

Auditor's Eighteenth Quarterly Report  
Quarter Ending February 16, 2002

## **1 Introduction**

This document represents the eighteenth 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. This 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. 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 February 15, 2002. The site visit for this quarterly report was conducted during the week of February 4, 2002.

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**

Auditor's Eighteenth Quarterly Report  
July, 2002  
Public Management Resources  
San Antonio, Texas

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

During the eighteenth quarter of the decree, the city, the bureau and OMI have continued to implement the changes required by the decree, with specific exceptions noted in section 2.54, below.





**1.5 Depicting Compliance Levels**




This report uses both a narrative and graphic schema to depict compliance levels with the requirements of the consent decree. The narrative depiction labels compliance in the three categories as follows:



Status:            Primary:        Compliance Level  
                           Secondary:    Compliance Level  
                           Operational:   Compliance Level

With appropriate compliance levels reported for each level of assessment.

The graphical depiction shows each level of compliance in relation to the time provided by the decree to reach compliance. The figure below depicts compliance levels on a hypothetical task.

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
													
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

The solid blue bar  indicates the time allowed by the decree to reach compliance, in this case, one quarter. The “primary,” “secondary,” and “operational” task bars indicate the time the agency took to achieve the various levels of compliance. A vertically patterned light blue bar  indicates compliance achieved within the time allowed. A checkered yellow-bar 

depicts compliance which was achieved in a period of time that was longer than that allowed by the decree, but which does not, in the opinion of the auditor, seriously affect the city's successful compliance with the decree. A horizontally patterned orange bar  indicates that compliance was achieved in a period of time that was longer than that allowed by the decree, and which *may* affect eventual compliance. A solid red bar  depicts that compliance was achieved in a period of time that was longer than that allowed by the decree, and which, in the opinion of the auditor, *does* affect eventual compliance.





**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 eighteenth 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)**

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
													
Primary													
Secondary													
Operational													

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).

Methodology

During the site visit for the eighteenth quarterly audit, the auditor reviewed the operational PARS for conformance to the requirements of the decree. The review was conducted by obtaining PARS-specific data for the third quarter of 2001 and reviewing the performance factors for all PBP personnel. As part of this review, data were assessed for all active 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, use of force, discretionary arrests and traffic stop activity. Results of the auditor's review are noted below.

A review of PARs data by command staff this quarter noted:

- 35 police officers who were continued on monitoring status based on previous indicators from earlier quarterly audits (the same number as noted during the previous quarter);
- 105 police officers whose performance in the area of warrantless search and seizure fell one or more standard deviations above their work group means;
- 130 officers whose performance in the area of the application of force fell one or more standard deviations above their work group means;
- 24 officers who were selected for review due to combined rankings for sick leave, citizens complaints, missed court, discretionary arrests and other indicators; and
- One officer who was the subject of gender or racial bias complaints.

In each of these cases, command staff review was appropriate, and related to the tenets of good supervision. A total of 37 supervisory actions (monitoring, discipline, counseling, etc) were taken by command staff based on this quarter's COMPSTAR review and associated information. A continued supervisory presence was also noted this quarter compared to last, with clear evidence that supervisory personnel are using PARS, in conjunction with the performance evaluation process, to identify and respond to personnel not in compliance with departmental policies and to prevent possible infractions.

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**

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
Primary													
Secondary													
Operational													

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 eighteenth quarterly audit, the auditor reviewed the city’s Performance Assessment and Review System (PARS). PARS is now completely operational, and was used by the PBP command staff to conduct its last quarterly analysis during the month of February 2002. The auditor’s review for the eighteenth quarter was conducted by reviewing 100 percent of the related data included in the 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 quarterly analysis of PARS data. During that analysis, the command staff reviewed the performance parameters of 295 officers who, based on their performance records during the quarter, fell one or more standard deviations above the mean for their work groups on the various tasks assessed by PARS, or who had higher numbers of overall performance indicators than their peers. From those 295 officers, command staff selected 37 for some form of continued or increased scrutiny, based on their performance over the last quarter. The PARS reports accurately 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**

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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," traffic stops, searches and seizures, and use of force.

Methodology

During the site visit for the eighteenth quarterly audit, the auditor reviewed the operational PARS for conformance to the requirements of the decree. 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. More than 100 random separate tests were performed, using data from PARS and its supporting OMS. The OMS reported accurately in each of the tests, and the PARS accurately reflected the data contained in the OMS.

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**

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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 eighteenth quarterly audit, the auditor reviewed the operational PARS for conformance to the requirements of the decree. Data continue to be entered as required by the decree. The auditor found no instances of data being purged from the PARS in conflict with the requirements of the decree.

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**

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
Primary													
Secondary													
Operational													

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.

Methodology

During the site visit for the eighteenth 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. Command staff use PARS and supporting systems to conduct quarterly analysis of personnel performance.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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

Further, the auditor conducted a thorough review of a random sample of 7.5 percent of 186 Subject Resistance Reports generated by PBP personnel during the quarter. The review conducted by the auditor indicates an acceptable level of command review. Bureau SRRs were reviewed appropriately in 100 percent of the cases selected for review. This figure exceeds the required 95 percent compliance rate.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
Primary													
Secondary													
Operational													

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 reviewed **all** completed electronic records dealing with FCSSRs for the quarter, and identified all such records (one) that reported a strip search. All of the records of this reported strip search was reviewed by the auditor. The strip search was approved in advance by supervisory personnel, and was conducted in a location expressly approved for such procedures. The reported strip search was conducted in accordance with policy; however, the one strip search reported this quarter was not reported by the conducting officer in an acceptable manner. This discrepancy was immediately noted the same day by the officer’s supervisor, and remedial action was taken within three days. The officer involved in this incident has not had repetitive issues in report writing. The auditor found another incident of an apparently unreported strip search, associated with an OMI complaint, which was not reported as required by this policy. The allegation of failure to report a strip search was not investigated by OMI, and the case has been returned to OMI for additional investigative work (see AQR18-AQ in section 2.53).

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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.

Methodology

The auditor reviewed a randomly selected sample of Subject Resistance Reports (SRRs) and Field Contact/Search/Seizure Reports (FCSSRs) to assess the level of accuracy of reporting and supervisory review for these reports. A 7.5 percent sample of 186 SRRs written during the eighteenth quarter was selected for review. In addition an 7.9 percent sample of 618 completed search and seizure reports was selected for review. A 100 percent sample of two strip searches was selected for review. While these samples are lower than in past audit cycles, this reflects ten straight quarters of 100 percent compliance on these tasks. All of the reports reviewed this quarter, with the exception of one, were found to be in compliance with the requirements for search and seizure and use of force reporting. The problematic report was noted by supervisory personnel on the same day it was written, and remedial action was taken within three days. The error rate remains within the acceptable margin of error, at zero percent. The auditor found another incident of an apparently unreported strip search, associated with an OMI complaint, which was not reported as required by this policy. The allegation of failure to report a strip search was not investigated by OMI, and the case has been returned to OMI for additional investigative work (see AQR18-AQ in section 2.53). Determination of the effect of this pending investigative work on this task is pending outcome of the OMI investigation.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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

Traffic stop data for all stops completed by the Bureau were assessed by the monitoring team during the eighteenth quarter. The auditor found the traffic stop data to accurately reflect information included in the COMPSTAR review conducted by command staff. In addition, the audit team noted that the bureau had initiated disciplinary proceedings against two officers in the fourteenth and fifteenth quarters for failure to report traffic stops in accordance with bureau policy. Discipline assigned by the bureau for these infractions, in both cases, was a suspension of five days, pending termination. The bureau is judged to be in compliance with this task based on current and past performance.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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 eighteenth quarterly site visit, the auditor tested data entry protocols by performing more than 100 individual tests of the system. The PARs and OMS reported accurately in each of these tests.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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 auditor reviewed a 7.5 percent sample of the 186 completed SRRs for the quarter. Each report was appropriately reviewed by command staff, and reports incorrectly completed were noted and re-routed for remediation. No errors were noted in the SRRs reviewed by the auditor.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

Paragraph 18-b requires senior supervisors to analyze use of force data quarterly. The bureau continues to complete quarterly analyses 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" (COMPSTAR) 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 command staff meeting to evaluate the effectiveness of these solutions.

Methodology

Using the PARS/OMS system, the auditor identified, during the eighteenth quarterly audit, 130 officers whose use of force statistics (or associated activity levels) were one or more standard deviations 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 130 of the officers identified by the auditor were also noted by zone commanders. The increase in the rate of officers noted by the auditor this quarter, over previous quarters is due to the fact that, during the last four quarters, the auditor reviewed a 100 percent sample of SRR reports (electronically, using PARS data), rather than selecting a sample for review.

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**

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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 site visit for the eighteenth quarter, the auditor selected a random sample of 7.9 percent of 618 FCSSRs completed during the quarter. Each of these reports was analyzed to ensure the report met the requirements of task 19-a. Further, each of the 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 reports was assessed, and supporting documentation, where available, was reviewed. The bureau continues to note incidents of poor reporting, when they occur, and continues to retrain officers who exhibit problematic reporting on search and seizure events.

Of the reports reviewed, one was judged to be problematic; however, this was noted by supervisory personnel on the same day the report was written, and remedial action was taken within three days. A second issue arose this quarter with an apparent strip search that was not appropriately reported. The auditor identified this issue through review of an OMI complaint, which failed to investigate the collateral misconduct of failure to report a strip search. Action on this incident is pending the outcome of the returned OMI case (see AQR18-AQ, section 2.53). The error rate for FCSSRs for the eighteenth quarter is zero (pending the OMI review). This is attributable, in part, to the internal review process established by the bureau, as well as increased scrutiny of FCSSRs by zone supervisors.

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**

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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

Methodology

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.

Using the PARS/OMS, the auditor identified 105 officers whose FCSSR data fell one or more standard deviations above the mean for their work groups. 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 FCSSRs completed by these officers. The command staff review noted each of the 105 officers identified, independently, by the auditor as indicating a need for further scrutiny. The increase in numbers of officers identified by the auditor is due to the fact that, during the last four quarters, the auditor drew a 100 percent sample of PARS FCSSR data for analysis. A potential problem with this task was noted by the auditor this quarter during a review of an OMI case investigation which appeared to include information concerning an unreported strip search. The auditor has returned the case (AQR18-AQ) to OMI for additional investigation.



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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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 complaints received by the Office of Municipal Investigations, the auditor screened these complaints for allegations of racial or gender bias. During the eighteenth quarter, one allegation of racial or gender bias on the part of bureau officers was received by OMI. Racial bias complaints are monitored closely by command staff, and each quarterly COMPSTAR review includes a discussion of the status of these complaints, as well as the nature of the review conducted pursuant to the policy outlining PARS protocols for racial bias complaints. In addition, three complaints of racial bias were received, but investigations of the allegations were pending. Command staff implemented monitoring protocols as required by the decree in response to these three complaints.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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 November 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.

The quarterly analysis conducted by command staff during the week of February 4, 2002 identified one officer with at least one of these "trigger" events. This event was analyzed by command staff in accordance with the requirements of the decree.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
Primary													
Secondary													
Operational													

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 two-year period, or five or more complaints in a two-year period.

Methodology

The auditor reviewed all discipline imposed by the bureau for the eighteenth quarter. Based on records obtained from the office of the chief of police, eight individual disciplinary actions, involving citizens' complaints, were taken by the bureau during the period of time covered by this report. The auditor reviewed all disciplinary actions reported for the eighteenth quarter, and found the decisions of the command staff to be reasonable, based on the tenets of progressive discipline.

Based on the protocols of progressive discipline, the bureau is responding within its anticipated range of responses in delivering discipline. Offenses recorded for these eight disciplinary actions included:

- Violation of the code of ethics;
- Conduct toward the public; and
- Conduct unbecoming a police officer.

Discipline for the eight incidents involving interactions with the public included:

- Oral reprimands;
- Written reprimands; and
- Conflict resolution retraining.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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 November 16, 2001 to February 15, 2002. 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, and other appropriate forms of "retraining" and "counseling," including assignment to conflict resolution retraining.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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, eight individual disciplinary actions were taken by the bureau this quarter. Each of the eight disciplinary actions taken by the bureau was reviewed for evidence that prior disciplinary records were considered when imposing discipline. One of the disciplinary actions taken this quarter indicated a modification to discipline based on past record.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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

Methodology

During the site visit for the fifteenth quarterly report, members of the monitoring team reviewed performance files and supervisory daily activity reporting at **all** zones (One through Six and SDD). Supervisory activity remains at acceptable levels, with officers (and some supervisory personnel) selected for "monitoring" showing an active supervisory review of their activities. Based on some minor problems noted during the sixteenth quarterly site visit, the monitor conducted a thorough review of supervisor activity reports for "canned language" during the seventeenth quarter. No problems of this nature were noted in supervisory reports during that quarterly review. No zone site visit inspections were made for the eighteenth quarter.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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

During the site visit for the sixteenth quarterly report the audit staff reviewed nearly three dozen police performance evaluation files. Each of the personnel files reviewed this quarter contained performance evaluations completed in accordance with established policy. While a small number of files were missing at least one performance evaluation report, all of these were from the most recent evaluation period. Upon notice to the bureau by the auditor, all records were located and placed in the appropriate files. No assessment of this task was conducted for the eighteenth quarter.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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

Methodology

During the sixteenth quarter, members of the audit staff reviewed a 100 percent sample of the personnel files for two police members promoted during the third quarter of 2001. All of those promoted appeared to have been carefully evaluated, and promotions were made only of members who “met or exceeded” performance evaluation criteria. No promotions were made during the eighteenth quarter.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
Primary													
Secondary													
Operational													

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

Evidence continues to exist to support the bureau’s operational compliance with paragraph 25. Reviews of zone "performance files" indicate that the EAP has been used by departmental personnel and departmental managers. Bureau discipline continues to use the EAP as part of its progressive discipline campaign. The city continues to sponsor EAP-related forums and to advertise the availability of EAP offerings. One employee was placed on extensive “Track III” employee assistance during the fifteenth quarter, in lieu of termination, and two employees were suspended for five days (pending termination) for violation of their Track III agreements. No new Track III activity was noted during the eighteenth quarter. The city remains in compliance with this task based on past performance.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
Primary													
Secondary													
Operational													

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

A review of Bureau records indicates that the bureau continues to monitor its officers' activities for adverse involvement. The bureau's records included notice regarding pending civil litigation (not related to duty incidents), and filed civil court orders. Discipline during the thirteenth quarter involved one incident of disciplinary action for failure to provide notice of adverse involvement. No finding of liability was noted this quarter. Three incidents of adverse involvement, all appropriately reported, were noted this quarter.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
Primary													
Secondary													
Operational													

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

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 allegations of false arrest or improper searches on the part of PBP officers. During the eighteenth 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**

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
Primary													
Secondary													
Operational													

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 noted during the eighteenth quarter, and none were found. During the sixth quarterly audit, however, 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 bureau continues to be in compliance with this task.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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, 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**

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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 continues to implement its rotation plan. The plan, supported by Chief's Memo 97-550, requires routine consent-decree transfers in January of each year. Each January since implementation of this policy, the bureau has transferred sufficient numbers of personnel to remain in compliance with this task. In January, 2002, the bureau transferred a total of 81 officers and supervisors. In addition, during the thirteenth quarter, the bureau transferred all but two of its commanders, assigning each to new duties.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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 November 16, 2001 to February 15, 2002. The logs show multiple community meetings attended by PBP personnel. 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: Televised OMI's Function**

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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. The city continues to air television "spots" highlighting the function and process of the Office of Municipal Integrity. 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. Television PSAs have been revised, although additional work is pending, and thus have not been reviewed by the auditor, as of this writing.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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 three 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 2001 and early 2002, the bureau has continued to train its officers in the topics of cultural diversity, "effective communication" and ethics. The Bureau is on pace to train all of its officers in the required topics during the annual training cycle.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
Primary													
Secondary													
Operational													

Paragraph 34 requires the city to establish monitoring systems which will assess citizen's 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. In addition, the auditor reviewed the academy's quarterly training assessment report.

It continues to be 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 past nine quarters, training academy staff completed a review of citizen's 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**

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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

To date, for the training year 2002, the bureau continues to train its eligible officers (excluding officers on extended medical or similar leave, and thus not performing police duties) in "verbal judo" and/or tactical communications. 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. A total of 98 percent of the officers subject to this training received it during the last training cycle, and retraining is in progress for the 2002 training cycle.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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. The recruit curriculum offered "ethics" training and "verbal judo" in week one, and cultural diversity in week two. Additional training in weeks 21 and 23 cover additional topics in cultural diversity and verbal judo. The auditor has reviewed the curriculum outlines for cultural diversity and ethics, and finds the curricula to be appropriate and responsive to the decree.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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 of the department’s sworn personnel have received training in ethics through the bureau’s new "career and personal survival" training component. The bureau contracted with a nationally recognized provider of training in police ethics, and substantially revised the curriculum for the 2000 calendar year. The latest ethics training was conducted as part of the State of Pennsylvania’s mandatory training cycle. During the tenth quarter, the bureau received accreditation from the National Institute of Ethics. The agency’s eligible officers (excluding those officers on extended leave) continue to receive the state’s mandated “Leadership and Integrity” class during the 2002 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**

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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

Methodology

Based on a review of the training records, the department has trained all of its officers in the OMI process, with the exception of officers who are on extended leave. All new recruits receive the training regarding the OMI complaint process as part of the academy training program.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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

Methodology

During the sixteenth quarter, the bureau added 13 new FTOs to its complement of training officers in order to provide field training for two sections of recruits



currently working through the training process. Discussion at the fourteenth quarterly COMPSTAR meeting addressed methods for ensuring that quality FTOs are recruited, trained and deployed. The auditor conducted a complete assessment of the personnel files of these 13 officers during the sixteenth quarter, and found them to be highly qualified. No new FTOs were selected during the eighteenth quarter. The agency remains in compliance with this task, based on past performance.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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

During the sixteenth quarter, the bureau trained an additional 13 officers as instructors/FTOs, using its five-day "Instructor Development" training syllabus previously approved by the audit team. The academy has made no changes in its evaluation processes used to assess the effectiveness of the FTO program, which has been previously approved by the audit team. The City remains in compliance with this task based on past performance.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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

A review of training records for the eighteenth quarter indicates the academy has continued its established processes for maintenance of training records. A full on-site review of training records was conducted by the audit team during the thirteenth quarter. No discrepancies were noted in training records. All instructors’ files reviewed contained certifications to teach the topics which they were teaching, and no missing data or other irregularities were noted.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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 eighteenth quarterly report, the audit team reviewed the department’s centralized file that is used to document mandatory counseling sessions ordered this quarter for PBP personnel. The Bureau continues to use, and document, mandatory counseling as part of its disciplinary processes, and documents these counselings in files maintained in the office of the chief of police.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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). Command staff continue to receive training in integrity, command accountability, and cultural diversity through a series of courses offered by the training academy and the "POLEX" program. In addition, all command staff have received specialized training in managing organizational conflict. The mixture of training provided for command staff meets, in the opinion of the auditor, the requirements of this task.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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.

The current OMI database is an effective management tool. Upgrades are currently underway for the system, which should make it even more effective in managing OMI caseload.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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

Members of the audit team reviewed disciplinary actions of the PBP command staff, and observed discussions among command personnel regarding disciplinary actions at the quarterly COMPSTAR personnel assessment. In addition, members of the audit team assessed DARs for evidence that past record and past performance is considered in assigning discipline. During the twelfth and thirteenth quarters, members of the command staff, using PARS and OMS, identified several members of the bureau for commendations based on their review, in part, of officers' disciplinary records available in PARS. This aspect of the review process continues. All records and actions observed by the members of the audit team indicate that the supervisory and command staff routinely access PARS in making disciplinary and performance decisions. PARS and OMS were consulted heavily as part of the promotional processes completed in the first two quarters of 2001. The bureau is judged to continue to be in compliance with this task. The PARS system was also used in assessing candidates for promotion during the first two quarters of 2001.

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

### **2.36 OMI Compliance Assessments**

This quarter represents a marked departure from standard review practices for completed OMI investigations. Normally, the auditor reviews at least 50 percent of all completed investigations; however, this quarter, the auditor changed the review process to focus more closely on investigations completed by OMI under a revised investigative protocol. This quarter, the city submitted to the auditor two sets of investigations, 85 investigations completed under the city's new investigative protocol (described in more detail below) and 61 investigations completed under the city's standard investigative protocol. The auditor selected 47 of 89 investigations completed under the new protocol under an agreement that the auditor would review these investigations and provide feedback to the city regarding the appropriateness of the newly revised investigative protocol. The auditor also reviewed 35 of the 61 investigations completed under the city's standard investigative protocol.

The City had briefed the auditor and the Department of Justice on its revised investigative protocols on two separate occasions, receiving suggestions and comments from both parties. The revised protocol called for the City to identify cases which had aged beyond timelines which were deemed suitable for complete investigation, e.g., witnesses were no longer locatable, complainants had moved and could not be located, police records had been destroyed as part of the normal course of purging older records, etc. These cases were to be

investigated and reported using a “memo” form, which developed dispositions based on components still available to the Office, e.g., court records, medical records, existing police reports, etc.

The City submitted to the auditor 85 cases completed under this revised protocol. All 85 of the closed investigations using this revised protocol were assessed for reasonableness of final dispositions and conformance to accepted standards and practices in police internal affairs investigations—given the age of many of the cases, and the auditor selected a total of 47 of these (55.2 percent) for a more detailed review. The City also submitted 61 conventional investigations, completed under the existing OMI investigative protocols. The monitor selected 35 of those (57.3 percent) for review. In all the auditor selected 82 of 146 completed cases, or 56.1 percent of all completed cases.

The auditor returned 32 of the 34 reviewed investigations completed under the revised protocol to the City, expressing concerns that, in the vast majority of completed “new form” investigations, the implementation of the revised protocol extended beyond the auditor’s understanding of its proposed use by the City. Of the 32 returned cases, completed under the revised investigative protocols, the vast majority (27) were returned because, in part, it appeared that the investigations failed to adhere to the requirement expressed in Task 61 of the decree which requires the Office to aggressively investigate allegations of misconduct. The second largest block, 10 of the 32 returned cases, exhibited failures to conform to the requirements of Task 65 of the decree, which requires OMI to use a preponderance of the evidence standard in analyzing the facts of investigations. All but 12 of the problematic cases suffered multiple difficulties. Two aspects of the “new form” investigative process, however, were exceptionally troubling to the auditor. First, eight of the 32 “new form” investigations showed illogical leaps to unfounded cases. For example, cases alleging improper handcuffing and excessive force were “unfounded” because the complainants were “found or pled guilty to an arrestable offense.” Another case “exonerated” an allegation that a male officer grabbed a female driver’s breasts during a search pursuant to a traffic stop. Under the OMI manual, “Exonerated” dispositions are appropriate if “the accused employee followed all appropriate policies and procedures that apply to the circumstances under investigation.” Such a finding makes sexual assault an appropriate police activity, and obviously cannot stand. Second, 11 of the cases closed using the revised protocols were substantially aged cases, some more than four years old, which, on their face, appeared to be potentially credible complaints of serious constitutional violations, but which were closed without painstaking investigation.

Based on the preliminary review of the City’s revised investigative protocols, the auditor has suggested substantive revisions to these protocols, requiring the investigation of allegations of constitutional deprivations to the best standard practicable, given the age of cases and the nature of the allegation. The auditor is aware that as cases age, they become more difficult to investigate; however, the auditor is gravely concerned that a number of cases alleging serious constitutional violations, that, on their face appear potentially credible, had been allowed to age three or four years before being completed through the City’s revised investigative protocols. The auditor repeatedly advised the City, beginning in 1998, to guard against allowing serious allegations to age to the point that they were not susceptible to investigation. Nonetheless, at least three such cases were presented to the auditor under the revised investigative protocol used this quarter.

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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

During the site visit for the eighteenth quarter, the auditor reviewed the training records for OMI personnel. It appears that all civilian employees may not have received the training required by the decree. A complete, detailed review of the training process is scheduled for the nineteenth quarterly report. A problem also was noted with the Office’s manual. While all formal revisions to the manual conform to reasonably accepted practice in the conduct of internal investigations, a revision in implementation of the manual does appear to have taken place, without notice to the auditor. Based on interviews conducted with OMI investigators, it appears that implementation of section 6-3 (C-12) has been

modified from a process that discusses areas of the investigation with accused employees to one that shares with accused employees the questions which will be asked during the taped interview. This change, it appears, was effected by a change in the orientation training, made sometime in March, 2002. This change marks a substantial change in operating procedures for the unit, yet was not accompanied by notice to the auditor. A process of sharing exact (or paraphrased) questions with accused officers, prior to a taped interview, does not conform to reasonably accepted practice in the conduct of internal investigations. Such a procedural change would not be approved by the auditor as a formal change to the OMI Manual, nor is the operational process acceptable. Based on the agreement of the parties, once compliance has been attained, two quarters of non-compliant action will result in loss of compliance. Continued use of this practice will result in loss of compliance for this task.

In addition, three cases were closed with a final disposition of "other," during the eighteenth quarter. "Other" is not a recognized disposition in the OMI Manual, and is not a change approved by the auditor. Based on the agreement of the parties, once compliance has been attained, two quarters of non-compliant action will result in loss of compliance. Continued use of this practice will result in loss of compliance for this task.

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

**2.37 Compliance with Task 47: Receipt of Complaints**

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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 all of the 61 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. None of the 61 files reviewed included any form completed by a complainant. Further, ample evidence exists to support the fact that complaints are received by telephone, letter and facsimile.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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

Methodology

Completed OMI complaints were assessed for the source of the complaint. No anonymous complaints were resolved this quarter. One anonymous complaint was resolved during the fifteenth quarter, however, and it was as completely investigated as possible. The city is judged to remain in operational compliance with task 48.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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 eighteenth 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. Eight of these complaints were investigated to completion by the Office. The city is judged to be in compliance with this task.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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

No change in compliance status was noted for this task during the eighteenth quarter.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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 82 of the 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 61 cases reviewed this quarter, evidence continues to exist 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 (November 16, 2001 through February 15, 2002), and reviewed the OMI manual to determine policy or procedural guidance relative to attendance at quarterly community meetings. Records maintained by OMI reflect that the office continues to attend public meetings.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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

Notification of supervisory personnel of citizens' complaints for officers under their command is accomplished through the PARS/OMS systems, and supervisors are held accountable for appropriate action in the quarterly COMPSTAR meetings. The city continues in compliance with this task.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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

This quarter represents a marked departure from standard review practices for completed OMI investigations. Normally, the auditor reviews at least 50 percent

of all completed investigations; however, this quarter, the auditor changed the review process to focus more closely on investigations completed by OMI under a revised investigative protocol. This quarter, the city submitted to the auditor two sets of investigations, 32 investigations completed under the city's new investigative protocol (described in more detail in section 2.36, above) and 61 investigations completed under the city's standard investigative protocol. The auditor selected all investigations completed under the new protocol under an agreement that the auditor would review these investigations and provide feedback to the city regarding the appropriateness of the newly revised investigative protocol. The auditor also reviewed 12 of the 123 investigations completed under the city's standard investigative protocol.

A review of all 82 of the completed OMI investigations for this quarter reveals no evidence to indicate that the city does not remain in compliance with this task. Interviews with OMI investigators, conducted this quarter, indicate that at least two police commanders have had contact with OMI investigators concerning their findings in given cases. While preliminary indications are that these contacts were to encourage additional investigative avenues, the auditor has pulled both of these cases for further review, which will be completed for the nineteenth quarterly report.

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**

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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 all OMI cases for the eighteenth quarter (November 16, 2001 through February 15, 2002) to determine if allegations of failure to provide

name and badge number were made to OMI and sustained by investigation. Six allegations were completed this quarter. Three of these were returned for additional investigation, in part because the completed investigations did not address the badge number allegations. This is the first quarter in several that OMI has experienced difficulty with this task. Based on an agreement between the parties, once compliance has been attained, two consecutive quarters of non-compliance will result in withdrawal of compliance status. Continued problems in this area will result in loss of compliance.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
Primary													
Secondary													
Operational													

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 82 completed investigations assessed during this quarter, 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 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**

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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 35 of the 61 cases completed this quarter by OMI. 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**

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

Paragraph 57 stipulates that OMI staff should be provided access to the city's PARS. The manager of OMI, the intake coordinator and two investigators 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. This access is provided through the Manager of the Office.

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**

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
Primary													
Secondary													
Operational													

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

Methodology

The auditor reviewed 35 of 61 completed OMI case investigations for the eighteenth quarter, noting instances in which supervisory personnel were apparently present at the scene of events leading to complaints. No consistent failures to interview supervisory staff who were present at the scenes of incidents resulting in complaints were noted this quarter.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
Primary													
Secondary													
Operational													

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 all completed OMI cases for the eighteenth quarter (November 16, 2000 through February 15, 2002) to determine if OMI personnel were conducting canvasses as required by this paragraph of the decree. Five of these cases appeared to involve fact situations or locations in which a canvass would potentially produce witnesses. Three of the cases resulted in witness canvasses, resulting in a failure rate of 40 percent. Based on an agreement between the parties, once compliance has been attained, two consecutive quarters of non-compliance will result in withdrawal of compliance status. Continued problems in this area will result in loss of compliance.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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 eighteenth quarter and found two. Those incidents were reviewed by OMI as required in the OMI Manual.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	...	Q12	Q13	Q14	Q15	Q16	Q17	Q18
<b>Primary</b>														
<b>Secondary</b>														
<b>Operational</b>														

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 all OMI investigations completed from November 16, 2001 through February 15, 2002, to assess the level of completeness of the investigations. The investigations were evaluated regarding complaint receipt and processing, case management, investigation and documentation, findings and determinations and reporting. The office completed 61 conventional investigations during the eighteenth quarter. In addition, 85 other complaints were processed by the office using new policies and procedures anticipated for full implementation later this year. The auditor reviewed 35 completed investigations finished using the conventional investigative process. Five of these completed investigations were returned for further investigation, constituting an error rate of 5 of 35 cases or 14.3 percent, a rate obviously not within the acceptable range. OMI was declared out of compliance with Task 61 during the fifteenth and sixteenth quarters, and was warned concerning this task during the fourteenth quarter. The office was also warned concerning this task during the thirteenth quarter and again in the twelfth quarter. During the past five quarters, OMI has been out of compliance with this task four times, and has been "under warning" an additional three quarters. These failures appear to be attributable to informal policy changes, problems with training for OMI staff (noted in several previous reports), and oversight.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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

Of the 35 investigations assessed for the eighteenth quarter, six involved potential allegations of "collateral misconduct." Only three of these were completely investigated. Three of the completed investigations returned for additional work this quarter were returned, in part, because the investigation failed to address issues of collateral misconduct. Based on an agreement between the parties, once compliance has been attained, two consecutive quarters of non-compliance will result in withdrawal of compliance status. Continued problems in this area will result in loss of compliance.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	...	Q12	Q13	Q14	Q15	Q16	Q17	Q18
<b>Primary</b>														
<b>Secondary</b>														
<b>Operational</b>														

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

## Methodology

The auditor reviewed final reports of all investigations completed by OMI between November 16, 2001 and February 15, 2002. In addition, the auditor reviewed supporting documentation for 12 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. Of the 12 case reports reviewed this quarter, five were deemed to require additional investigative work.

1. AQR18-C, a complaint of excessive force. The complaint is unfounded since the target officer is no longer employed by the Bureau of Police. The complainant does note that two other officers "knocked my head against the wall entering the hospital," and this allegation is simply not addressed.
2. AQR18-F, a complaint involving allegations of conduct unbecoming an officer, alleging the target officer was at a private residence during the early morning hours, pounding on the owner's door and refusing to leave. His actions resulted, apparently, in two 911 calls, to which officers responded. The credibility assessment fails to note that the officer has four other open OMI complaints involving allegations of inability to control his temper, and states, instead, that the officer has "no relevant OMI history". The case is unfounded because the target officer "was off-duty and acting as a private citizen." The OMI report characterizes the target officer's behavior as "knocking on the door," even though the officers responding noted the call was for "a disorderly person banging on the rear door" and "refus[ing] to leave until [the complainant] called the police. It appears that a preponderance of the evidence supports the contention that the target officer violated section 3.6.1 of the PBP General Orders, which prohibits "conduct prejudicial to the reputation or good name of the Bureau of Police, both on- and off-duty." The facts indicate that the target officer was at the location twice (1:30 am and 2:45 am), was known by the complainant to be a Pittsburgh Police Officer, and based on the best information available, the target officer refused to leave the residence on request of the owner. Actions attributed to the officer include trespassing and disorderly conduct, both criminal violations. That these facts constitute a violation of 3.6.1 is supported by the officer's commander, who disagreed with the findings of OMI, and caused the officer to be counseled, despite the OMI finding.

3. AQR18-U, in which the complainant alleges excessive force and which contains a collateral misconduct issue of failure to complete a Subject Resistance Report. The OMI investigation does not provide a synopsis of the complaint under "Summary of Complainant Allegations" as required by OMI policy and practice. The case, which alleges excessive force is "exonerated" despite neutral, third party testimony which corroborates the complainant's allegations, despite a spontaneous complaint being lodged by the complainant with another officer on the scene, despite a call for medical assistance contemporaneous to the event by the complainant, and despite a failure of the officer to complete a Subject Resistance Report. The "facts" used to exonerate the officer's action are the testimony of three officers who "didn't notice," "didn't recall" and "didn't remember" the officer using his baton to control the crowd. This investigation fails to find fault with the officer's failure to complete a Subject Resistance Report because he did not know the complainant had been injured. Injury is not a pre-requisite to completion of an SRR; use of force is. Completion of SRRs upon use of force by an officer is a consent decree mandated action. Exonerating a failure in this regard undermines the consent decree and the Police Bureau's attempts to enforce the requirements of the decree. More problematic, however, is the assertion that use of a baton to move a bystander, absent any resistance or refusal, is an appropriate use of force. The auditor strongly disagrees with such an assertion. By the officer's own admission, once he gave a verbal command for the crowd to move back, "the only person still near the victim was her mother." Absent refusal or resistance, application of mechanical force is inappropriate. Failure to report same is also a violation of Bureau policies.
4. AQR18-AK, which alleges excessive force. The investigation does not document medical records of treatment attained by the complainant after the altercation with police. No treatment of disparities between the officer's Subject Resistance Reports and officer's testimony to OMI is found in the investigative file. No witness canvass was conducted, despite the fact that the event occurred at a busy bar.
5. AQR18-AQ, which alleges an illegal search, excessive force, and the search of an infant, his diaper bag and stroller. Witness statements indicate that the complaint's infant son had his diaper removed as part of the search process, and that officers were laughing because the contents of the bag the complainant was carrying was tobacco. The complainant's wife also alleges an officer removed the baby's diaper during the search process that also involved the baby's stroller. No canvass for witnesses

appears to have been conducted. The OMI investigator appears to ignore the statements of the complainant and three witnesses that a complete search was made by the officers, involving, based on the allegations, a strip search of a small infant, and states “an officer [can] make a cursory scan of property for weapons or contraband before any property is turned over to a third party.” The interviews of the officers are spotty, and do not clearly inquire into the nature of the searches performed. The primary detective is asked if he searched the baby, but not if he searched the diaper bag and stroller. The second detective is not asked any questions about the searches. The first uniformed officer on the scene is not asked about the search of the baby or the baby’s stroller and diaper bag. The second uniformed officer is not queried about the searches. A third officer offers that when he got to the scene, the “officers were still checking the stroller. Searching—“ at which point the investigator interrupts the officer’s spontaneous statement. Later in the interview, the OMI investigator falsely characterizes the officer’s statements, asking “So they checked the baby’s stroller and bag and then turned the baby over to the mother. Is that right?” If the search of the baby took place as stipulated by the complainant, it is behavior that shocks the conscience, and falls well outside permitted police tactics. For example, if the witnesses are correct, the officers conducted a strip search of the baby without supervisory permission and in a public place. The two detectives, between them, have eight complaints concerning illegal searches and excessive force, a fact noted in the final report, but not considered in the analysis of the allegation. The complainant’s history of untruthfulness, likewise, is not noted in the analysis of the allegation.

A failure rate of five of 35 completed cases constitutes 14.3 percent, far in excess of the allowable five percent. The eighteenth quarter constitutes the fifth quarter in the last six in which the city has exhibited problematic performance in completing effectively citizens’ complaint investigations.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	...	Q12	Q13	Q14	Q15	Q16	Q17	Q18
<b>Primary</b>														
<b>Secondary</b>														
<b>Operational</b>														

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.

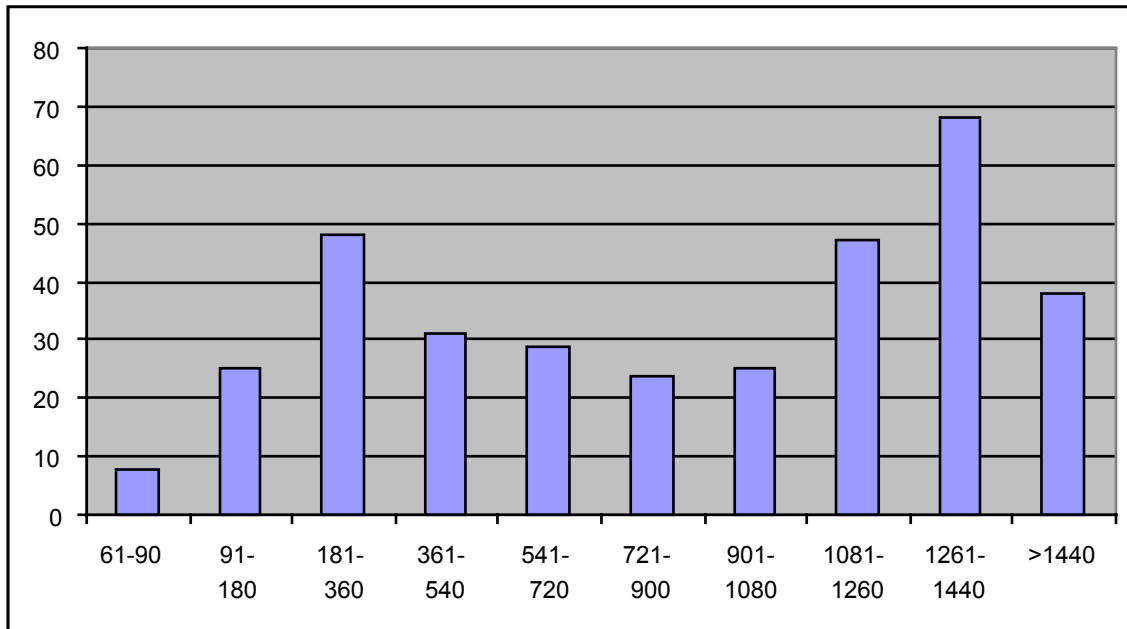
### Methodology

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 eighteenth quarter, the office completed 61 complaint investigations, and received 38. Substantive problems were noted with five investigations completed this quarter, leaving a total of 56 cases cleared and 38 received. The total number of cases pending was decreased by 18 this quarter.

Additional personnel have been assigned to OMI this quarter, increasing the number of personnel assigned to investigate active cases from four to ten, effective February 15, 2002.

Further, analysis of the existing backlog, based on records provided by the city, indicates a troubling potential for a second "backlog" problem, as well as the known, existing backlog. The auditor's analysis of electronic data from the OMI database indicates a total of 48 investigations pending more than 180 days, but less than 361 days. An additional 136 investigations have become seriously backlogged (361-720 days), making the possibility of locating witnesses, complainants and evidence much more difficult. Based on CIS data, the office has a total of 321 cases that are currently more than 720 days old (nearly two years old and older). Figure One, below, depicts the number of outstanding (unresolved) OMI cases in 180-day increments of days pending, effective February 2002. The "average age" of the 238 POMI cases remaining open is 882 days old. The "average age" of the 48 PBI cases remaining open is 872 days old. The "average age" of the 78 PDR cases (cases requiring investigation by police supervisors) is 613 days. Continued problems with backlog investigations, and the extensive problems with investigations completed under the City's new investigative protocols combine to leave the City not in compliance with this task.

Figure One: Length of Pending OMI Investigations, In Days



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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
Primary	Blue												
Secondary	Yellow Checkered	Yellow Checkered											
Operational	Yellow Checkered	Yellow Checkered	Yellow Checkered	Yellow Checkered									

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

Methodology

The auditor reviewed 35 of the 61 OMI investigations completed this quarter, and found all but five of them to be effectively completed. Of the 35 cases returned by the auditor this quarter, three exhibited problems in the use the preponderance of the evidence standard. This constitutes an error rate of 8.6 percent. Based on the agreement of the parties, two consecutive quarters of non-compliance will result in a withdrawal of compliance. This is the first quarter



the city has been deemed not in compliance with this task. Continued problems in this area will result in a loss of compliance.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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 35 of the 61 investigations of citizens' complaints completed during the eighteenth quarter for conformance to this requirement. Three of the completed investigations appeared to exhibit an automatic preference for police officers' statements over those of witnesses. The error rate of 3.6 percent falls within the allowable margin. The city remains in compliance with this task, although the three problematic cases were returned to OMI for further work. The problematic investigations were returned to OMI for further investigative work.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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 November 16, 2001 and February 15, 2002, searching for a case that resulted in a finding that was "reversed" by a supervisor or senior supervisor. No such cases were found, although some indications were evident that senior supervisors had contacted OMI investigators, disagreeing with their findings. It appears that these contacts were designed to achieve a better quality investigation; however, the auditor has requested documentation on these two events, and will report on them fully in the 19<sup>th</sup> quarterly report. 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"**

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

Paragraph 68 requires the city to change the OMI disposition category of "Not Sustained"

Methodology

The auditor assessed all completed OMI investigations for the period of November 16, 2001 to February 15, 2002 to determine if the disposition of "Not Resolved" was appropriately used. All dispositions so declared were appropriate. The office is judged to remain in compliance with task 68.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
Primary													
Secondary													
Operational													

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**

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
Primary													
Secondary													
Operational													

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 was 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 16 quarters fall into three categories:

Auditor's Eighteenth Quarterly Report  
 July, 2002  
 Public Management Resources  
 San Antonio, Texas

- 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. Table One, below, depicts the number and type of citizens' complaints received by OMI during the fourteen quarters covered by the consent decree.

Table One: Complaints Received by the Office of Municipal Investigations,  
1st through 17th Quarters (1997-2002)

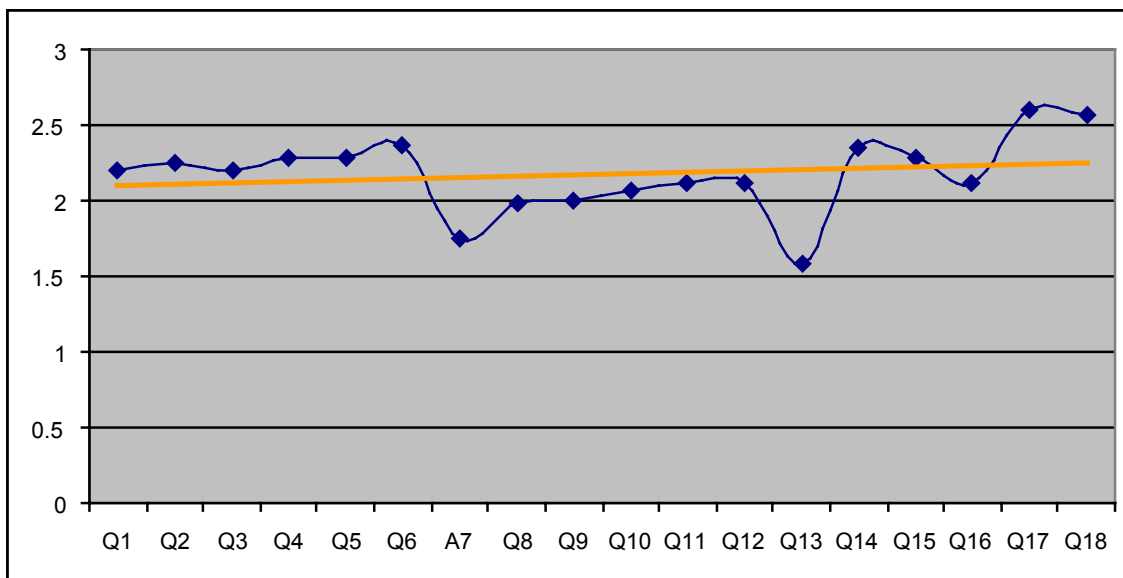
Quarter	Type 1	Type 2	Type 3	Total
1	18	9	26	53
2	22	15	39	76
3	33	32	59	124
4	42	19	84	145
5	33	18	58	109
6	8	12	24	44
7	25	1	15	41
8	14	16	13	43
9	39	0	35	74
10	39	60	48	147
11	18	27	41	86
12	14	0	14	28
13	5	30	7	42
14	4	11	15	30
15	16	8	32	56
16	12	6	16	34
17	7	3	24	34
18	7	5	26	38
Total	590	394	929	1913

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 sixteen 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 had dropped consistently during the first 13 quarters of the consent decree, but began a consistent rise thereafter. The orange line in Figure Two (and other figures depicted in this report) is a linear regression analysis, designed to allow the reader to determine the "trend line" for a given set of data.

Figure Two: Average Severity  
Of Citizens' Complaints, Quarters 1-18



### Disposition of Citizens' Complaints

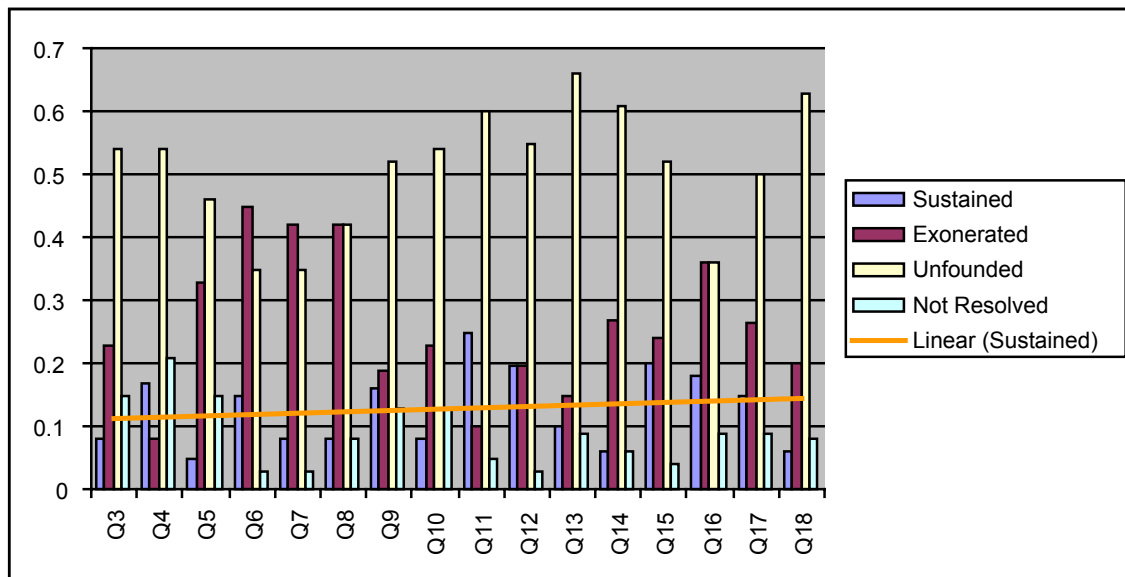
Complaints investigated by OMI are classified, upon completion, as one of four disposition categories:

- 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 seventeen quarters covered by this report. The percentage of sustained complaints appears to have risen gradually over the seventeen quarters, while the variance has been high, as depicted by the orange “trend line” depicted in Figure Three.

Figure Three: Resolved Complaints by Disposition, by Quarter (1997-2002)



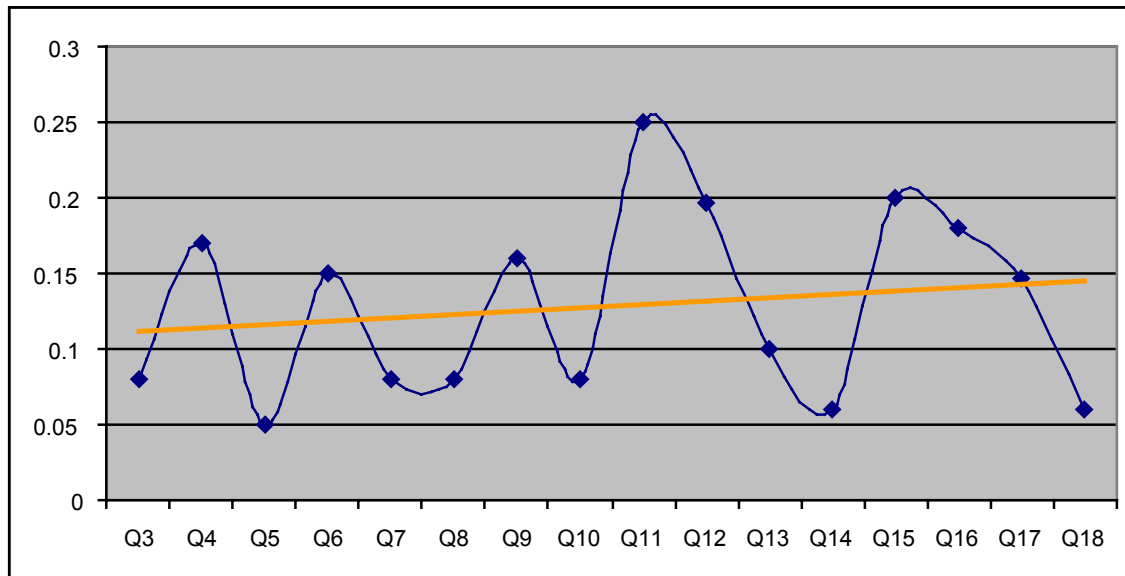
Source: Electronic database provided by City of Pittsburgh, CIS and calculations by the auditor.

### 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 (1997-2002)



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

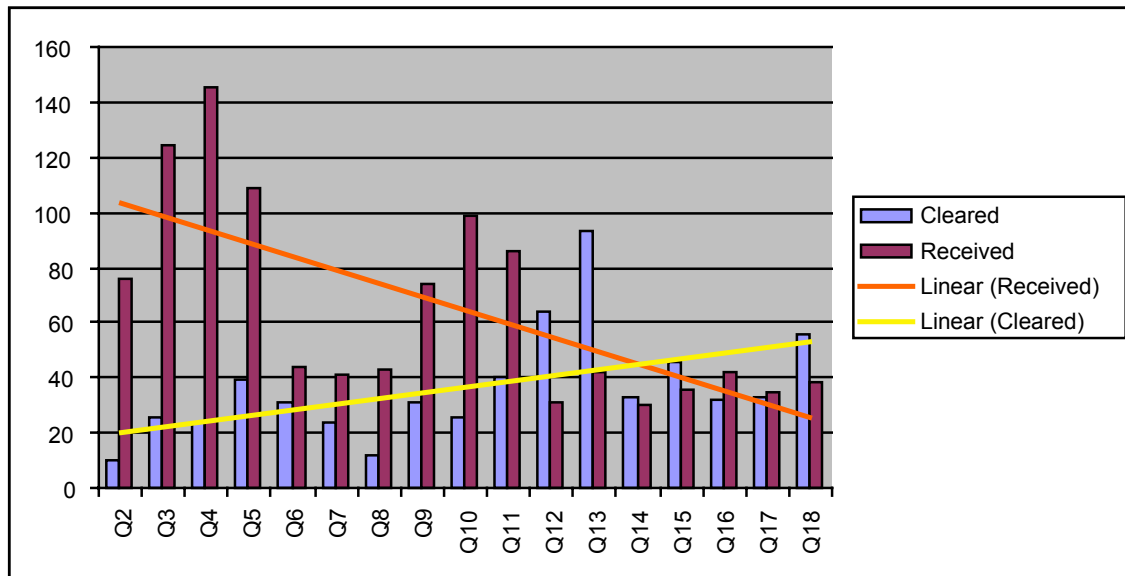
### Complaints Received and Complaints Cleared

The number of citizens' complaints received by OMI during the last seventeen 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 eighteen 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: Received v. Cleared Complaints  
By Quarter (1997-2002)



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

### Length of OMI Investigations

Data necessary to calculate the length of OMI investigations for the eighteenth quarter were developed using city electronic databases. Data reflecting the average time required to complete an OMI investigation are reflected in Figure Six, below. Overall, the length of time for completing current investigations is increasing slightly, from just over 150 days in the ninth quarter (the quarter the backlog squad was initiated) to slightly less than two hundred days in the eighteenth quarter (as represented by the linear regression in Figure Six). The actual average number of days required to investigate current and backlogged cases is depicted in Table Two, below.

Table Two: Average Days to Complete OMI Investigations, Quarters Nine-Eighteen<sup>1</sup>

	Q9	Q10	Q11	Q12	Q13	Q14	Q15	Q16	Q17	Q18
All	342	343	342	293	277	555	395	825	781	714
Backlogged	568	366		498	478	908	780	1059	1382	1405
Current	182	64		141	165	326	170	197	521	465

<sup>1</sup> Data for the eleventh quarter were not available.

Figure Six: Average Number of Days Required to Complete OMI Investigations<sup>1</sup>

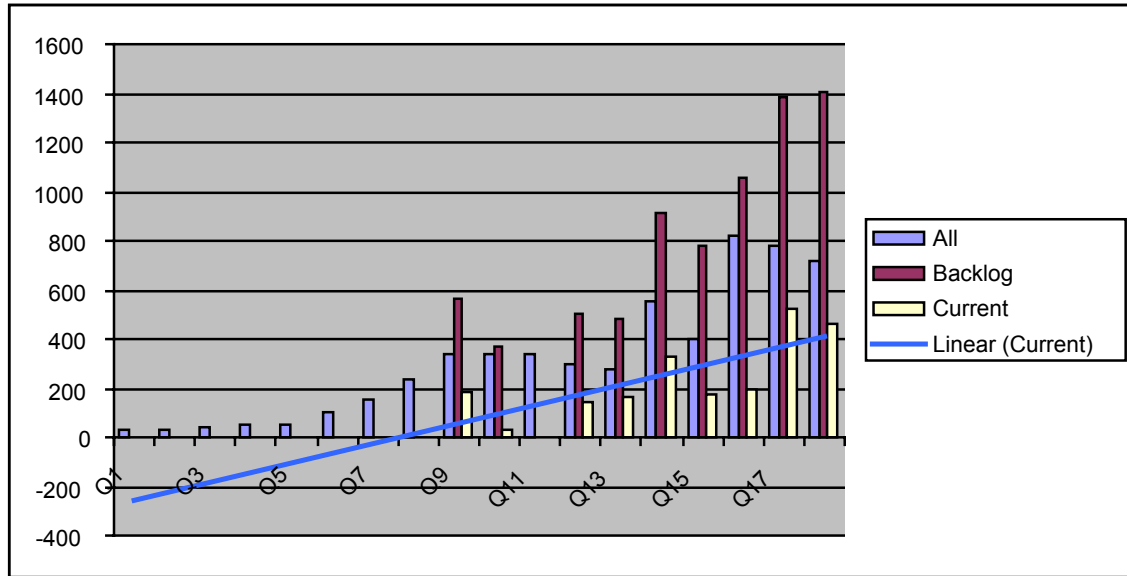


Figure Six updates errors in graphing for the 16<sup>th</sup> and 17<sup>th</sup> quarters in the 17<sup>th</sup> quarterly report.

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

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

**Methodology**

The auditor has reviewed all 61 final reports of OMI investigations of citizens’ complaints completed between November 16, 2001 and February 15, 2002. In addition, the auditor conducted a comprehensive review of supporting documentation for 35 of 61 cases completed during this time frame. Of those cases, five were remanded to the Office of Municipal Investigations for additional work. These cases are described in section 2.53, above.

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
Primary													
Secondary													
Operational													

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.

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
Primary													
Secondary													
Operational													

All records requested by the auditor were provided in a timely fashion. The city is judged to remain in compliance with this task.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
Primary													
Secondary													
Operational													

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

The auditor experienced unlimited access during audit processes for the eighteenth quarter.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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

No changes in the access for Justice was noted this quarter. The city remains in compliance with this task.

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Q13
<b>Primary</b>													
<b>Secondary</b>													
<b>Operational</b>													

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 consent decree. 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. The auditor has reviewed the video, and has found that it adequately explains both the letter and spirit of the decree, as well as the city’s approach to compliance Currently, the department has trained all current active-duty officers, and received officer signatures stating understanding of the decree, except for those on extended leave or otherwise not available

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

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

	Q1	Q2	Q3	Q4	Q5	Q6	...	Q12	Q13	Q14	Q15	Q16	Q17	Q18
<b>Primary</b>														
<b>Secondary</b>														
<b>Operational</b>														

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 72 of the 74 provisions to which the city should have complied by now. The city is in secondary compliance with 72 of the 74 provisions due as of November 15, 1998. It is in operational compliance with only 70 of the 74 tasks, due as of November 15, 1998. Issues with investigative processes at OMI have caused the office to fall out of compliance with four tasks this quarter.

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

### **3.0 Summary**

The sixteenth and seventeenth quarters, ending February 15, 2002, were troubling quarters, serving as a potential precursor to serious difficulty in maintaining compliance with many aspects of the consent decree. It appears that the problems identified in those two quarterly reports have crystallized during the eighteenth quarter, creating serious problems with the OMI investigative process. First, the auditor has expressed grave concerns about the City's implementation of its revised investigative protocols. As a result of the review of cases completed using these revised protocols, the auditor has suggested further revisions, designed to ensure full and fair investigations of all cases involving allegations of constitutional or ethical misconduct, regardless of the age of the case. OMI performance this quarter continues a pattern of less than acceptable performance that has been observed sporadically for the past six quarters. Nearly 15 percent of investigations completed using conventional OMI protocols this quarter were returned for further investigation. Moreover, it became apparent that at least four cases involving allegations of serious misconduct (constituting constitutional violations if proven true) have been allowed to "age" for several years (in some cases for four years or more) before being submitted to the auditor for review as part of the revised investigative protocols. The auditor is deeply concerned that several of these "failed" cases involve allegations that appear to be credible, and that represent investigations that were abandoned in the face of apparent indications of officer behavior that was violative of bureau regulations and/or Constitutional protections. These abandoned cases are distributed across the years 1998, 1999 and 2000, years in which the auditor was repeatedly urging the city to establish some method of case triage to ensure that credible cases were not ignored and allowed to age to the point that they were not susceptible to investigation. Further, these are years in which the auditor was routinely advising the City that staffing in OMI was inadequate.

Further, this is the first quarter in which the auditor has received investigations completed using the Office's newly created "memo form" investigative report and investigative process. A number of very serious allegations were closed this quarter using the "memo form" investigative report. These include excessive force; illegal search and seizure; an in-custody injury resulting in a critical injury to a suspect; sexual assault; and racial, gender, or sexual preference bias. These types of allegations are ill suited for "short form" investigations, regardless of the age of the complaint. Any consent decree-related allegation deserves full and careful investigation, regardless of the time it has been allowed to "age." Some less pernicious allegations may be well suited for "memo form" investigations, particularly those that are older cases, but allegations of Constitutional deprivations or ethical misconduct should never be subjected to such investigative processes.

The city is judged to have exhibited problematic performance with eight tasks this quarter, including:

1. Task 46: Training for OMI civilian investigators. It appears that orientation training for OMI investigators has been changes substantially in March of 2002, calling for investigators to share the questions they will be asking of accused officers with the officers prior to transcribing the interview. This is a substantial change in process, and is in contradistinction with the OMI manual and process approved by the auditor and the Department of Justice. No notice was given of this change, either to the auditor or the Department of Justice, and the change in training has not been approved by either entity. Further, it appears that at least two civilian investigators have not been provided with training in all of the topics required by the consent decree as of May 15, 2002. In addition, three cases were closed this quarter with dispositions of "other." This is not an allowed disposition under the OMI manual, and has not been approved by the auditor or the Department of Justice. These are first-time issues, and have not resulted in withdrawal of compliance; however, they are serious lapses, and should be remediated immediately.
2. Task 59: OMI to canvass for witnesses. The auditor returned three of five completed cases that appeared to suggest the need for a witness canvass. This constituted a failure rate of 40 percent of the five cases which appeared to require such a canvass. While this issue has not resulted in a loss of compliance, renewed focus is required to ensure that all withdrawn or non-cooperative complaints are investigated fully.
3. Task 61: OMI to aggressively investigate cases. The auditor returned five of the 35 cases completed this quarter, for a failure rate of 14.3 percent. The City is deemed not in compliance with this task.
4. Task 62: OMI to act on collateral misconduct. The auditor returned three of six cases which included potential allegations of collateral misconduct. These cases were returned, in part, because OMI did not pursue evident collateral misconduct allegations. While this issue has not resulted in a loss of compliance, renewed focus is required to ensure that all issues of collateral misconduct are investigated fully.
5. Task 63: OMI to issue final reports. The Office completed 61 investigations this quarter. The auditor reviewed 35 of those investigative



- reports for completeness, accuracy and the degree to which they meet the standards articulated in the OMI manual. A total of five of the 35 investigations were returned for failure to meet established standards, inaccuracies or incomplete formats.. The City is deemed not in compliance with this task.
6. Task 64: OMI to be adequately staffed. During the eighteenth quarter, the office completed 61 complaint investigations, and received 38. Substantive problems were noted with five investigations completed this quarter, leaving a total of 56 cases cleared and 38 received. The total number of cases pending was decreased by 18 this quarter. The City continues to have a looming backlog of cases which have not been investigated. The auditor has advised the City on numerous occasions that the backlog is a serious issue which must be resolved expeditiously. The longer the resolution of this issue takes, the more problematic investigations become. The City is deemed not in compliance with this task.
  7. Task 65: OMI to use preponderance of the evidence standard. The auditor has returned three completed OMI investigations, in part, because it appears that the preponderance of the evidence standard has not been used in evaluating case dispositions. This constitutes an error rate of 8.6 percent. While this issue has not resulted in a loss of compliance, renewed focus is required to ensure that all cases are resolved using the required standards.
  8. Task 78: 90 day timeline for conformance. The decree envisioned complete compliance by the city within 90 days of its implementation, or by July 16, 1997. More than four years later, the city remains out of compliance with four of the 74 tasks to which it committed in April 1997.

Several serious problems appear to be crystallizing.

First, the City's attempt to address the backlog issue through use of the "memo form" investigative process, envisioned to deal with issues of minor infractions, allegations against officers who were no longer with the department (resigned, terminated, or retired), and similar complaints, has been applied to serious allegations of misconduct. Allegations of violations of Constitutional protections should not be subjected to "memo form" investigations, under any circumstances. The auditor has suggested some revisions to the revised investigative protocols, designed to ensure fair and full investigation of allegations of Constitutional misconduct or ethics violations. All 85 of the "memo form" investigations

submitted to the auditor this quarter should be re-evaluated using upgraded protocols agreed to by the parties.

Second, it appears that the OMI investigative process has succumbed to entropy, based on this quarter's performance. Serious problems exist in the process, as noted in the auditor's reports beginning in the twelfth quarter. Problems with training, staffing, and now oversight have resulted in continued failure rates for OMI investigations exceeding allowable levels this quarter. The Office's revised investigative protocols fail to ensure fair and equitable investigation of allegations of Constitutional and/or ethical violations. Substantial work remains to be done to revise these protocols so that they ensure a fair, full, and to the extent possible, comprehensive investigation of alleged misconduct.

Third, evidence in the record of completed cases submitted this quarter yield clear evidence that some cases, throughout the years 1998, 1999, and 2000 were apparently abandoned in the face of preliminary indications of officer behavior that was violative of bureau regulations and Constitutional protections. These abandoned cases are distributed across the years in which the auditor was repeatedly urging the city to establish some method of case triage to ensure that credible cases were not ignored and allowed to age to the point that they were not investigable. Further, these are years in which the auditor was routinely advising the City that staffing in OMI was inadequate.

Fourth, and finally, issues have surfaced with training provided to investigators. It appears that OMI has changed the training provided to investigators in substantial ways without obtaining the approval of the auditor or the Department of Justice for the changes. For example, it appears that, in March, training to investigators was changed to cause the investigator to share with the accused officer the questions he would be asked during the taped and transcribed interview. This is poor practice, not in keeping with national standards, and not articulated in the OMI Manual. This change was not approved by the auditor, although it could substantively impact the quality of investigations. Neither was the change approved by the Department of Justice.

Problems within the OMI process are deeply disturbing to the auditor, particularly in light of the fact that the City is 18 quarters into a 20-quarter process. The problems within OMI are even more disturbing because many of them have appeared despite concerns expressed by the auditor in 1998, 1999 and 2000 about OMI processes. Training for OMI staff, staffing levels at OMI, and executive oversight of the OMI functions are all *process issues*, of concern and illustrative of areas which need improvement. A continued failure rate of more than 10 percent of completed investigations is an *outcome issue*, directly related to the ability of OMI to effectively, fairly, impartially and expeditiously investigate citizens' complaints.