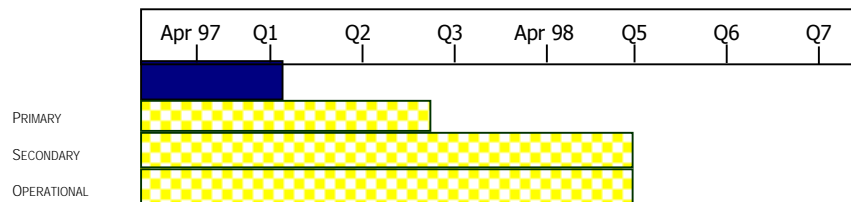
The auditor assessed, through departmental records, the number of police-involved shootings that occurred during the ninth quarter and found one (the same number investigated during the last quarter). The Office reviewed this

<sup>3</sup> In an agreement between the auditor and both parties, losing compliance requires more than one quarter of poor performance, once a record of compliance has been established. The errors and omissions in OMI case performance this quarter are serious. If a repeat of this level of performance re-occurs, it will result in loss of compliance status with Task 59.

shooting, using its officer-involved shooting protocol. 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 20 of 31 OMI investigations completed from August 16, to November 15, 1999, 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.

Of the 20 investigations assessed for the ninth quarter, nine had some form of defect requiring the case to be re-opened. This error rate, 45 percent, is attributable to the following problems:<sup>4</sup>

- Placing a burden on the complainant to prosecute the case: One incident
- Failure to canvass for independent witnesses: Four incidents
- Failure to include supporting Field Contact/Search and Seizure Reports or Subject Resistance Reports in the case file: Six incidents
- Failure to ask appropriate questions in witness or employee Interviews: Two incidents
- Poor case strategy planning: One incident

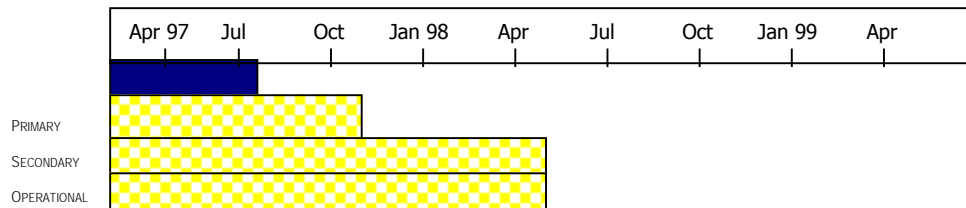
<sup>4</sup> These numbers total more than 20, since some cases exhibited multiple problems.

Misclassification of the final disposition (particularly “unfounded” and “exonerated:”	Three incidents
Failure to document interviews of all relevant witnesses:	One incident
Failure to address “collateral misconduct:”	One incident
Failure to include necessary supporting documents:	One incident
Failure to sustain a case in which the officer admits to the activity charged :	One incident
Failure to address all of complainant’s allegations during the course of the investigation:	One incident

Some of these problems are evident, no doubt, because of the length of time many of these cases have been “pending.” In addition, many of these cases were investigated by new staff who may not have yet adapted to the complex methods required for completion of an investigation of a citizen’s complaint. The Office should focus carefully on its quality control, case planning and case review practices to avoid a similar failure during the coming quarter.<sup>5</sup> A complete description of the problems evident in these cases is included in section 2.62, below.

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

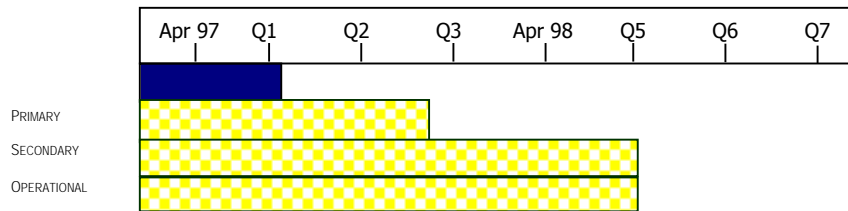
<sup>5</sup> In an agreement between the auditor and both parties, losing compliance requires more than one quarter of poor performance, once a record of compliance has been established. The errors and omissions in OMI case performance this quarter are serious. If a repeat of this level of performance re-occurs, it will result in loss of compliance status with Task 61.

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.”

Three cases were found this quarter in which the investigation yielded evidence of potential collateral misconduct. The Office thoroughly investigated two of these collateral misconduct issues. On the third, however, the investigation yielded an allegation that a citizen called a zone station to complain about the performance of an officer and was told to “call 911.” This allegation, if true, violated the Bureau’s policies regarding acceptance of civilian complaints. No OMI investigation of this collateral misconduct was initiated. Improved scanning of citizen complaints for indicators of collateral misconduct is necessary if the Office is to retain its compliance status for this task.<sup>6</sup>

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

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



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

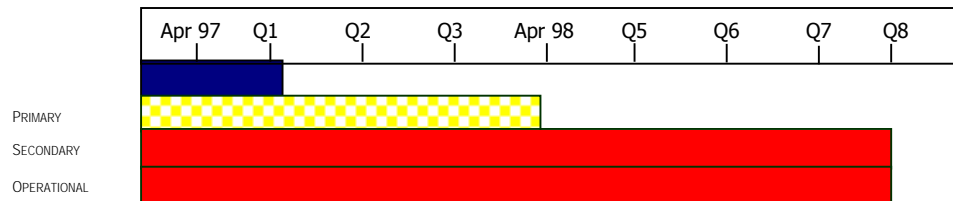
Methodology

<sup>6</sup> In an agreement between the auditor and both parties, losing compliance requires more than one quarter of poor performance, once a record of compliance has been established. The errors and omissions in OMI case performance this quarter are serious. If a repeat of this level of performance re-occurs, it will result in loss of compliance status with Task 62

The auditor reviewed final reports of all 31 investigations completed by OMI between August 16 and November 15, 1999. In addition, the auditor reviewed supporting documentation for 20 of the 31 reports issued this quarter. 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. A total of nine of the 20 report files reviewed by the auditor had some form of weakness in completeness, conformance to established practice, or documentation.<sup>7</sup>

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**

Adequate staffing for the Office of Municipal Investigations, as it relates to the requirements of the consent decree, is relatively easy to define: the Office is adequately staffed when the number of completed cases equals the number of cases received by the Office, over a protracted period of time. During the last eight quarters, the ratio of complaints cleared to complaints received has never exceeded 75 percent. While additional personnel were added to the OMI complement during the ninth quarter, the Office continued to run a backlog of cases for this quarter. While the Office completed and forwarded to the auditor for review a total of 31 investigations the office received 74 complaints during the

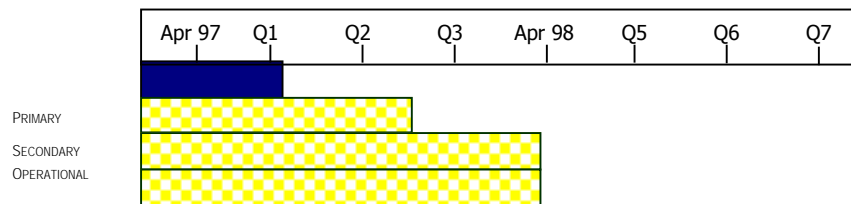
<sup>7</sup> In an agreement between the auditor and both parties, losing compliance requires more than one quarter of poor performance, once a record of compliance has been established. The errors and omissions in OMI case performance this quarter are serious. If a repeat of this level of performance re-occurs, it will result in loss of compliance status with Task 63.

ninth quarter, adding an additional 43 cases to the backlog of cases currently pending.

An additional investigator has been assigned to OMI this quarter, and plans are underway to add two more. Once these additional (temporary) investigators are assigned and trained, OMI will have eight full-time investigators assigned to police cases, and two part-time investigators assigned to police cases.

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**



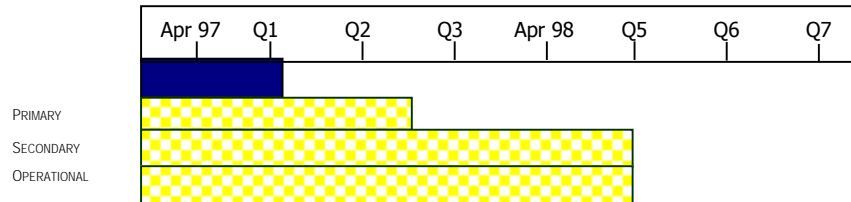
Paragraph 65 requires OMI to use the preponderance of the evidence standard in determining findings on cases assigned for investigation.

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. The auditor reviewed all 31 OMI investigations completed this quarter, and found each to conform to the preponderance of the evidence standard, as articulated in the OMI manual.

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

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



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

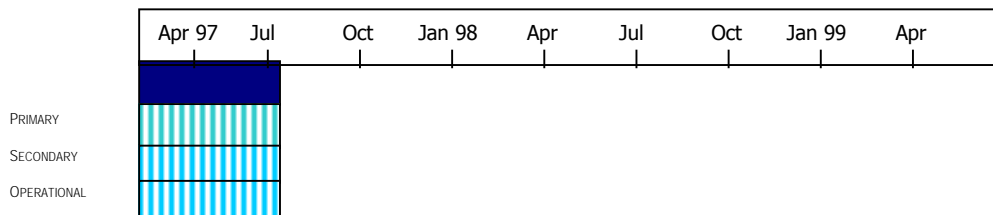
**Methodology**

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

In addition, the auditor reviewed all 31 investigations of citizens’ complaints completed during the ninth quarter for conformance to this requirement. In each of these 31, credibility assessments were documented in the final report. No automatic preference for officers’ statements was noted.

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

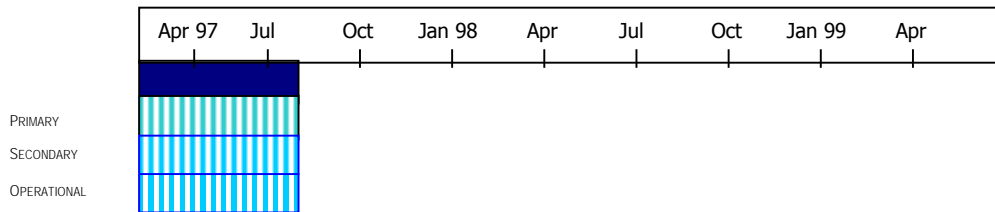
supervisors and senior supervisors from modifying or reversing any OMI disposition of complaints.

Methodology

The auditor reviewed all OMI investigations completed between August 16 and November 15, 1999, searching for a case which resulted in a finding which was “reversed” by a supervisor or senior supervisor. No such cases were found, although one case was found in which a senior supervisor corrected a commander’s note acknowledging receipt of an OMI finding, and another indicated a careful reading of the OMI case by senior supervisors who caught and corrected an error in the cover memorandum written by OMI and used to transmit the finding to the Bureau. The city is judged to remain 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 August 16 to November 15, 1999, to determine if the disposition of “Not Resolved” was appropriately used.

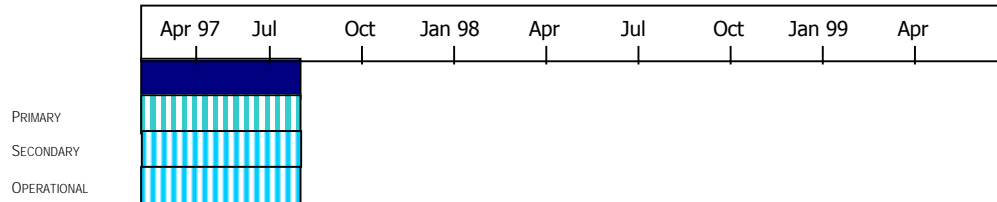
During the seventh quarter, the auditor noted a discrepancy in case resolution between the “not resolved” classification and “unfounded” classification. As a result of this discrepancy, the auditor reviewed all final reports prepared by OMI during the ninth quarter, particularly with respect to the disposition classification



of “not resolved.” Four of the 31 cases completed this quarter was classified as “not resolved,” and, in the judgment of the auditor, this classification was justified.

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

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



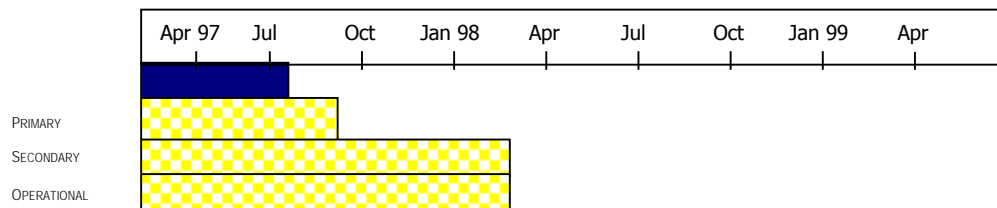
Paragraph 69 requires OMI to issue quarterly reports on its activities. The report is required to list each investigation’s significant dates, general allegations, disposition and resulting discipline.

**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, and has been updated annually. 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

Quarterly assurance checks of OMI final reports are provided in section 2.51, above. Comments regarding substance and timeliness of OMI investigations are included in sections 2.37, 2.43, 2.62 and elsewhere in this quarterly report. Sufficient data now exist to allow comment on statistical information regarding the number and type of complaints filed with OMI, and discipline imposed on sustained complaints. The following sections report statistical information regarding the operation of the Office of Municipal Investigation. Data reported in this section involve citizens' complaints only.

#### Number and Type of Complaints Filed

Complaints filed with OMI over the last seven quarters fall into three categories:

- Type 1 (allegations of rules violations);
- Type 2 (allegations relating to attitude and conduct); and
- Type 3 (allegations of abuse).

Type 1 allegations include failure to perform, neglect of "ministerial" duties, inaccurate reporting, violation of departmental orders such as those regulating

secondary employment, minor events of conduct unbecoming an officer, etc. Type 2 allegations include intentional mishandling of property or evidence, intermediate acts of conduct unbecoming (such as rudeness and poor attitude), conduct of self-assigned investigations, and failure to perform or neglect of duty “on scene.” Type 3 allegations include allegations of excessive force, illegal search, racial discrimination, intimidation, untruthfulness and verbal abuse.<sup>8</sup> Table One, below, depicts the number and type of citizens’ complaints received by OMI during the seven quarters covered by the consent decree.

The data reflected in Table One are presented in Figure One, below, which depicts the percent of complaints received, by type of complaint, by quarter. As Figure One indicates, the relative percentage of the more serious complaints (Type 2 and Type 3 complaints) appear to have dropped substantially since the beginning of the decree, although the number of Type 3 complaints indicates numerical a rise for the ninth quarter.

*Table One: Complaints Received by the Office of Municipal Investigations, 1<sup>st</sup> through 8<sup>th</sup> Quarters (1997-1999)*

<b>Quarter</b>	<b>Type 1</b>	<b>Type 2</b>	<b>Type 3</b>	<b>Total</b>
One	18	9	26	<b>53</b>
Two	22	15	39	<b>76</b>
Three	33	32	59	<b>124</b>
Four	42	19	84	<b>145</b>
Five	33	18	58	<b>109</b>
Six	8	12	24	<b>44</b>
Seven	25	1	15	<b>41</b>
Eight	14	16	13	<b>43</b>
Nine	39	0	35	<b>74</b>
<b>Total</b>	<b>234</b>	<b>122</b>	<b>354</b>	<b>709</b>

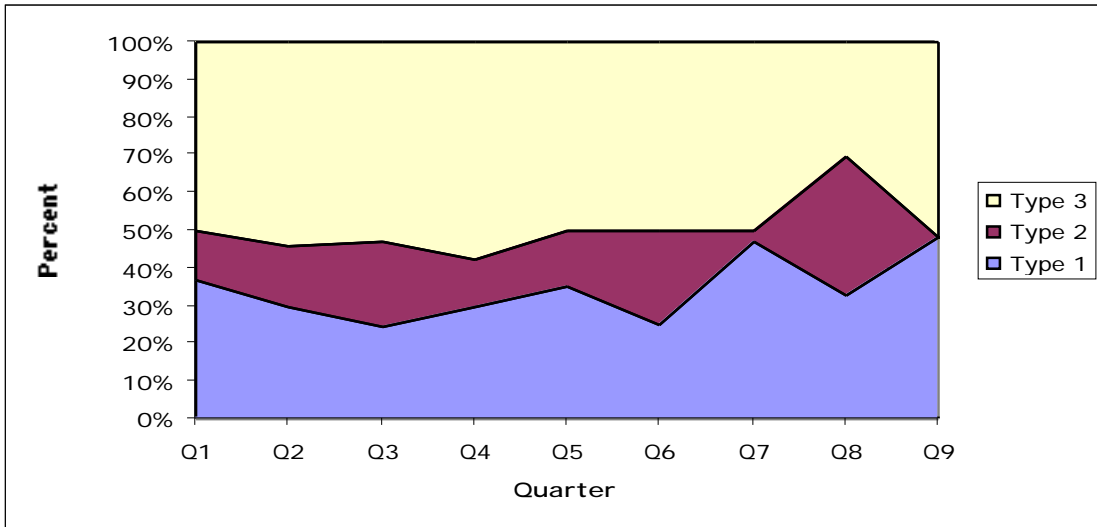
Source: Electronic database provided by City of Pittsburgh, CIS.

#### Average Complaint Severity

Using the same typology outlined above, the average severity of citizens’ complaints received by the Office of Municipal Investigations can be calculated for the nine quarters covered by this report. The average (mean) severity of complaints filed with the office are represented in Figure Two, below. As the figure indicates, the average severity of complaints has dropped since the beginning of the consent decree.

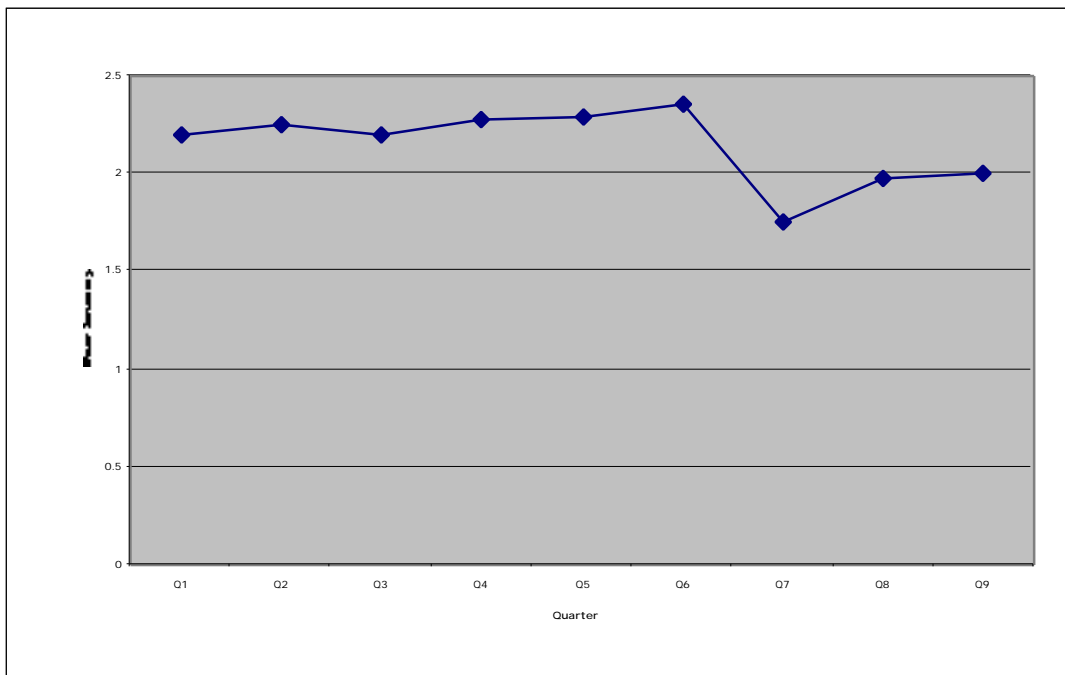
<sup>8</sup> Exact classifications are still under discussion with the City and the Department of Justice.

Figure One: Percentage of Type 1,2 & 3 Complaints Received by Quarter (1997-1999)



Source: Electronic database provided by City of Pittsburgh, CIS and calculations by the auditor.

Figure Two: Mean Complaint Severity by Quarter (1997-1999)



Source: Electronic database provided by City of Pittsburgh, CIS and calculations by the auditor.

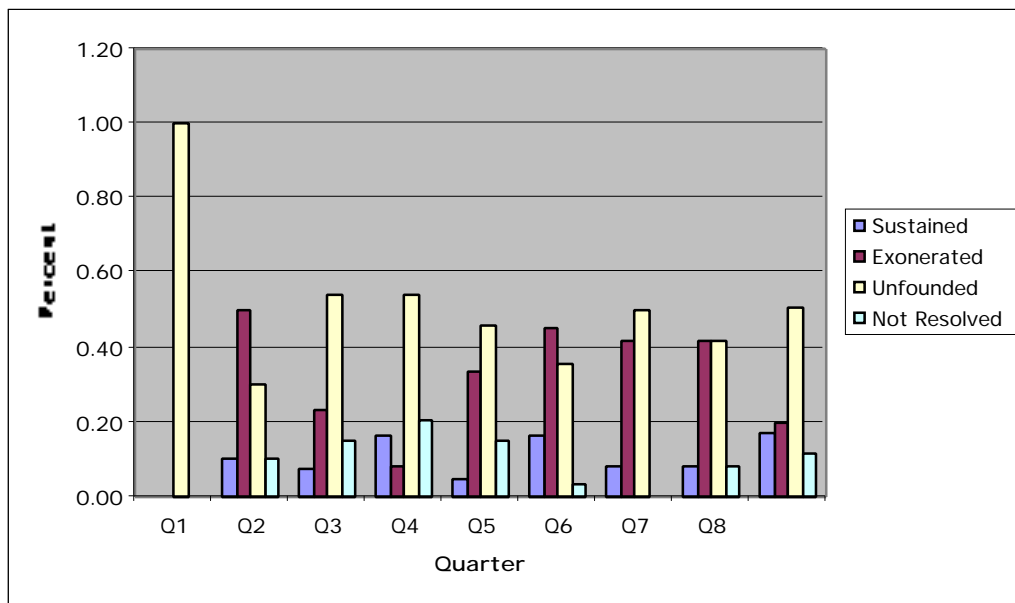
### Rates of Sustained Citizens' Complaints

Complaints investigated by OMI are classified, upon completion, as one of four disposition categories:

- Exonerated (evidence indicated that the event occurred, but that the officer was acting in conformance with the law or PBP policy);
- Not Resolved (not enough information was available to prove or disprove the allegation);
- Sustained (evidence indicated that the allegations were true; or
- Unfounded (evidence indicated that the allegations did not occur).

Figure Three, below, depicts the rates at which OMI resolved the complaints received during the first nine quarters covered by this report. The percentage of sustained complaints appears to have risen gradually over the nine quarters, from an average seven percent in the first three quarters to an average of 11.7 percent in the last three quarters.

*Figure Three: Resolved Complaints by Disposition,, by Quarter (1997-1999)*



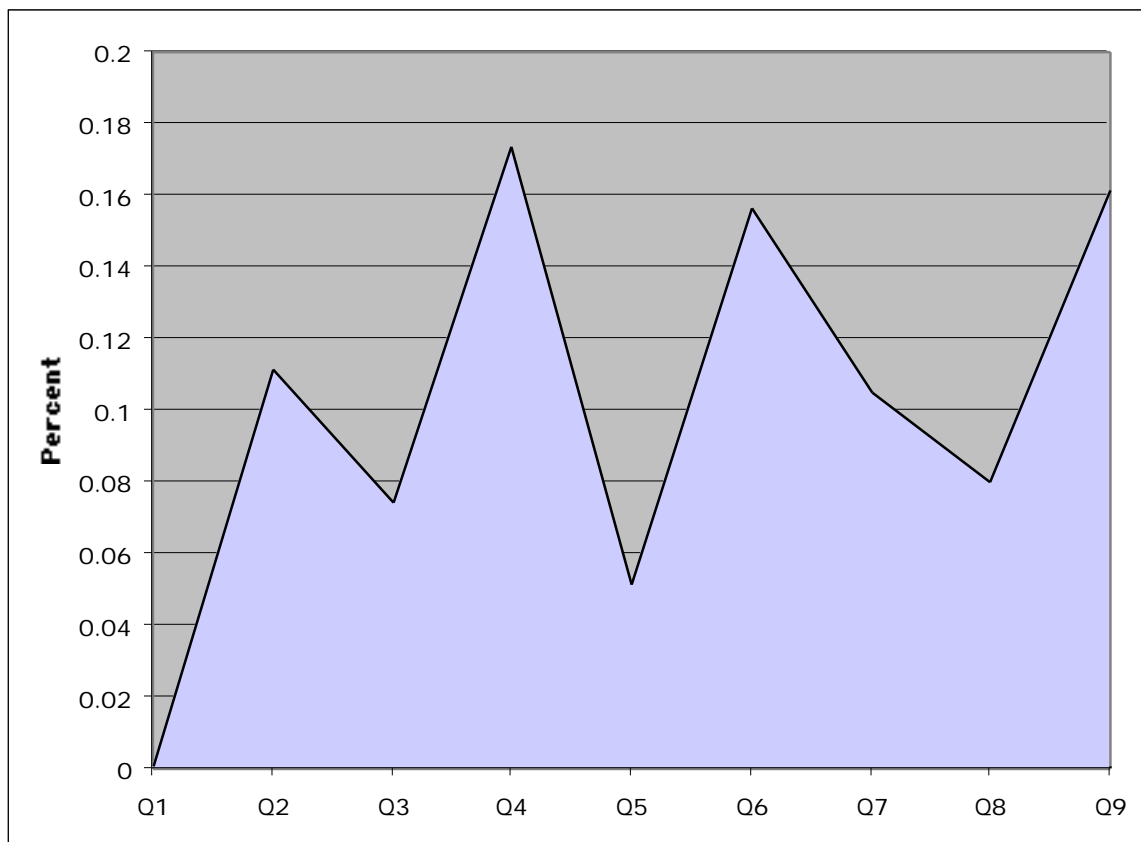
Source: Electronic database provided by City of Pittsburgh, CIS and calculations by the auditor.

### Rate of Sustained Complaints

The rate at which the Office of Municipal Investigations sustained citizens' complaints are reported in Figure Four, below. The data depicted in Figure Four were calculated by determining the number of complaints investigated by OMI during each quarter that were resolved with a "sustained" finding, and comparing that number with the number of complaints that quarter that were resolved with any finding other than "sustained."

Figure Four reports the percentage of complaints, by quarter, which were sustained as a result of the OMI investigation. As with other data reported in this section, Figure Four deals only with investigations of complaints filed by citizens. Complaints investigated by OMI as a result of an internal infraction referred to OMI by the bureau of Police are not included in these analyses.

*Figure Four: Rate of Sustained Citizens' Complaints  
By Quarter (1997-1999)*



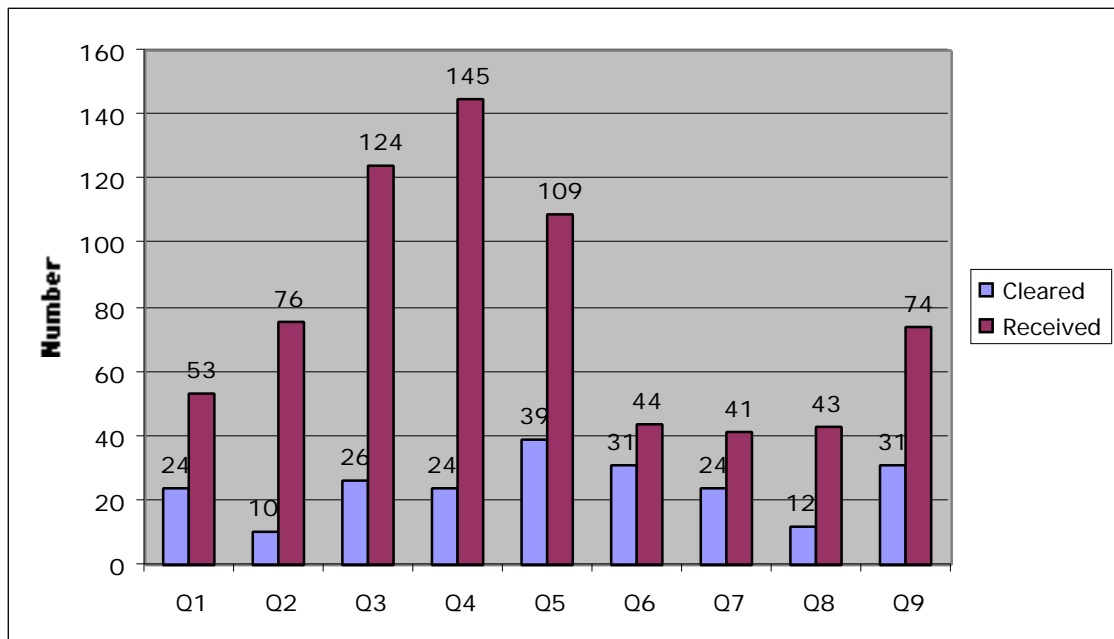
Source: Electronic database provided by City of Pittsburgh, CIS and calculations by the auditor.

### Complaints Received and Complaints Cleared

The number of citizens complaints received by OMI during the last nine quarters, compared to the number of complaints resolved by the Office is reported in Figure Five, below. As with all other data reported in this section, these data are also calculated using data provided by the city and “cleaned” by the auditor’s staff.

Figure Five reports two categories of data for the nine quarters covered by this report. The first category reported identifies the number of citizens’ complaints received by the Office of Municipal Investigations (either by person, telephone, mail or anonymously). The second category reported identifies the number of complaints resolved by OMI investigation.

*Figure Five: Complaints Received v. Complaints Resolved, By Quarter (1997-1999)<sup>9</sup>*



Source: Electronic database provided by City of Pittsburgh, CIS and calculations by the auditor.

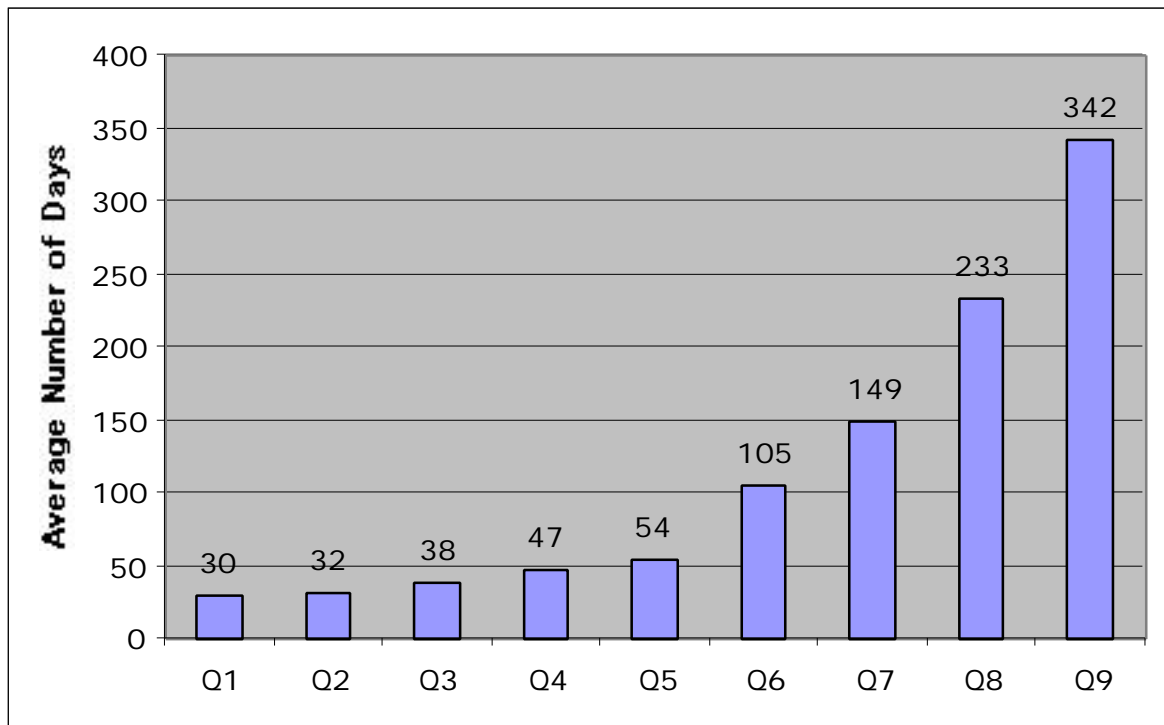
### Length of OMI Investigations

<sup>9</sup> Cases cleared as reported by the OMI database differ from cases forwarded by OMI to the auditor for review. An assessment is currently underway to determine the source of this error.

Figure Six depicts the average length of time (in number of days) required to complete an OMI investigations during the last seven quarters covered by this report. The data depicted in Figure Six were calculated by determining the number of days from complaint receipt to compliant resolution, as reported in the OMI database, for each investigation completed during each of the seven quarters covered by this report. An arithmetic average (mean) was then calculated for each quarter.

Data for Figure Six reflect an intensive training schedule for OMI personnel, beginning in the third quarter. In addition, two cases (one each in the first and second quarters) had missing data in the received/resolved columns, which skewed reported data for those quarters. These data also reflect the fact that OMI is beginning to “clear up” long-term pending cases.

*Figure Six: Average Length of Time Required to Complete OMI Investigations, by Quarter (1997-1999)*



Source: Electronic database provided by City of Pittsburgh, CIS and calculations by the auditor.

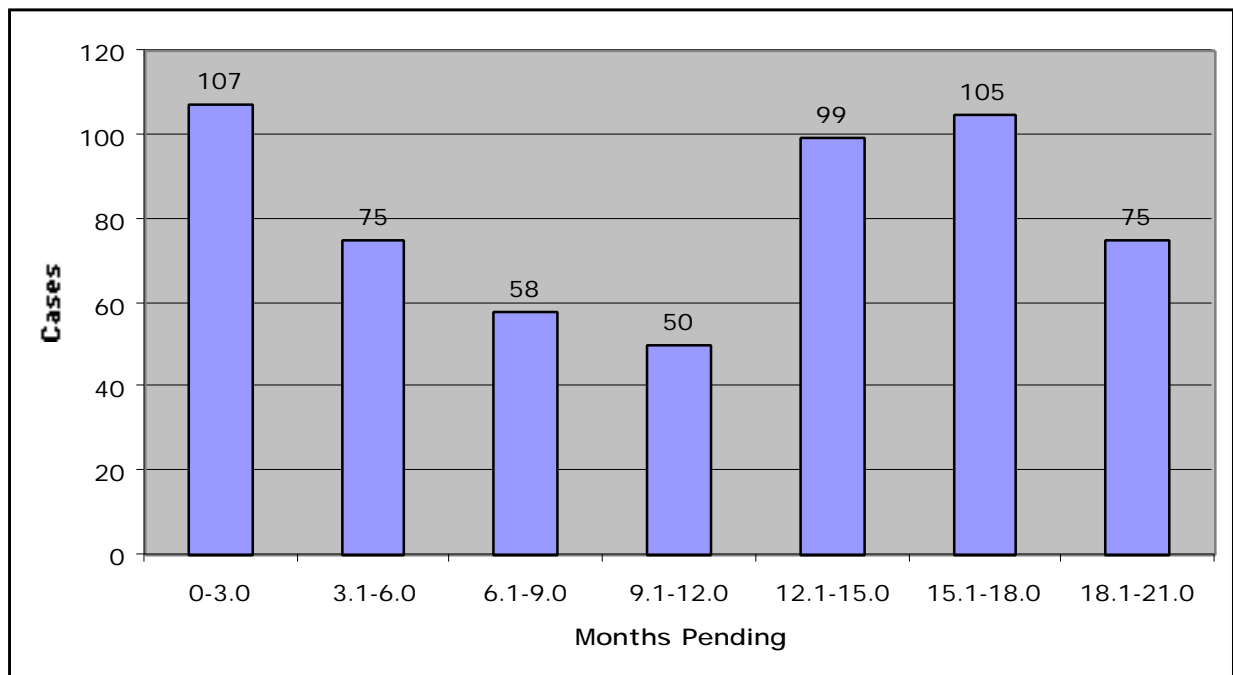


## Length of Pending Investigations

The length of time OMI investigations are pending is reported in Figure Seven, below. The number of citizens' complaints currently pending for each period of time (0-3 months, through more than 18 months) are depicted.

The data were collected by subtracting the date the complaint was received by OMI from the effective date of the end of the ninth quarter (August 15, 1999). For the purposes of this report, a "month" was operationalized as 30 calendar days. Using 30 as the divisor, the total number of "pending" months was calculated for each complaint. For example, Figure Seven indicates that OMI has 50 citizens' complaints which are classified as "open" nine-twelve months after they were filed.

*Figure Seven: Length of Pending Investigations of Citizens' Complaints (1997-1999)*



Source: Electronic database provided by City of Pittsburgh, CIS and calculations by the auditor.

### **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.

Auditor's Ninth Quarterly Report  
January, 2000  
Public Management Resources  
San Antonio, Texas

## Methodology

The auditor has reviewed all 31 final reports of OMI investigations of citizens' complaints completed between August 16, and November 15, 1999. In addition, the auditor conducted a comprehensive review of supporting documentation for 20 cases completed during this time frame. Of those 20 cases, seven are remanded to the Office of Municipal Investigations for additional work. These include the following cases.

AQR9-S, a case involving failure to divulge name and badge number in which a known witness, the mother of the complainant, was not interviewed. There may be reasons for this failure, such as an inability to locate the mother, illness, etc.; however, the reasons for not interviewing this witness need to be noted and carefully documented in the final report.

AQR9-V, a case involving an alleged illegal search which did not include the related Field Contact/Search and Seizure Report in the investigative file. While this may seem a minor oversight, it is critical that all cases involving allegations of illegal or unwarranted search and seizure include a review of the FCSSR, and an assessment of the approval process of that document.

AQR9-C, a case involving allegations of excessive force in which pictures were taken of the complainant by the OMI intake officer, but were not included in the final report.

AQR9-AA, a case involving allegations of conduct unbecoming a police officer, in which investigators, apparently, failed to ask critical questions related to the allegation of officers and witnesses, and failed to interview critical witnesses.

AQR9-B, a case in which a police officer admits an illegal search of as many as nine students, in violation of PBP policy, yet which is "exonerated." The investigation includes statements from the police legal advisor noting the search was illegal, and there is no FCSSR included in the case file. There is also no "collateral misconduct" investigation for failure to complete and file an FCSSR.

AQR9-E, a case involving allegations of a racial slur in which the questions asked by investigators during the interviews of witnesses and police officers do not address the issue of a racial slur, yet findings indicate that the actions contained in the allegation did not occur.

AQR9-AB, a case involving an allegation of an illegal search which does not include the FCSSR in the final report documentation, and does not review the approval process of the FCSSR.

In addition to these eight cases, two other cases exhibited problematic investigative or documentation techniques. These cases had been pending for so long, however, that it is highly questionable that a recommendation that they be reopened would generate any additional information. These cases include:

AQR9-T in which the investigator simply fails to ask witnesses if they knew the names or other contact information of other key witnesses, in which emergency medical technicians on the scene were not interviewed, and in which the investigative report suggests a careful canvass for witnesses despite the indication of other documentation that no—or a poor—canvass was done. The case is over 18 months old, however, and it is highly unlikely that any information is available from a canvass at this late date. The case should be used for training of new investigators as an example of poor investigative technique, poor interviewing technique and poor documentation technique.

AQR9-AC, a case which showed no indication of a neighborhood canvass, showed no serious attempts to locate witnesses (other than by telephone), and which included an interview with the supervisor on the scene which failed to address critical questions involved in the allegation. This case, too, is over a year old, and included an uncooperative complainant. It is highly unlikely that these witnesses could be located at this date. This case, too, would be a good training tool to teach new investigators pitfalls to avoid in future investigations.

In addition to these two cases, at least two other cases were included in this quarter's completed cases in which critical witnesses were "lost" due to the length of time between the filing of the complaint and initial attempts to locate and interview witnesses. Immediate attention to adequate staffing, training and management of the investigative process in OMI is essential to avoid continuing problems with timeliness.

During the eighth quarter, the audit report noted that:

"The city currently has a backlog of several cases which have been remanded for reinvestigation and have not been returned to the auditor. To remain in compliance with this task, these remanded cases should be completed and resubmitted expeditiously."<sup>10</sup>

The Office of Municipal Investigation has begun to work through this process, producing initial notes to the auditor in November, 1999. No final investigative

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<sup>10</sup> Auditor's Eighth Quarterly Report, Section 2.62, p. 73.

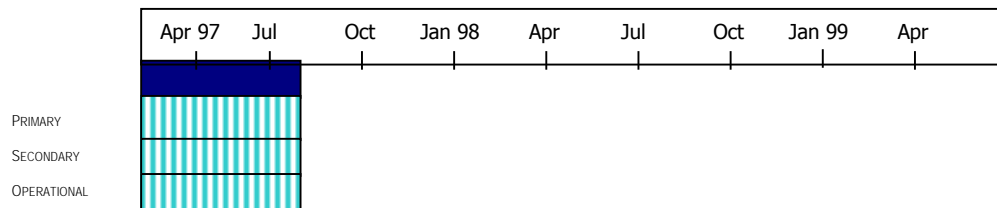
work has been completed, however. Substantial progress should be made on these cases during the tenth quarter if the city is to avoid a “non-compliance” finding on these tasks.

**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, etc. The auditor has reviewed each of these progress reports. The city remains in compliance with the requirements of task 73

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

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



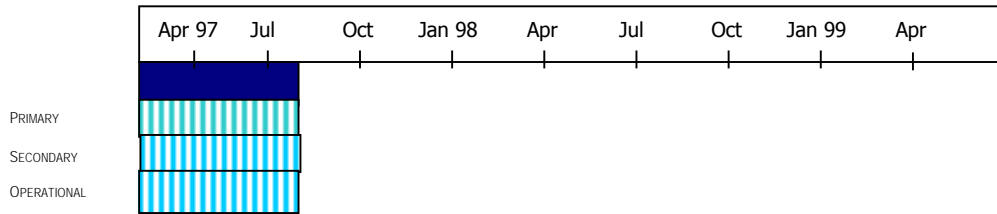
Paragraph 74 requires the city to maintain all records necessary to document their compliance with all terms of this decree. Further, it requires the city to maintain records required by or developed under this decree.

Methodology

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

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

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



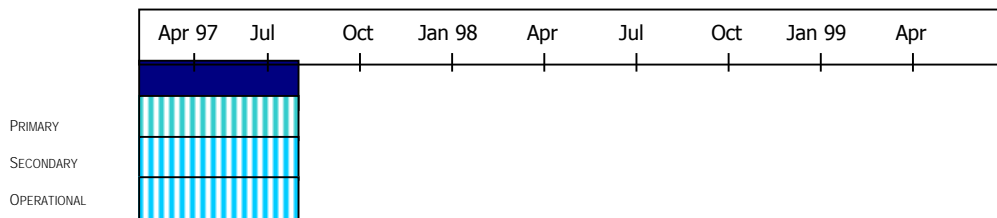
Paragraph 75 requires the city to provide the auditor with unlimited access to PBP records relating to the decree and conformance thereto. Further, access to all staff and facilities as needed to effectively monitor the decree is also required.

**Methodology**

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

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

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



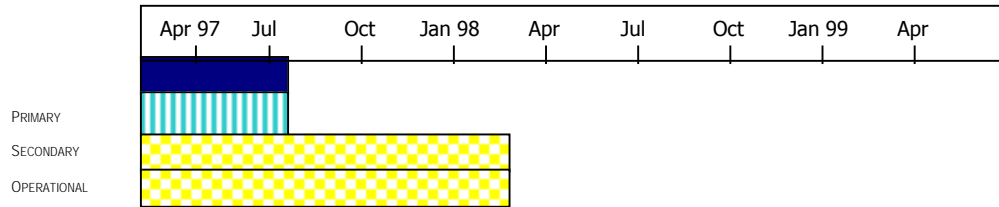
Paragraph 76 requires the city to provide the Department of Justice with access to documents, databases, and other data necessary to evaluate compliance with this decree. Further it requires access to staff and facilities upon appropriate notice.

**Methodology**

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

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

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



Paragraph 77 of the decree requires the city to provide copies of the consent decree to all officers, and to explain the terms of this decree to all current and future officers, OMI employees, and all DPS employees with oversight or responsibility for PBP operations. All such individuals are further required to sign a statement indicating that they have received, read and understand the statement. The city is required to retain these statements

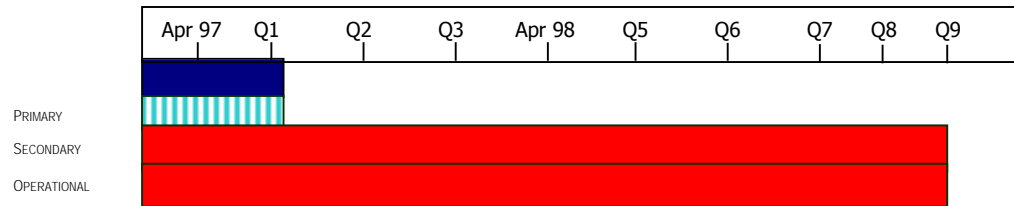
**Methodology**

The auditor has reviewed signature records retained by the city acknowledging receipt, reading and understanding of the decree. These have been signed by all supervisors, senior supervisors, command personnel, OMI personnel, and appropriate individuals at the Department of Public Safety. A video has been developed explaining the consent decree, and all on-duty sworn personnel have viewed the video<sup>11</sup>. The auditor has reviewed the video, and has found that it adequately explains both the letter and spirit of the decree, as well as the city's approach to compliance. Currently, the department has trained all current active-duty officers, and received officer signatures stating understanding of the decree, except for those on extended leave or otherwise not available.

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

<sup>11</sup> Officers on extended leave and who are otherwise excused for duty for extended periods of time have not viewed the video, nor have they signed the statement of understanding.

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



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

### Methodology

Each of the separate provisions of the decree is assessed for compliance to established timelines in the pages above. With the passage of April 16, 1998, an additional set of tasks came “on-line,” those involving automation of the PARS. The city is currently in **primary compliance** with 100 percent of the 74<sup>12</sup> provisions to which the city should have complied by now. The city is in **secondary compliance** with 71 of the 74 provisions due as of August 15, 1998. It is also in **operational compliance** with 71 of the 74 tasks, due as of August 15, 1998.<sup>13</sup> Two requirements identified by the decree exhibited problematic performance during the ninth quarter:

- Poor investigative and documentation techniques by OMI; and
- Failure to bring to closure cases that the auditor had remanded to be re-opened.

To avoid loss of compliance status during the tenth quarterly assessment, the city needs to re-double its efforts to ensure that similar errors are not made in the future.

<sup>12</sup> Two of the 76 tasks in the decree accrue to the auditor.

<sup>13</sup> The auditor was unable to audit three 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 continued compliance with most 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.

Unanticipated problems arose this quarter—all of them serious:

- Poor investigative and documentation techniques by OMI; and
- Failure to bring to closure cases that the auditor had remanded to be re-opened.

Many of these problems should be viewed in the light of understanding of difficulty of maintaining the high standards established over the last eight quarters. Continued problems in these areas, however, could result in a loss of compliance status.

The city has maintained a **primary compliance** rate of 100 percent, a **secondary compliance** rate of 96 percent, and an **operational compliance** rate of 96 percent. The city has come into compliance in all but three areas; however, these are among the most difficult areas to control, as quality assurance in the internal investigations process is among the more difficult tasks confronting American law enforcement.

On the police side, as well, the most difficult problem remains: moving responsibility for review and control of unwarranted police behavior, and recognition and award of exemplary police behavior to the sergeant's and lieutenant's level. Increasing supervisory presence and improving supervisory control and leadership are critical factors for the bureau, and are essential to maintain compliance.



These two remaining tasks—establishing and maintaining the quality of internal investigations and “institutionalizing” the changes made as a result of the decree—are among the most difficult tasks in law enforcement. They will take time to accomplish. As of the tenth quarter, the decree process will be half way through its established timeline. The city and the Department of Justice are fast approaching the point at which all changes required need to be completed in order to give these changes time to take hold as part of the institutional fabric prior to the end of the five-year life of the project.

Overall compliance status of the project is depicted in the Table Two, below. The city is well within reach of 100 percent operational compliance within the next quarter or two. Maintenance and refinement of compliance process will then become the focus of the quarterly audits. Table Three, below, summarizes the results of the compliance effort to date.

*Table Two: Overall Compliance Status,  
Tasks 12-38*

<b>Task No.</b>	<b>Primary Compliance</b>	<b>Secondary Compliance</b>	<b>Operational Compliance</b>
12	Yes	Yes	Yes
12a	Yes	Yes	Yes
12b	Yes	Yes	Yes
12c	Yes	Yes	Yes
12d	Yes	Yes	Yes
13	Yes	Yes	Yes
14	Yes	Yes	Yes
15	Yes	Yes	Yes
16	Yes	Yes	Yes
17	Yes	Yes	Yes
18	Yes	Yes	Yes
18b	Yes	Yes	Yes
19a	Yes	Yes	Yes
19b	Yes	Yes	Yes
20a	Yes	Yes	Yes
20b	Yes	Yes	Yes
21a	Yes	Yes	Yes
21b	Yes	Yes	Yes
21c	Yes	Yes	Yes
22	Yes	Yes	Yes
23	Yes	Yes	Yes
24	Yes	Yes	Yes
25	Yes	Yes	Yes
26	Yes	Yes	Yes
27	Yes	Yes	Yes
28	Yes	Yes	Yes
29	Yes	Yes	Yes
30	Yes	Yes	Yes
31	Yes	Yes	Yes
32	Yes	Yes	Yes
33	Yes	Yes	Yes
34	Yes	Yes	Yes
35	Yes	Yes	Yes
36	Yes	Yes	Yes
37	Yes	Yes	Yes
38	Yes	Yes	Yes

*Table Two: Overall Compliance Status,  
Tasks 39-78*

<b>Task No.</b>	<b>Primary Compliance</b>	<b>Secondary Compliance</b>	<b>Operational Compliance</b>
39	Yes	Yes	Yes
40	Yes	Yes	Yes
41	Yes	Yes	Yes
42	Yes	Yes	Yes
43	Yes	Yes	Yes
44	Yes	<b>NO</b>	<b>NO</b>
45	Yes	Yes	Yes
46	Yes	Yes	Yes
47	Yes	Yes	Yes
48	Yes	Yes	Yes
49	Yes	Yes	Yes
50	Yes	Yes	Yes
51	Yes	Yes	Yes
52	Yes	Yes	Yes
53	Yes	Yes	Yes
54	Yes	Yes	Yes
55	Yes	Yes	Yes
56	Yes	Yes	Yes
57	Yes	Yes	Yes
58	Yes	Yes	Yes
59	Yes	Yes	Yes
60	Yes	Yes	Yes
61	Yes	Yes	Yes
62	Yes	Yes	Yes
63	Yes	Yes	Yes
64	Yes	<b>NO</b>	<b>NO</b>
65	Yes	Yes	Yes
66	Yes	Yes	Yes
67	Yes	Yes	Yes
68	Yes	Yes	Yes
69	Yes	Yes	Yes
70	Yes	Yes	Yes
73 <sup>14</sup>	Yes	Yes	Yes
74	Yes	Yes	Yes
75	Yes	Yes	Yes
76	Yes	Yes	Yes
77	Yes	Yes	Yes
78	Yes	<b>NO</b>	<b>NO</b>

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<sup>14</sup> Tasks 71 and 72 accrue to the auditor.

*Table Three: Overall Compliance Status, by Percent*

	<b>Primary Compliance</b>	<b>Secondary Compliance</b>	<b>Operational Compliance</b>
<b>Number in Compliance</b>	74	71	71
<b>Percent in Compliance</b>	100 %	96 %	96 %