

Auditor's Quarterly Report  
Quarter Ending December 15, 1997

## 1 Introduction

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

- Introduction;
- Compliance Assessment; and
- Summary.

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

### 1.1 Overall status assessment

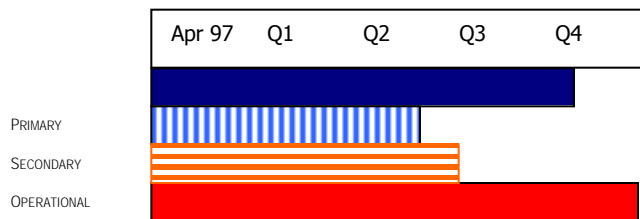
#### 1.1.2 Dates of Project Deliverables

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

### 1.2 Format for Compliance Assessment

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

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



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

### 1.3 Compliance Assessment Processes

#### 1.3.1 Structure of the Task Assessment Process

Members of the audit team have collected data on-site and have been provided data, pursuant to specific requests, by the Pittsburgh Bureau of Police (PBP). All data collected was 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. 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 December 15, 1997. In order to allow time for completion of the report, the auditor completed assessment activities on November 25, 1997.

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

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

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

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

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

The City, the Bureau and OMI have committed to implement the changes required by the decree. The commitment is to implement both the letter and the spirit of the decree.

Some delays have been encountered along the way. Such is to be expected in complex organizational change strategies. As often as not, these delays were due, at least in part and often in large part, to the City's commitment to a quality implementation, rather than one that will simply pass muster.

A great deal of work lies ahead, as the City works to move past primary compliance into secondary and operational compliance. The members of the audit team stand ready to assist this transition in any manner possible. The City appears to have a strong plan for implementation, but effective, quality implementation will take time.

Finally, the reader should note that, as with all long-term audits, the auditor's first report serves as "first notice" of the requirements of compliance, thus any expectation that the City would be in full compliance during the initial quarter is unrealistic.

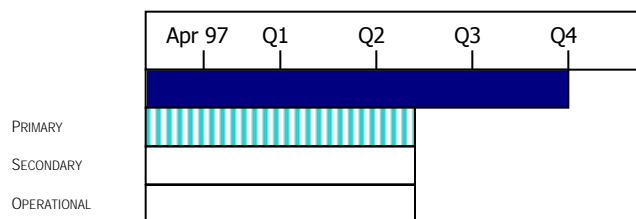
## 2 Assessment of Compliance

### 2.1 Methodology

The auditor assessed the City's compliance using the *Auditor's Manual*, included as Appendix A of this document. 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 first Auditor's Quarterly Report contains a detailed assessment of the degree to which the City has complied with the 76 tasks to which it agreed on April 16, 1997.

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



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

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

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

- Law suits against the PBP;
- Warrantless searches by officers;
- Use of force by officers;
- Traffic stops by officers; and
- Discretionary charges filed by officers.

With the exception of the “traffic stop” protocol, the City has completed work on the various protocols designed to serve as policy guidance for the planned Early Warning System. The auditor has reviewed each of these protocols, and has assessed their viability in sections 2.2-2.6, following.

The auditor has reviewed the planned system (as outlined in documents provided by the Computer Information Systems Department of the City) and has provided those developing the system with comments concerning planned system capabilities. The system is scheduled for implementation by April 16, 1998.

Status: Pending

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

The City has begun developing system design components, and has begun developing the requisite computer code to support the system. Hardware acquisition plans have been developed, and in some instances, implemented. The automated EWS depends on an impressive—and at times daunting—cross integration of systems and subsystems. The City has an impressive list of tasks to complete to bring this system to fruition. If it is implemented as planned, however, it goes well beyond the requirements of the decree, and will provide the PBP with a state of the art, automated system with which to manage police behavior.

Status: Pending

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

Paragraph 12-b of the decree requires the City to build into the EWS the ability to retrieve information from the EWS by officer, squad, zone, unit, and the

execution of “discretionary arrests.”<sup>1</sup> The plans for the automated EWS appear sound, and appear to allow the functionality required by the decree.

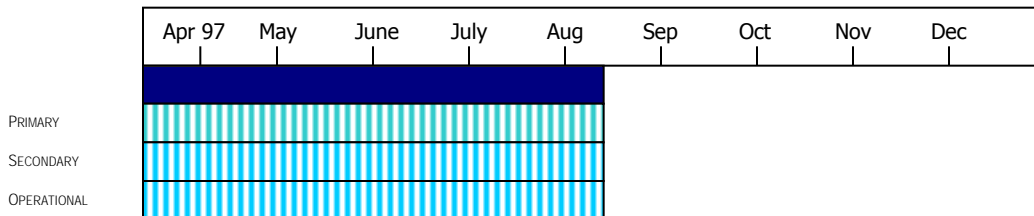
Status: Pending

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

Paragraph 12-c of the decree requires the City to archive the records in the EWS for three years after the involved officers’ separation from service, and that all records be archived indefinitely. In addition, it requires the City to enter all relevant data for three years prior to April 16, 1997. This requirement cannot be assessed at this time.

Status: Pending

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



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

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

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

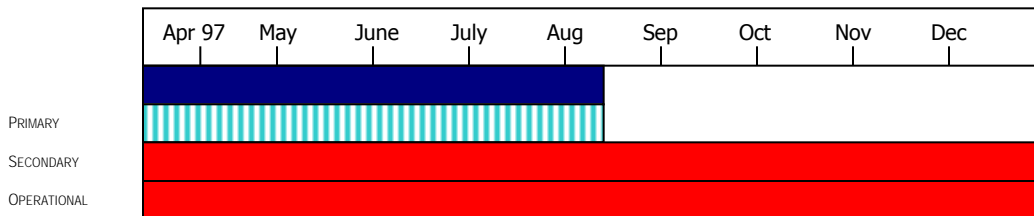
The City has developed protocols for use of the EWS, including those controlling:

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

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

Status: Primary: In compliance  
 Secondary: Unable to Assess Until April 16, 1998  
 Operational: Unable to Assess Until April 16, 1998

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



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

Methodology

The auditor has reviewed the PBP’s use of force policy, which was completed prior to the deadline, and has assessed the policy for conformance to national standards and applicable law. The newly drafted policy, effective August 15,

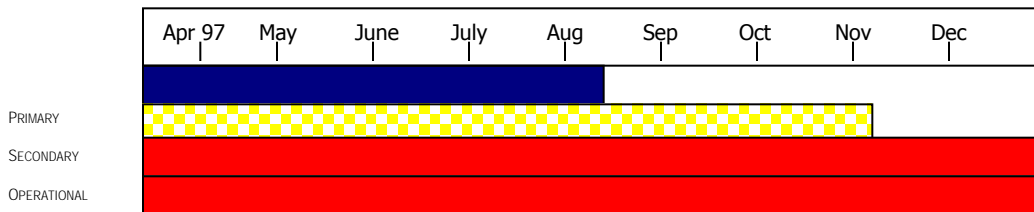


1997 is well written, and is designed to allow the Bureau to control effectively the use of force by the Bureau’s officers.

Promulgation of the policy and the necessary training to implement it have been completed. Reporting and supervisory review processes, articulated in the policy, have not yet been institutionalized (see section 2.8 for a detailed discussion of this aspect of the use of force policy).

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

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



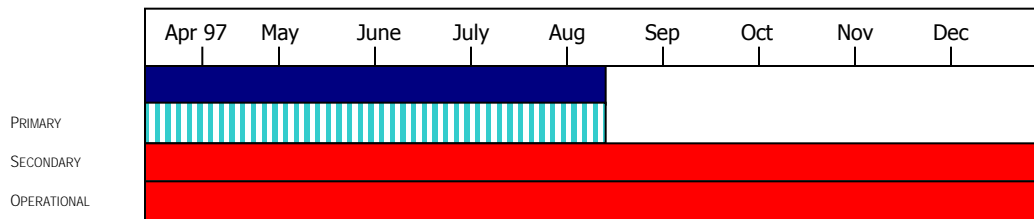
Paragraph 14 requires the City to develop effective strip search policies, allowing PBP officers to conduct strip searches only when authorized by a supervisor, and then only if specifically trained to do so. The searches must be performed in conformance with hygienic procedures, in a room specially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

**Methodology**

The auditor has reviewed PBP policy 45-1, "Strip and Body Cavity Searches." The policy conforms to all requirements of the decree, and was promulgated and effective November 10, 1997. The auditor sees no potential problems with the policy if it is implemented as written. However, the requisite training, reporting requirements and supervisory review have yet to be institutionalized.

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

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



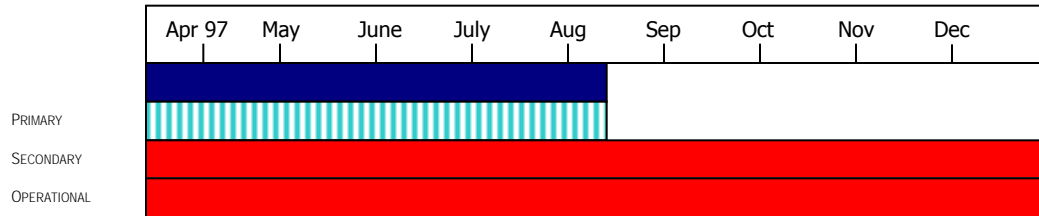
Paragraph 15 requires the City to establish reporting requirements each time a police officer uses force, conducts a warrantless search or seizure, or conducts a body cavity search.

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

Even though training has been provided regarding reporting of use of force by PBP officers, the auditor's assessment of the reporting process indicates that the City has yet to attain secondary compliance with the process (see Section 2.8, below).

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

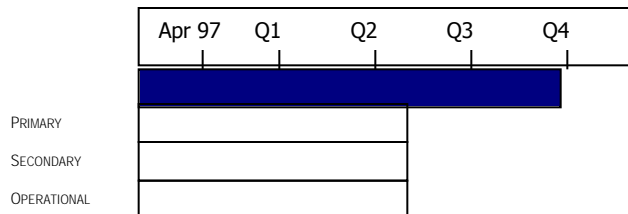
**2.6 Assessing Compliance with Task 16: Reporting Traffic Stops**



Paragraph 16 requires the City to establish reporting requirements each time a police officer makes a traffic stop. The City has promulgated a protocol requiring officers to report traffic stops, and establishing a review function for these activities. These practices are currently under negotiation between the City and Justice, and awaiting finalization prior to promulgation. Obviously, the next steps in the process of compliance are approval, training, establishing and enforcing reporting and supervisory review processes.

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

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

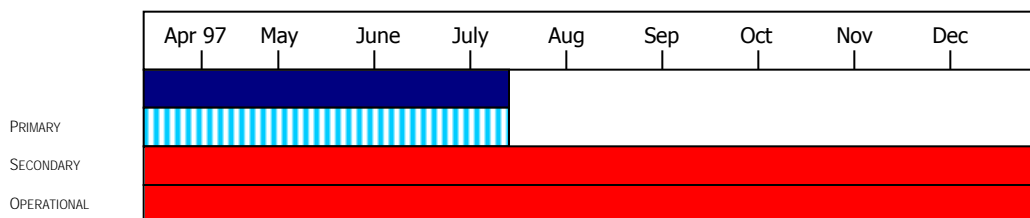


Paragraph 17 requires the City to enter data regarding use of force, traffic stops, warrantless searches and seizures, and other indicators of police activity levels into the planned automated Early Warning System. The City has developed protocols requiring such entry, and is awaiting completion of the EWS automated system.

Status:        Pending

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

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



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

### Methodology

The audit team conducted a random selection of 15 “Subject Resistance Reports” completed by PBP officers, and reviewed by PBP supervisors and senior supervisors, pursuant to policy developed by the Chief of Police. The policy requires PBP officers to complete a SRR any time they use force to subdue a subject. Each of the reports selected was reviewed to ensure that the:

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

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

Despite the Bureau’s efforts at primary compliance, however, it falls short in secondary and “operational” compliance. The auditor’s review of only 15 of the Bureau’s SRRs uncovered a police shooting which had been reported on the SRR form as an “other” use of force, rather than an “Intentional Firearm Discharge” as required by the SRR. Further, this error was not caught by the officer’s immediate supervisor, who failed to sign the form, as required. More importantly, the error was not caught by the shift lieutenant, who, despite signing the form, did not note that a shot had been fired—that the use of force

was deadly force, not "Other." This discrepancy was also overlooked by the zone commander, who failed to sign the form as required by policy. It was also overlooked by the review process at headquarters.

Further, the auditor found that this incident, which supervisory, senior supervisory or command personnel should have referred to OMI for investigation was not properly processed. At a minimum, the shooting was required by the decree to be referred to OMI. No such referral was made, and, to date, OMI has not been requested to investigate the firearms discharge. In addition, numerous SRRs were found to lack supervisors' signatures, lieutenants' signatures or commanders' signatures. None of these omissions were noted by command review, indicating that, despite the work in primary compliance, the review of Subject Resistance Reports has not been internalized by supervisory, senior supervisory and command staff throughout the PBP zones and headquarters.

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

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

Paragraph 18-b requires senior supervisors to analyze use of force data quarterly. To be effective, this requirement, in the judgment of the auditor, requires an automated system, similar to that planned by the automated Early Warning System. The anticipated first date that SRRs can be meaningfully reviewed for patterns is April 16, 1998, upon implementation of the EWS.

Status:           Pending

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

Paragraph 19-a requires the City to review search and seizure reports, through the officers' chains of command, within one week of the search or seizure. The protocol for searches and seizures has just recently been approved, and training and implementation has yet to begin.

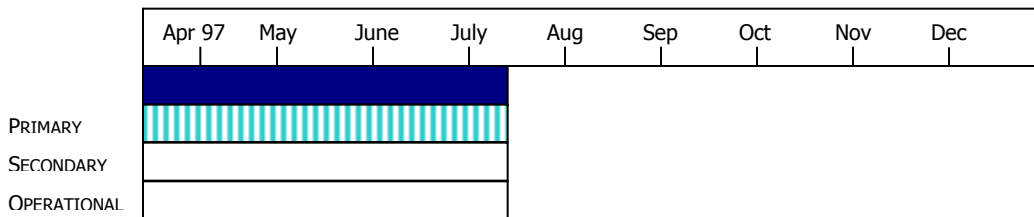
Status:           Pending

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

Paragraph 19-b requires the City to analyze the search and seizure activity of its officers on a quarterly basis. The protocols and policies for search and seizure reporting have just been completed, and training and implementation has yet to begin.

Status: Pending

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



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

Methodology

During the course of reviewing OMI completed investigations, the auditor screened these complaints for allegations of racial bias. None were found that were investigated between September 16 and November 15, 1997.

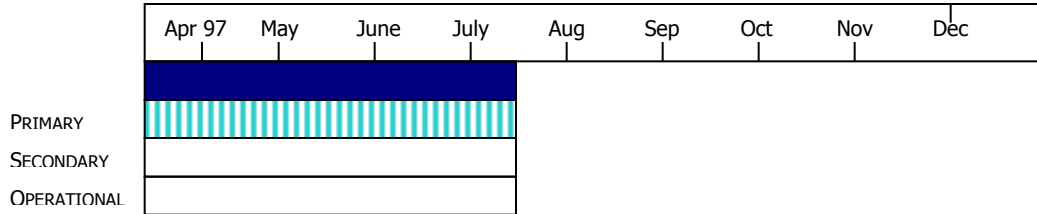
Status: Primary: In Compliance  
 Secondary: Unable to Audit  
 Operational: Unable to Audit

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

Paragraph 20-b requires supervisors to use the EWS on a quarterly basis to assess allegations of racial bias for patterns or irregularities. Until the City’s EWS is brought on-line in April, 1998, supervisors cannot reasonably be expected to comply with this stipulation.

Status: Pending

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



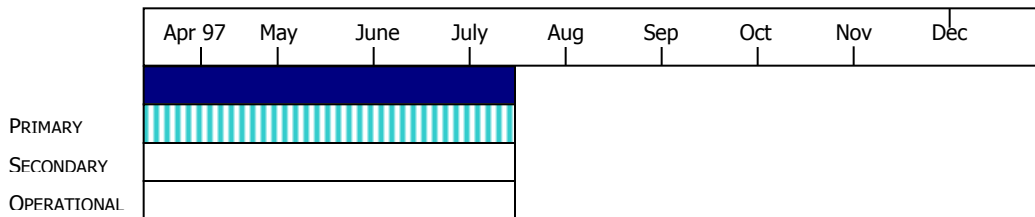
Paragraph 21-a requires the City to impose appropriate discipline after evaluating officer behavior.

Methodology

The auditor reviewed each of the eleven disciplinary actions taken by the PBP between September 16 and November 15, 1997. All of the disciplinary action taken during this period was for violation of internal PBP policies, rather than as a result of a citizen’s complaint. All of the discipline imposed appeared to be appropriate and in line with the infraction and the officers’ past records.

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

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



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

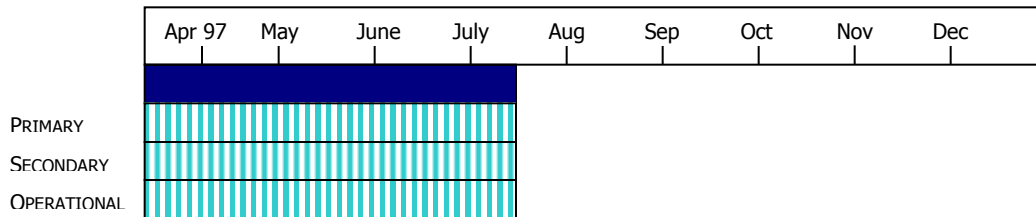
Methodology

The auditor reviewed the Bureau’s disciplinary processes for the period September 16 through November 15, 1997. All discipline assigned during this

period—all for violations of internal police policies—appeared appropriate, based on the infractions.

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

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



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

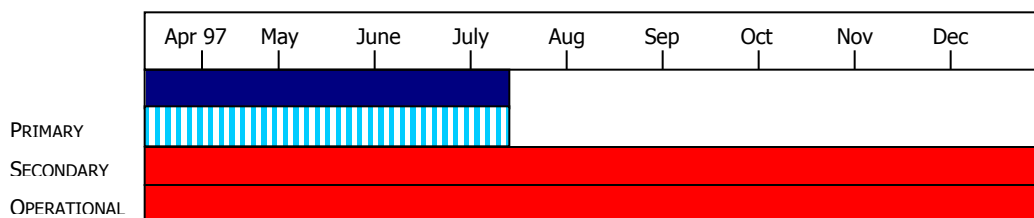
Methodology

The auditor reviewed each of the eleven disciplinary decisions made by the Bureau between September 16 and November 15, 1997. During this review, evidence was noted indicating that the Bureau was using information regarding previous complaint histories in making disciplinary decisions. In amending one “Disciplinary Action Report” from an oral reprimand to a written reprimand, an assistant chief noted “Second DAR in eight months.” Another DAR indicated an officer receiving a one-day suspension “as a prior violation [of the same policy] was a written reprimand.” Still another DAR noted “Second such offense in a month.” It is clear from these comments that Bureau supervisors and commanders are considering previous disciplinary records in assigning discipline to PBP personnel.

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



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



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

### Methodology

The auditor visited each police zone and pulled a random sample of officers’ performance files. These files were assessed for compliance with the requirement that states that the files would include:

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

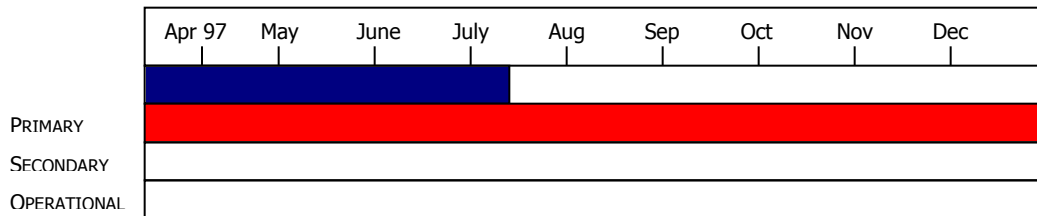
In addition, the auditor assessed the same officers’ files in the PBP centralized personnel records system, to assess the level of accuracy of the zone files.

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

Many of the files located by the auditor were obviously new, and many were empty. In addition, less than 50 percent of the officers’ files at the zones accurately reflected the officers’ disciplinary history as shown in the centralized files at the personnel unit.

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

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



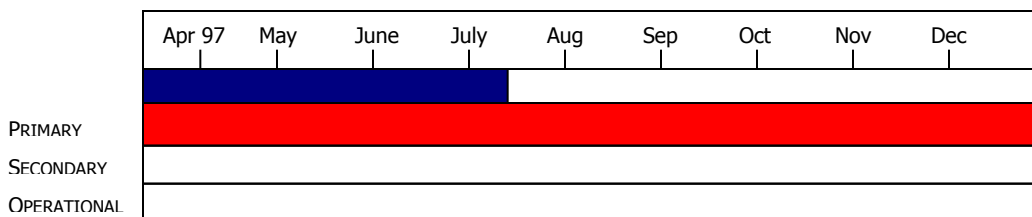
Paragraph 23 requires the City to implement an annual performance evaluation process for all officers, supervisors and senior supervisors. Further, it requires supervisors and senior supervisors to be evaluated based on their ability to prevent and address misconduct by officers. In addition, paragraph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

Methodology

The Bureau’s progress to date has produced no records that can be audited. The Bureau has developed a performance evaluation policy which appears to meet the requirements of the decree, and will be implemented in January, 1998. The first wave of performance evaluations are scheduled for June, 1998. We anticipate that the fourth Auditor’s Quarterly Report will be able to assess the performance evaluation process.

Status:        Primary:        Not in Compliance  
                   Secondary:    Unable to Audit  
                   Operational:    Unable to Audit

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



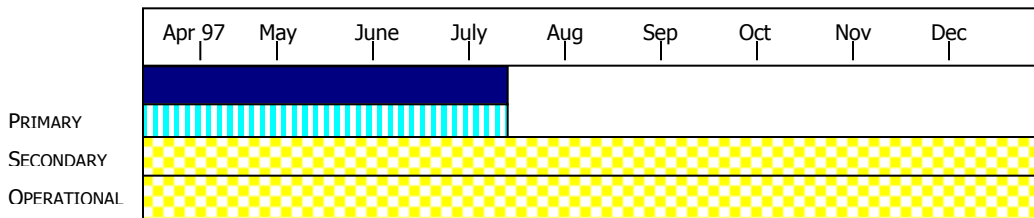
Paragraph 24 requires the City to use performance evaluations as a factor in promotional decisions.

Methodology

The Bureau’s progress to date has produced no records that can be audited. The Bureau has developed a performance evaluation policy which appears to meet the requirements of the decree, and the first wave of performance evaluations are scheduled for June, 1998. Promotions using these data, obviously, cannot be made until a later date. We anticipate that future Auditor’s Quarterly Reports will be able to assess the performance evaluation-based promotions.

Status: Unable to Audit

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



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

Methodology

The auditor visited each zone station to assess the degree of compliance with paragraph 25. During the site visit, the auditor reviewed zone performance files, and conducted walk through inspections of zone facilities such as bulletin boards and office space. The auditor reviewed counseling personnel’s certifications to ensure conformance with the stipulation of the decree.

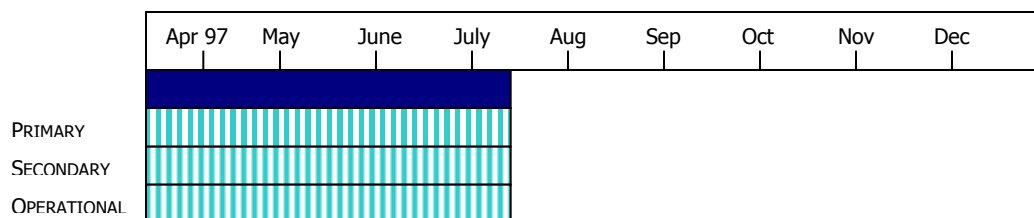
Evidence exists to support the Bureau’s operational compliance with paragraph 25. The review of zone “performance files” indicates that the EAP is being used by departmental personnel and departmental managers. The counselors assigned to the EAP were interviewed by the auditor’s staff, and appear to be both experienced and knowledgeable concerning EAP practice and standards. It

appears that EAP participation is non-retributive and meets established practice for such programs.

While departmental policy requires the posting of EAP flyers at each of the zone stations, of the seven zones visited, two did not have the flyers readily visible in the stations. The lack of flyers at the zones, while a technicality, builds sufficient problems to preclude an assessment of "in compliance" for the secondary compliance measure.

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

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



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

### Methodology

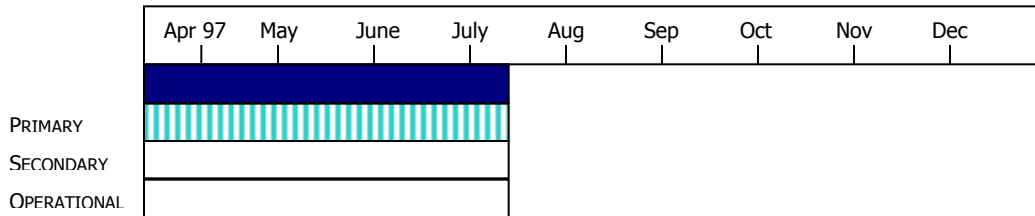
During the auditor's review of departmental personnel files, the files were assessed for evidence of implementation of PBP Policy 44-5, effective 8-25-97, which requires notification of the chain of command any time:

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

The auditor’s review of personnel records identified at least one incident in which an officer had been found liable by a civil jury and was reasonably disciplined as a result of that act. In addition, documents exist in the Bureau’s personnel files regarding notification of the City Solicitor’s Office of PBP officers who had been the subject of civil suits.

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

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



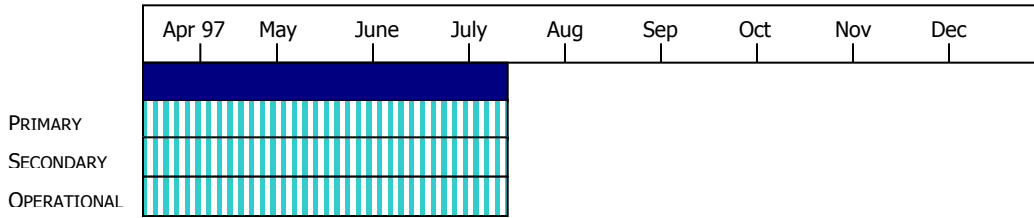
Paragraph 27 requires the Office of Municipal Investigations to monitor all criminal proceedings against PBP officers concerning allegations of false arrest or improper search and seizure. This paragraph also requires the Bureau to implement appropriate discipline for officers convicted of these offenses.

Methodology

A review of records available during the time frame of the first quarterly audit indicated no criminal proceedings in progress against PBP officers; however, the Bureau has established an agreement with the District Attorney in which the DA will notify the PBP in the event that criminal charges are filed, at the county level, against any PBP personnel.

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

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



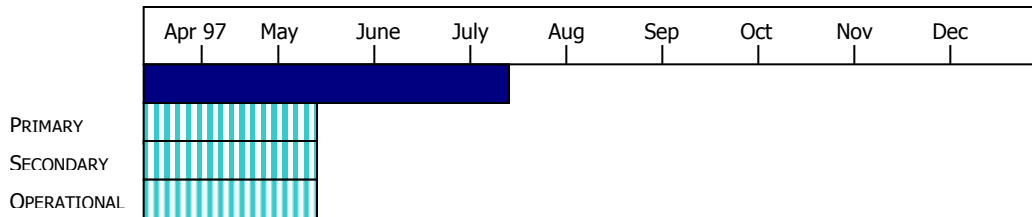
Paragraph 28 requires the City to implement appropriate discipline “as the circumstances and OMI investigation warrant,” in all instances in which PBP officers are the subject of civil litigation.

Methodology

During the course of review of records for the first quarterly audit, the auditor noted at least one case in which an officer was “counseled” for his involvement in a case involving civil litigation. The judgment call in this case indicated that the command staff of the Bureau are intently interested in conformance with the decree, as the civil case appeared to be one in which the officer had not committed a “punishable act,” but had been held liable by the jury.

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

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



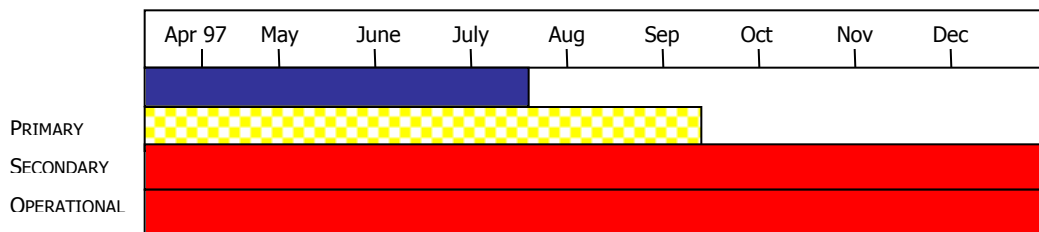
Paragraph 29 requires the City to provide PBP officers with legal advice on a 24/7 basis. Further the paragraph requires the legal advisor to provide training regarding legal aspects of search and seizure, use of force, and racial bias.

Methodology

The auditor interviewed the police legal advisor, assessed the degree to which his legal bulletins are available to police personnel, and assessed the viability of the policy which announces and controls his availability. Chief's Memo 97-245 announces the availability of a police legal advisor on a 24-hour basis, seven days per week, providing a pager number, and a home telephone number. Further, the policy provides a back-up process for those occasions when the legal advisor is not available. Since September, 1997 the legal advisor has provided 21 legal bulletins for PBP personnel. These were available on bulletin boards at the zones, and observed by the auditor during site visits.

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

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



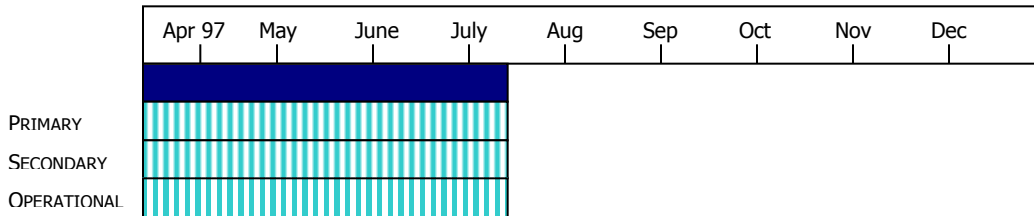
Paragraph 30 requires the PBP to develop a department-wide rotation schedule to ensure that officers are regularly supervised by different sergeants and lieutenants and that they regularly work with different officers.

Methodology

The PBP has not progressed on planning for this task to a point that it has produced data that can be audited. Since the elements of this task affect the City's contract with the police union, negotiations concerning the workability of a proposed rotation schedule have delayed the City's response to this task. Nonetheless, a rotation policy has been written, and rotation of supervisory personnel will begin in January, 1998.

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

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



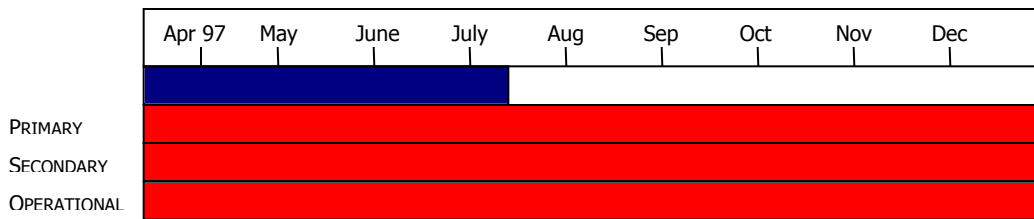
Paragraph 31 requires the PBP to “make every effort” to participate in community meetings, including those oriented toward minority groups.

Methodology

The auditor reviewed monthly attendance logs for police zones for the months of July-September, 1997. The logs show multiple community meetings attended by PBP personnel. The meetings were attended by command level personnel, line personnel, and supervisory personnel. No agenda for these meetings were available.

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

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



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

Methodology

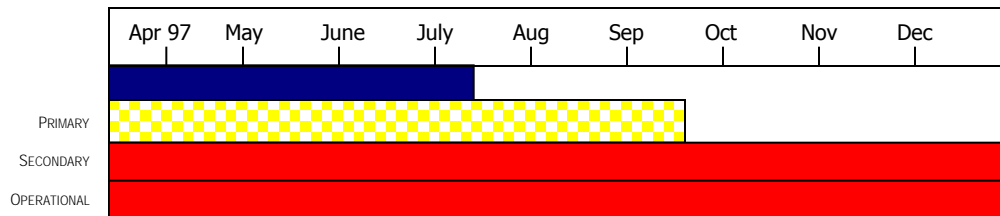


The auditor reviewed community meeting logs maintained by OMI staff, and determined that personnel from the unit are in attendance at community meetings. To date, the City has not televised any information concerning OMI. The City has printed brochures explaining the OMI complaint process, and is distributing those during the normal course of business.

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

Auditor’s Note: The following sections assess the Bureau’s performance in response to requirements for training. The consent decree establishes a “default” timeline for all training at 90 days from date of entry of the decree. In the auditor’s opinion, not only is it not probable that such a timeline can be met, given the scope of the training required by the decree, but to do so would almost certainly preclude a careful analysis of the exact goals, objectives, nature, quality, timbre, and tone of the training. A meaningful training program should be viewed as having a 6- to 12-month planning phase, a one-year implementation phase, and an “on-going” evaluation, assessment and revision phase. The following sections find the PBP not in compliance with most of the training provisions. This comes as no surprise, given the nature of the tasks confronting the PBP and the fact that excellent training is the one factor consistently associated with improvement in policing.

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



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

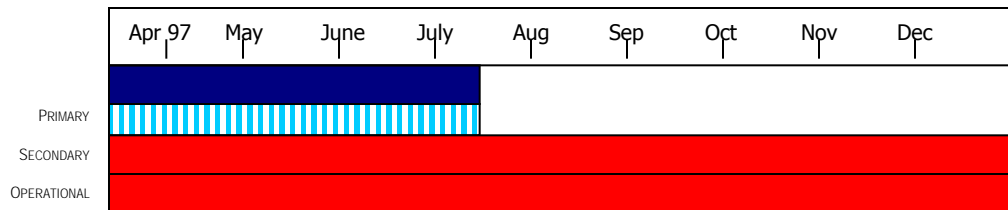
Methodology

The auditor and the auditor’s staff have reviewed the PBP’s training curricula for in-service and recruit training, have conducted a site walk-through of the training academy, and have interviewed a majority of the personnel assigned to the training academy. The Bureau has developed (through contract) curricula for the cultural diversity training, and has begun implementation. Through December, 1997, the Bureau had trained approximately 80 percent of its officers in the topics of cultural diversity, verbal “effective communication” and ethics. The Bureau’s training plan calls for completion in February, 1998.

A review of the curriculum for the cultural diversity component of the PBP training curricula indicated that the topics covered appeared to meet the requirements of paragraph 33; however, the Bureau’s own review of the quality of the training has led it to consider contracting with a new training provider for future sessions. The auditor takes this as a remarkably positive fact, since it indicates that the Bureau is interested in attaining compliance with both the letter and spirit of the decree, not just in meeting minimum requirements. While the Bureau is obviously not in compliance with the requirements of the decree, their insistence on quality training, not just training, is in keeping with the auditor’s perception of other attempts at compliance generated by the Bureau: perhaps falling short in meeting timelines, but insisting on quality.

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

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



Paragraph 34 requires the City to establish monitoring systems which will assess citizens complaints for indicators of needs in training or re-training. The Bureau has established a system in which OMI forwards a copy of a summary of all

citizen complaints to the Chief of Police, who also provides a copy to the Deputy Chief for Operations. Additional copies are also to be sent to the training academy for review.

Methodology

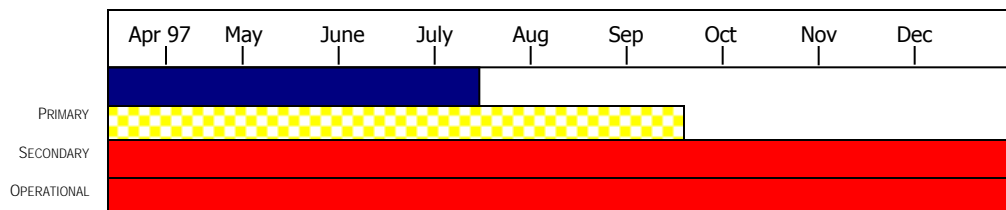
The auditor reviewed records at the Training Academy, reviewed the notes of PBP command staff meetings, and reviewed OMI monthly and quarterly reports. Based on our review of the academy records system it was not clear that these reports were being received in a timely and routine manner. Further, while the Academy is receiving Subject Resistance Reports, our review of academy records indicates that these too appear to not be forwarded on a routine and consistent basis.

It is clear, however, that the Deputy Chief of Operations is reviewing reports of use of force and is communicating his review to subordinates. The degree of follow up to the Deputy Chief’s review, however, is unclear from the record. This may be a task that will depend on the EWS, or some intensive systems redesign in the way reports (and which reports) are forwarded and analyzed by the Academy and command staff.

In addition, The auditor did find that the academy was reviewing the reports that it did receive. For example, copies of the Subject Resistance Reports were scanned by the academy staff and notes for training requirements were made based on those records. Unfortunately, the academy appears not to be receiving the SRRs on a regular and routine basis, and an audit of those reports also indicated several reports missing from the Academy SRR database.

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

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



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

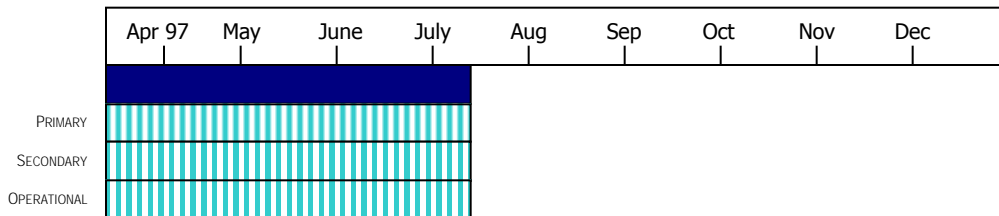
Methodology

The City is currently under contract with a nationally recognized consultant to deliver a series of classes on “verbal judo,” a process of verbal de-escalation which is recognized nationally as effective in reducing police-involved violence. The auditor is familiar with this curriculum, and believes that, if it is implemented as required by the decree, it will meet and exceed the requirements of the decree. Currently, the contract calls for delivery of a “train the trainers” session to selected PBP personnel in March, 1998, following training of the command staff in January, 1998.

Operational compliance with this paragraph would require, in the opinion of the auditor, a complete in-service and recruit curriculum review to identify curriculum items that relate to use of force—or the avoidance thereof—and insertion of training elements in verbal de-escalation. To date, given the documents reviewed by the auditor, this step has not been contemplated.

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

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

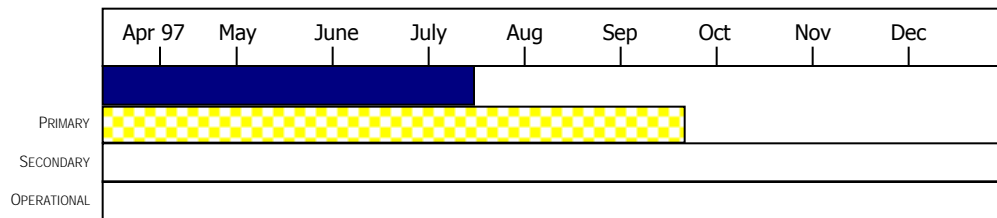


Paragraph 36 requires the City to provide training for recruits in integrity, ethics, cultural diversity and verbal de-escalation “at the beginning of the training curriculum to serve as a foundation for all other classes.” The last recruit class offered by the PBP ran from May 19, 1997 through October 24, 1997. The recruit curriculum offers “ethics” training in weeks three and four, human

relations skills in weeks four and five, multi-cultural training in week six. The auditor has reviewed the curriculum outlines for cultural diversity and ethics, and finds the curricula to be appropriate and responsive to the decree.

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

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



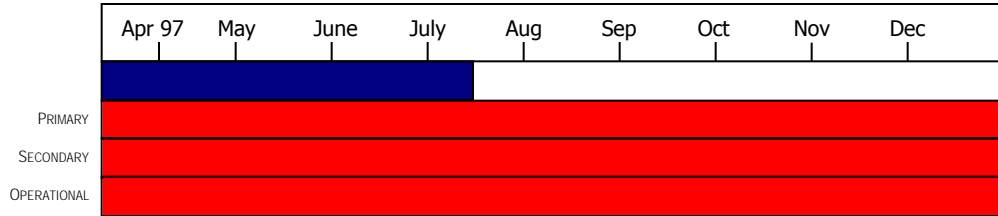
Paragraph 37 requires the City to train all officers in integrity, ethics, the PBP’s mission and values, and cultural diversity. The training requires inclusion of the topics of truthfulness, reporting misconduct by fellow officers, the importance of avoiding misconduct, and professionalism.

Methodology

The auditor has reviewed the Bureau’s curriculum outlines for cultural diversity and ethics. In addition, the auditor has reviewed other curriculum components which he asked to be forwarded for review. The Academy’s maintenance of training records for non-mandatory training is not up to date. The training required in paragraph 37 is considered non-mandatory training by the Academy, thus no data are available to assess—reasonably—the extent to which the Bureau has complied with the requirements of this paragraph. It is highly probable that, until the records are updated to reflect recent training activity, a true audit of the process will not be possible.

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

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



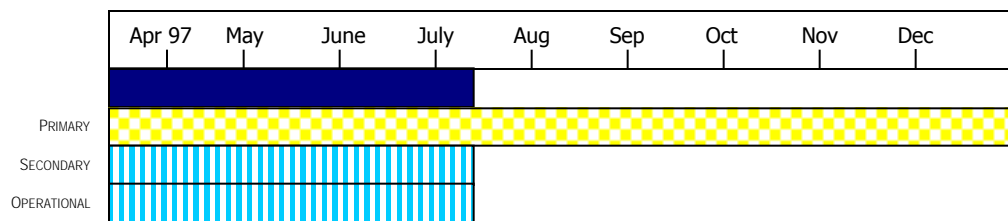
Paragraph 38 requires the City to train all police officers regarding the OMI complaint process, and their obligation to cooperate with OMI investigations.

Methodology

The auditor assessed primary steps necessary to complete the tasks required by this paragraph. No hard data were available to identify training plans, curricula, objectives, etc. The Bureau has, however, completed work on a script for a training video, and the script has, reportedly passed legal review. An initial session was presented by the OMI manager to recruits. However, the training of "all officers" in the OMI complaint process has not yet begun, and no formal schedule for such training was available at the time of production of this report.

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

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



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

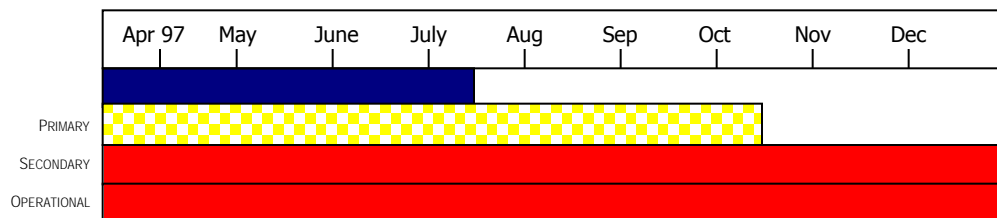
Methodology

The auditor selected slightly more than a 50 percent sample of the 25 newly appointed FTOs selected by the Bureau for its new recruits. Each of the 13 records selected was screened for poor disciplinary record, complaint history, and past performance. Given the Bureau’s delay in implementing paragraph 23 (performance evaluations) these evaluations could not be used in selecting the FTOs appointed in July, 1997. The review covered other factors required by paragraph 39. The auditor did not pull instructors’ files for this quarter.

The auditor found all of the 13 officers’ files to be reflective of police careers that would recommend a role as an FTO. The field training officers’ records were clean of any civilian complaints that would require disqualification as an FTO. The discipline that was assigned, in the few cases in which it was uncovered, was for minor infractions—wearing the wrong color T-shirt, improper attire for court, and accidental firearm discharge in the station house.

Status:           Primary:           Not in Compliance—due to lack of performance evaluations  
                       Secondary:       In Compliance  
                       Operational:     In Compliance

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



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

Methodology

The auditor reviewed the training curriculum for FTOs and instructors provided through contract for the PBP. All instructors and FTOs are first “instructor development certified” by either the Federal Bureau of Investigation or Indiana

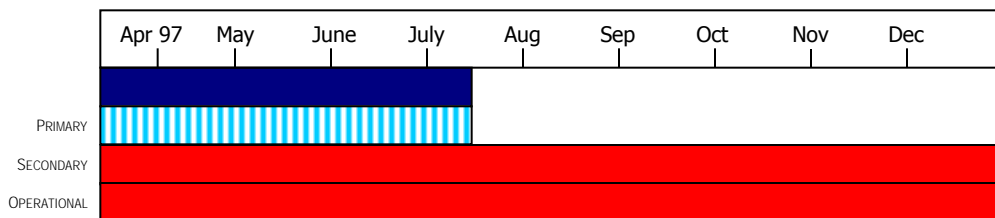
University-Pennsylvania. FTOs then receive an additional five days of training at the PBP Academy for specific FTO-related topics. Despite the specific provisions of paragraph 40 which requires "demonstration on a regular basis...[of] proficiency in their areas of instruction," the Police Bureau requires no such formal demonstration. The Police Bureau does assess the FTO process through an informal process requiring Academy-based Field Training Supervisors to meet each week to "discuss calls the recruits have answered, training that may be warranted, and the daily evaluation reports completed by the FTO" (Memorandum from Commander McDonald to Deputy Chief Moffatt, December, 1997).

According to the Police Bureau, the Municipal Police Officers Education and Training Commission "audits" the in-class performance of PBP instructors; however, the auditor has not been able to review the results of these audits.

While these processes can form the foundation for compliance with paragraph 40, they will need to be formalized, with specific goals, objectives and reporting procedures to meet the auditor's interpretation of the requirements for secondary and operational compliance.

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

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



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

**Methodology**

The auditor conducted a thorough review of the Academy's training records during a site visit to the Academy. Selected training curricula were assessed,



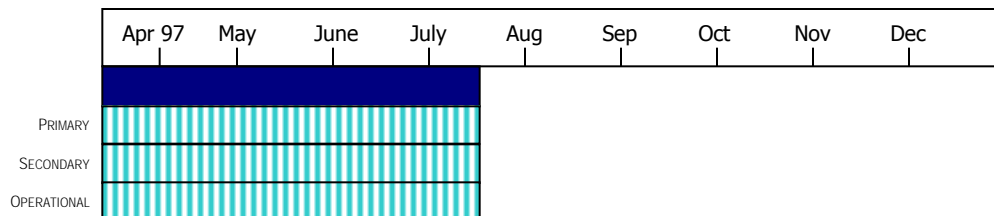
and specific documents were selected and requested to be forwarded to the auditor for further analysis. This included training sign-in logs for all “non-mandatory” training, defined as training not required by the State of Pennsylvania. The auditor required the “non-mandatory” sign-in logs since electronic data entry was not up to date, and not available to provide print outs of training received for each officer. Obviously, the “non-mandatory” training is of most interest to this audit. To date, while the Bureau does maintain training records, the records of interest to this audit are not maintained in useable format. The Bureau does, however, have the necessary policy and procedure (e.g., an automated records system) in place; however, the policy is not being complied with in a satisfactory manner, i.e., the records for non-mandatory training are not up to date. Until the backlog in data entry is cleared up, the Bureau will remain out of compliance at the secondary and operational level.

Compliance will require, in the opinion of the auditor, implementation of a specific, written record retention protocol for the Academy and specific focus on maintaining accurate and timely records of training activity—by officer, topic, hours, date, and test score.

Further, only the state-mandated training—most of which is not of direct interest to this audit—is “test verified” by the Bureau. Thus the “training” of interest to those involved in the consent decree is not supported by testing. Given this existing process, there is no reasonable method by which the auditor, the City, the Department of Justice or others can judge whether the training was “completed successfully.” Until methods of testing—either through written tests or performance-based tests, or both—are developed, it is the opinion of the auditor that the Bureau will remain out of compliance with the requirements of paragraph 41.

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

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



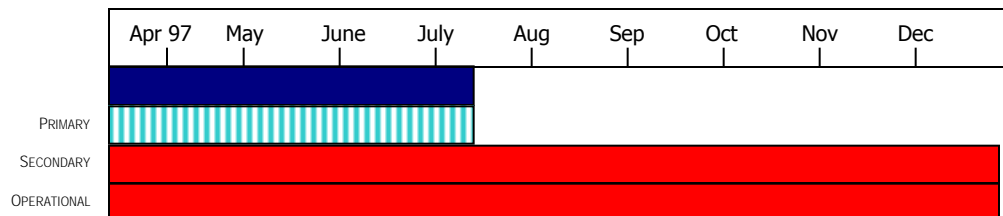
Paragraph 42 requires the City document in writing all mandatory counselings by name of officer, reasons for the referral, OMI file number, related cross index number, the subject matter of the counseling, and the status of the officer's attendance.

Methodology

During the auditor's review of personnel files for officers of the PBP, a notation was made regarding mandatory counseling required by the Bureau for officers. If these counselings were being documented, one would expect to find evidence of same in a random review of personnel files. The auditor found several instances of mandatory counseling being required, as well as specific retraining focused for officers who had been the focus of numerous complaints in the past. It is recommended that a centralized file documenting these counselings be instituted within the Bureau.

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

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



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

Methodology

The auditor assessed the training records for PBP senior supervisors. Since much of this training is non-mandatory, the Academy records were not reflective of current status of this training. From the records available, it appears that the

PBP has begun the process of providing annual in-service training for senior supervisors (and supervisors) in the topics of integrity, cultural diversity and command accountability.

It appears, from the records available at this time, that nearly one-half of all senior supervisors have been trained at Pennsylvania State University's "POLEX" command staff training program. In addition, the Bureau has developed in-house training for supervisors and senior supervisors in cultural diversity. An in-service component on "ethics" has been developed, and plans exist to include that component in the Bureau's annual in-service training for supervisors.

To remain in compliance, the Bureau's in-service training plan should continue on an annual basis, and all remaining senior supervisors should be provided training in ethics and command accountability.

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

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

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

#### Methodology

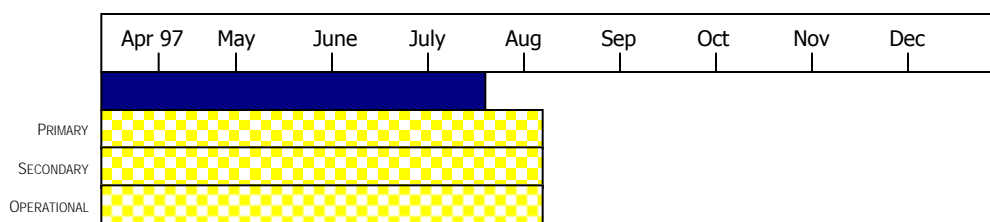
The auditor and the auditor's team assessed the records management systems and electronic databases currently in place within the OMI office. They observed OMI personnel as they worked with the databases, and reviewed output from the databases.

Current OMI databases have been brought up to date, through the assignment of a temporary data entry clerk. At present, data are available—through several databases—for OMI investigations from 1986 through 1997. While these databases are available, they appear to be unsuitable for use as a long-term management tool.

Further, this paragraph requires that OMI prepare complaint histories from the Early Warning System. Obviously, the City cannot come into compliance with this paragraph until April, 1998, when the EWS comes on-line.

Status: Pending

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



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

#### Methodology

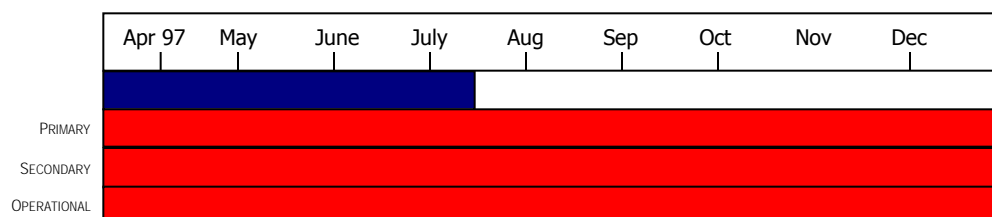
The auditor has reviewed Chief's Orders 97-009 and 97-024 which established the zone "performance files." These orders required the creation of disciplinary files at the zone level which "contain all OMI and non-OMI complaints that have been filed against the officer," (CO 97-009). CO 97-024 requires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

While the Chief's Orders establishing the performance file system are clear, implementation of the process at the zone level is lacking. While provisions for access to subordinates' files are somewhat cumbersome, they do provide access. In the opinion of the auditor, the existing system, which requires supervisors on the night turn to request access from the commander during hours that the commander normally does not work, may be the best-available solution until the EWS comes on line.

Status: Primary: In Compliance  
Secondary: In Compliance

Operational: In Compliance

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



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

#### Methodology

The auditor reviewed the OMI manual, as promulgated on December 1, 1997, and assessed OMI training documents. The OMI Manual of Policy and Procedure appears from initial review to be an effective guide to investigation of civilian complaints.<sup>3</sup> The manual has been made available at PBP zone stations and disseminated to OMI personnel effective December 1, 1997.

Records provided by OMI indicate that four OMI investigators have received training at the PBP Training Academy between June and November, 1997. This training included cultural diversity (three investigators); and application of force, authority and jurisdiction, and use of force (four investigators).

While paragraph 46 requires that civilian investigators receive academy-based training in 15 separate areas there is no indication in the record that the Office has taken steps to obtain all of the required training. In addition, no formal

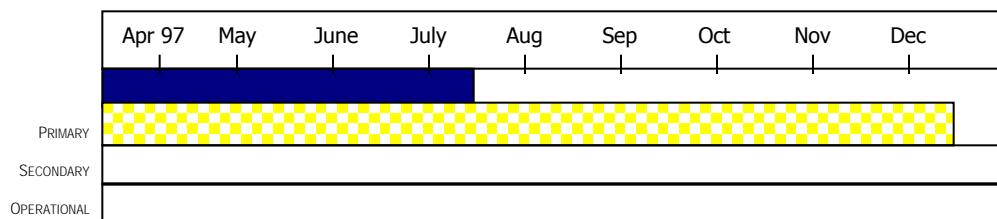
<sup>3</sup> Specific comments will be provided to OMI, by the auditor, after a thorough review of the Manual, which was delivered on December 1, 1997.

“training plan” exists which would effectively meet this requirement. It is clear to the auditor, based on a review of OMI work product, that additional training is required for OMI investigative and management personnel (see section 2.51 and 2.52, below).

While the Office is in primary compliance with the requirements relating to promulgation of an OMI manual, it fails to meet the other stipulations of paragraph 46.

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

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



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

**Methodology**

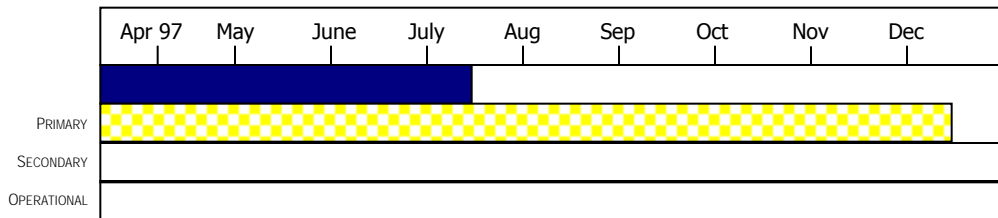
The auditor reviewed pending and completed OMI complaints to assess the method of receipt and to determine if any complainants were “required” to complete any OMI form prior to receipt of the complaint and initiation of the investigation. The revised OMI manual was assessed to determine levels of compliance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

No evidence was available in the completed investigations reviewed to indicate the particular method by which complaints were being received. No evidence was available in the completed investigations reviewed to indicate that

complainants were—or were not--being required to complete forms prior to initiation of an investigation.

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

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



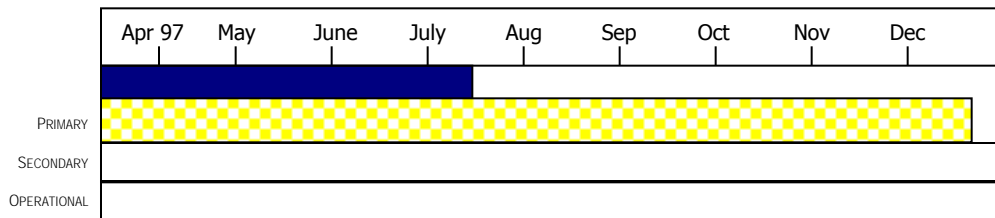
Paragraph 48 requires that the City accept anonymous and third party complaints through the OMI process, and to investigate these complaints thoroughly. This paragraph also allows the OMI unit to require corroborating information or evidence from complainants.

Methodology

The auditor reviewed completed OMI investigations for indications that the complaint was generated by an anonymous complaint. The OMI policy manual was assessed to determine if it required receipt and investigation of anonymous and third party complaints. The OMI manual specifically addresses anonymous and third party complaints (section 6.5), and indicates that such complaints will be investigated to the fullest ability of the unit. A review of the completed investigations did not indicate that anonymous or third party complaints were—or were not--being investigated. This does not necessarily indicate that OMI is not investigating these complaints. The files, in most cases, simply do not indicate the nature of the complaint.

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

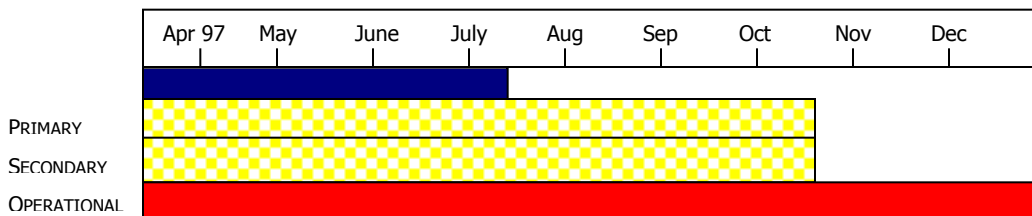
**2.39 Compliance with Task 49: Closure of OMI Investigations**



The OMI Policy and Procedures Manual states in section 6-11 that withdrawal of complaints will not cause OMI to cease its investigation. No records were found, in the complaints reviewed by the auditor, relating to withdrawn complaints. In the experience of the auditor, withdrawal of complaints is a relatively rare event, and, given the relatively small numbers of complaints reviewed to date, it is not surprising that no indicators of withdrawn complaints were found. The OMI Manual of Policy and Procedures is relatively new, finalized in December, 1997, and training of OMI staff in the policies included in the manual has not yet been completed. Interviews with OMI staff indicate that it is customary not to terminate investigations upon the complainant's withdrawal of same. The auditor found no indication in any record that indicated that this is not the practice of the OMI unit.

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

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



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

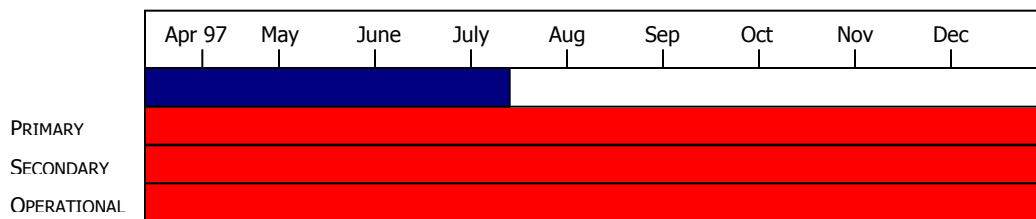
Methodology



The auditor has taken a walk-through of OMI’s new office location at 564 Forbes Ave., suite 1010, has walked from the OMI office to the nearest bus stop, and has ensured that no other PBP personnel were officed in the same building. The new facilities for OMI are business-class and well suited to professional operations. The auditor also requested copies of publicity used by OMI to notify citizens of the new location. This “publicity” consisted of a one-page flyer, placed in unspecified locations, stating the new location

Status:           Primary:        In Compliance  
                       Secondary:   In Compliance  
                       Operational:  Not In Compliance—pending notice

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



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

**Methodology**

The auditor reviewed attendance logs for OMI’s quarterly meetings, reviewed the newly developed OMI manual to determine policy or procedural guidance relative to attendance at quarterly community meetings, and requested copies of publicity documents posted by OMI relative to the quarterly meetings. Further, the auditor assessed completed OMI investigations to attempt to identify whether or not complainants were required to come to a PBP facility to register a complaint.

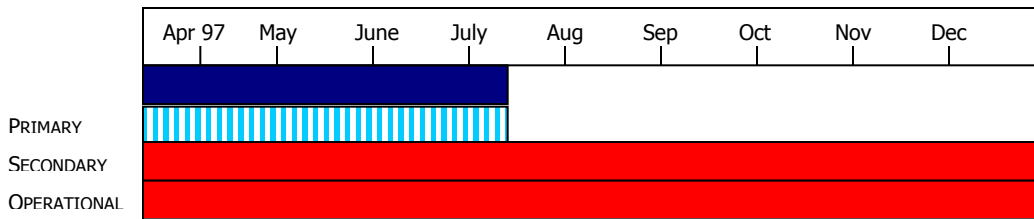
The quarterly attendance logs indicate that OMI personnel have been conforming to the requirement to attend quarterly meetings. While they offer to take complaints at these meetings, according to staff, no such complaints have been registered or investigated. The OMI manual, at section 4-1(B) stipulates that “OMI

also accepts complaints during quarterly, off-premises meetings in rotating zones.” However, OMI staff could not provide copies of publicity notices used to publicize the OMI quarterly meetings “in all City buildings.”

While the City is in compliance with all aspects of this paragraph except one, that element is perhaps the most essential element of compliance. The missing element is publicity of zone meetings. Absent notice, the other elements of the tasks outlined in this paragraph cannot be effectively met.

Status:           Primary:       Not In Compliance—absent notice  
                       Secondary:   Not in Compliance—absent notice  
                       Operational: Not in Compliance—absent notice

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



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

Methodology

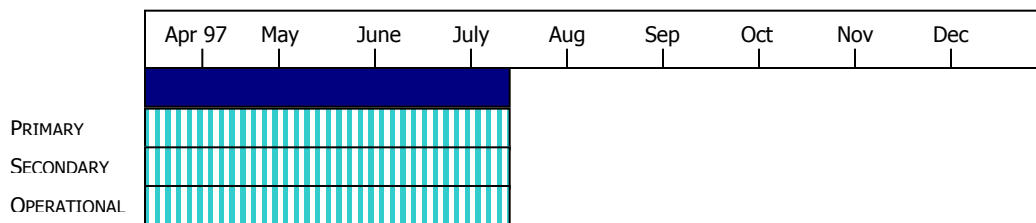
The auditor attempted to track the paper trail from OMI to zone-level senior supervisors, and to find any evidence at the zone level of notification from OMI of use of force, improper search or seizure or racial bias. OMI does issues monthly reports identifying officers complained against, the type of complaint and a brief narrative. These reports are forwarded to the Chief of Police, and the Deputy Chief for Operations. In addition, any complaint alleging racial bias is automatically forwarded to the Human Relations Commission (although this process is not treated in the new OMI manual). Unfortunately, the auditor was unable to find any evidence that these monthly reports, or any other routine form of notification, make their way to the zone commanders, where senior supervisors in their chain of command could make use of the information. The auditor failed to find a single OMI “notification” of excessive force complaints, complaints of

improper search or seizure, or complaints of racial bias in any of the zone files. This was true despite the fact that numerous complaints alleging these problems had been lodged with OMI in recent months.

The auditor did find evidence of a proactive use of data regarding citizen complaints at the level of the Deputy Chief for Operations (DCO), who, it was noted, frequently included discussions of such data in his presentations at command staff meetings. Given this stance on the part of the DCO, the City is in primary compliance with task 52.

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

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



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

Methodology

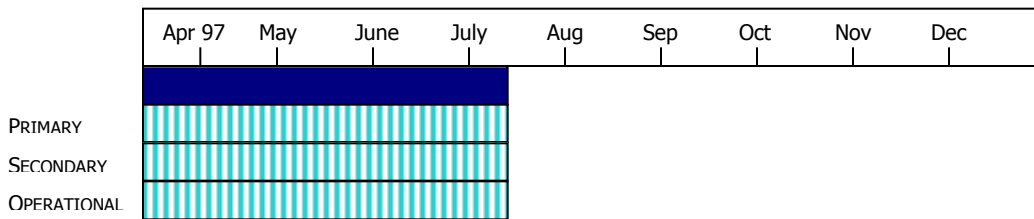
The auditor reviewed the OMI manual for sections relating to paragraph 53, interviewed OMI personnel, and reviewed OMI case files for any indication of incompleted or “withdrawn or settled” OMI cases. Section 2-1 of OMI’s new manual charges OMI with jurisdiction to “investigate all personnel of any department of the City of Pittsburgh...” and specifically notes the departments over which OMI has investigative authority, including the PBP.

In addition, the auditor reviewed Disciplinary Action Reports filed by the Bureau during the time frame of this audit for evidence of supervisory or command staff

over-ruling or changing OMI findings. While the auditor’s review (for other areas of this decree) did find such processes prior to September 16, 1997, none were found in data for this quarter.

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

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



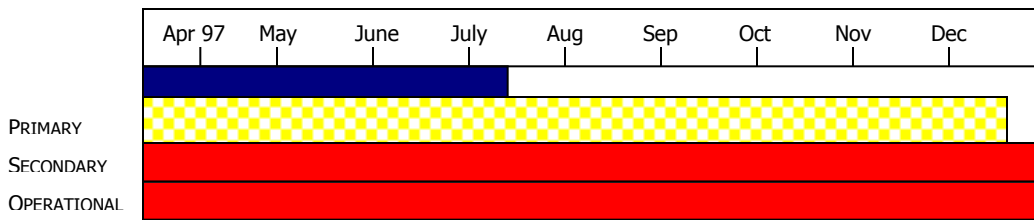
Paragraph 54 requires officers to provide citizens with their names or badge numbers, upon request. Section 101-4.06, "Conduct Toward the Public" requires that PBP officers "When requested by any person, a member shall give his name and badge number in a courteous manner.

Methodology

The auditor reviewed citizens’ complaints for the period of September 16, 1997 through November 15, 1997 for allegations of failure to provide name or badge number. While such complaints were noted, none of these complaints were sustained. Given the department’s performance to date, there is no indication that paragraph 54 is not being complied with. The auditor will continue to assess complaints for compliance with paragraph 54.

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

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



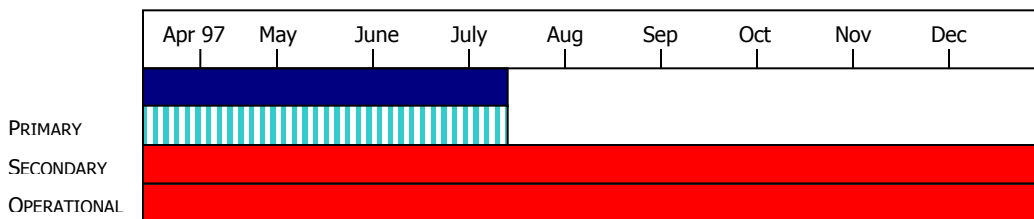
Paragraph 55 stipulates that OMI will interview witnesses at alternative sites if they are unavailable for interviews at OMI offices. The paragraph also requires reasonable notice before all interviews. Section 4-2(B) of the OMI stipulates that OMI will arrange to interview complainants "off-site," if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

**Methodology**

The auditor reviewed completed OMI case investigations to determine if interviews were being conducted "off site." No consistent information was available from which to make such a determination. To provide documentation that such events do occur, all investigators should take care to note the date, time and location of interviews in their taped/transcribed statements, and in any forms relating to interviews.

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

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



Paragraph 56 requires OMI to tape-record and transcribe all interviews, and to refuse to accept "special reports" in lieu of an interview. Further OMI is required

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

Methodology

The OMI manual stipulates a "Tape Recorded Statement Form" and Section 4-2 stipulates that all statements will be tape recorded. Section 6-3 stipulates that all tape-recorded statements will be transcribed. The auditor reviewed the completed investigations provided by OMI based on a random 50 percent selection by the auditor's staff. These cases were reviewed to ensure that all interviews were tape-recorded and transcribed. Not all cases reviewed included transcriptions of OMI interviews of officers, witnesses or complainants. Many of the cases selected for review included written reports from officers, rather than taped and transcribed interviews.

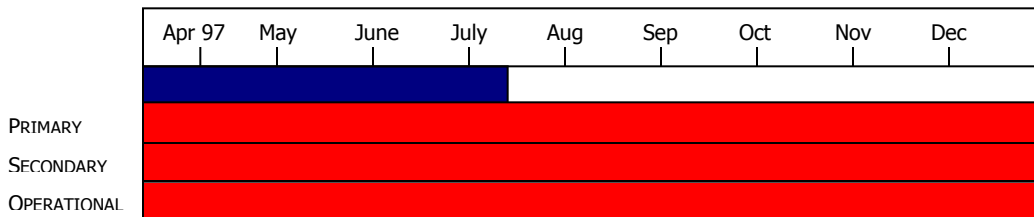
Status:           Primary:       In Compliance  
                       Secondary:   Not in Compliance  
                       Operational: Not in Compliance

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

Paragraph 57 stipulates that OMI staff should be provided access to the City's Early Warning System. Current plans call for such access; however, this access cannot be audited until April, 1998, when the EWS comes on-line.

Status:           Pending

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



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

supervisors and senior supervisors will be interviewed concerning their observations of the complainant and the accused officers.

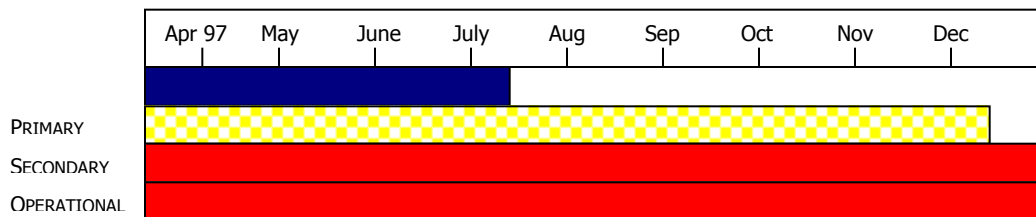
Methodology

The auditor reviewed the OMI manual for language stipulating that supervisors and senior supervisors be interviewed. Section 6-1(M) of the OMI manual identifies a requirement that OMI locate any supervisors or senior supervisors, and interview them regarding incidents in which they “participated” or were involved. Further, several of the OMI case reports which were reviewed lacked any evidence that the investigator had attempted to locate any potential supervisors at the scene. For example, none included dispatch records for supervisory or senior supervisory personnel.

While the OMI manual contains language concerning the need to interview senior supervisors and supervisors, it does not require OMI investigators to determine the supervisors’ “handling of ... situation[s] during and after the alleged incident[s] and their observations of the complainant[s] and the accused officers.” The manual should be updated as soon as practicable to include this language.

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

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



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

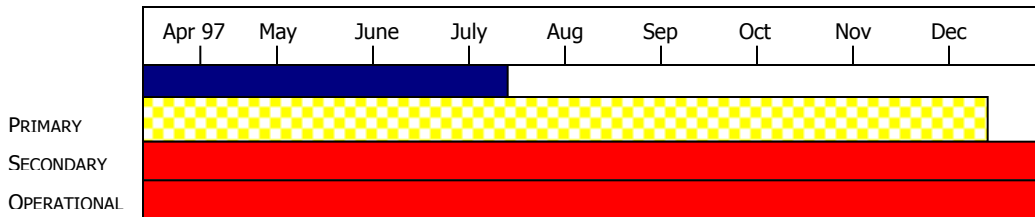
Methodology

The auditor reviewed the OMI manual, Section 6-1G, which requires neighborhood canvasses, "as soon as possible" after receiving a complaint. The auditor reviewed completed case files furnished by OMI for evidence of witnesses who were located through the process of canvassing.

The auditor reviewed a randomly selected sample<sup>4</sup> of completed OMI cases for the first quarter (September 16-November 15, 1997) to determine if OMI personnel were conducting canvasses as required by this paragraph of the decree. Despite noting several investigations in which the available evidence amounted to the officer's word against the complainant's, the auditor could find no evidence of canvassing for witnesses in those incidents. Further, many cases appear to go 30-60 days before any meaningful investigation is conducted into the allegations, yielding a low probability of locating a witness through a neighborhood canvas, even if one were done at that time.

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

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



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

**Methodology**

The auditor reviewed a randomly selected sample of 50 percent of all OMI cases completed from September 16, 1997 through November 15, 1997. During that

<sup>4</sup> According to data provided by OMI, a total of 24 OMI cases were completed during the audit period. The randomly selected sample consisted of 12 cases, labeled AQR1-A through AQR1-L. These cases were selected using a random number generator to select cases weekly, from a sampling frame of all cases completed during the week. The cases selected for review are identified by separate memorandum to the City and Justice. The cases not selected for audit were numbered AQR1-M through AQR1-X.



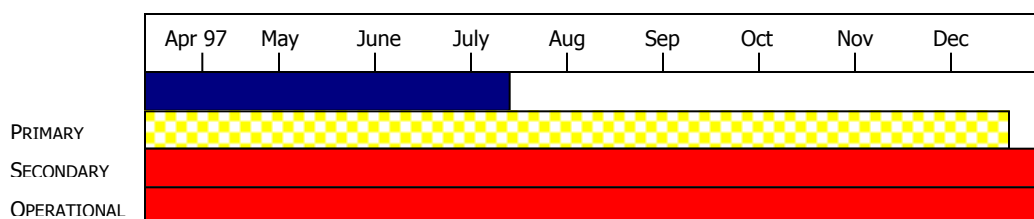
review, the auditor assessed at least one OMI review of a police-involved shooting. That review appeared to be cursory, yielding no indication that the OMI staff had reviewed the investigative report of the police shooting investigation team. The review was completed, however, as required by task 60.

More disturbing, however, is the existence of a police-involved shooting which was not referred to OMI for investigation. A Subject Resistance Report, dated 9-8-97, filed by a PBP patrol officer, detailed a shot fired at an armed suspect who pointed a pistol at the officer while fleeing. The report was marked under "Level of Control Used" as "Other," rather than as "Intentional Discharge of a Firearm."

The auditor could find no record of this officer-involved shooting having been referred to OMI for investigation, even though the SRR was subjected to review by the chain of command.<sup>5</sup>

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

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



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

Methodology

<sup>5</sup> The involved officer's immediate supervisor and commander failed to sign the report, although his supervising lieutenant did sign the document. This incident may have occurred due to the fact that the officer worked in Zone 4, while the shooting took place in Zone 5. Regardless, it indicates a problem in referral to OMI for their review, as well as other problems noted in Section 2.7, above. Additional information indicates that the failure to sign may be a problem of systems design, in that blank signature blocks may represent supervisors who were not on duty at the time of the shooting.

The auditor reviewed a randomly selected sample of OMI investigations completed from September 16 to November 15, 1997 to assess the level of compliance with paragraph 61. During the course of this review, the auditor noted numerous incidences of OMI investigators placing the burden of the investigation on the complainant. OMI case investigations completed in 97 which indicated such problems were:

- AQR1-F<sup>6</sup>, in which the investigator discounted the complainant's allegations because they could not produce receipts for clothing that was supposedly damaged during a search, and which contained no evidence of an attempt to identify uninvolved witnesses—despite an obvious need to do so;
- AQR1-G, in which the investigator notes that the complainant did not provide the names of any witnesses—and yet indicates no effort on the part of the investigator to locate witnesses—and further places the investigative burden on the complainant;
- AQR1-H, in which the investigator explains not resolving the complaint about the officers' actions by the fact that the complainant "submitted incomplete medical records" and that the complainant failed to keep appointments. Further, despite medical records which tend to confirm the complainant's version of the incident, the investigator appears to have failed to canvas for neutral witnesses;
- AQR1-E, in which the investigator fails to include a copy of a letter written by a witness that could have validated the complainant's statements, and failed to interview that witness—even though the complainant suggested the witness could corroborate her story; and
- AQR1-D, in which the investigator failed to conduct an independent canvas for witnesses, despite a case that rested on the officer's word against the complainant's, and failed to interview a 911 operator to whom the complainant was talking during the incident.

In addition to reviewing cases completed by OMI to assess the level of aggressiveness of OMI investigations, the auditor reviewed the recently promulgated OMI manual for stipulations requiring thorough, complete and

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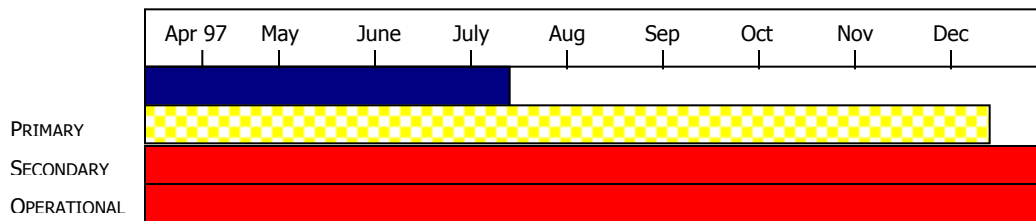
<sup>6</sup> For the purposes of privacy, the Auditor's Quarterly Reports assign OMI case investigations an "AQR" number which corresponds to the number of the quarterly report, e.g., first, second, third, etc., and a letter designation. AQR1-A designate OMI case A, discussed in the first Auditor's Quarterly Report. Indexes of AQR case numbers tied to OMI case numbers are provided to the City and to Justice.

“aggressive” investigations. Taken as a whole, section six of the OMI manual requires “aggressive” investigations of citizens’ complaints.

Further, it should be noted that many of the difficulties noted above with OMI investigations could be attributable to a lack of documentation, rather than a lack of investigative effort. Unfortunately, there is no reasonable method to determine the true nature of the deficiency without adequate documentation, in the case files, of the investigators' efforts.

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

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



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

Methodology

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

The auditor also reviewed a random sample of complaints completed by OMI between September 16, 1997 and November 15, 1997. Each complaint was evaluated to determine if any behavior could be noted that would be “outside the four corners” of the original complaint. None of the complaints reviewed

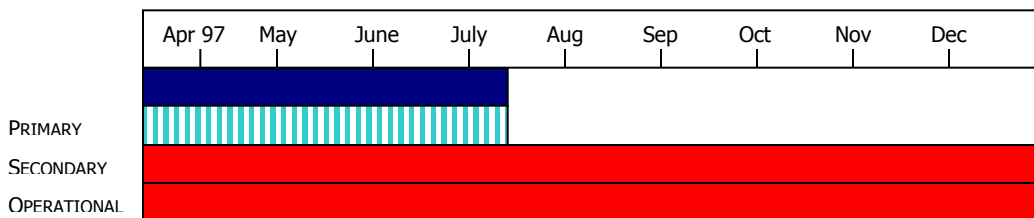
indicated an investigation of “collateral misconduct.” During the auditor’s review, however, two cases were noted that contained indications of possible collateral misconduct:

- AQR1-B, in which there are allegations that an officer working an off-duty detail struck a subject with a baton, in violation of the department’s use of force policies. The report lists the officer as “on-duty,” with no documentation from run sheets, CADS records or elsewhere, and the investigator appears not to question whether or not there was a off-duty detail request form on file.
- AQR1-E in which there are collateral allegations of untruthfulness against an officer which are ignored in the investigation—and in fact evidence which would go toward proving untruthfulness is specifically not collected or reported on.

Further, it should be noted that many of the difficulties noted above with OMI investigations could be attributable to a lack of documentation, rather than a lack of investigative effort. Unfortunately, there is no reasonable method to determine the true nature of the deficiency without adequate documentation, in the case files, of the investigators' efforts.

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

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



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

The auditor reviewed a random sample of complaints completed by OMI between September 16, 1997 and November 15, 1997. Each of the investigative files contained a final report. The final reports were assessed for completeness, conformance to established practice in internal investigations, and conformance to the requirements of the consent decree. While each file contained a final report, many were incomplete, not in conformance with established practice for internal investigations, or were not in compliance with the requirements of the consent decree. Only two, however, were deemed inadequate to the point requiring additional investigation.

The auditor, in conformance with Paragraph 72 of the decree, has requested that two of the investigations be re-opened, so that they can be brought into compliance with investigative standards and with the decree. These cases are:

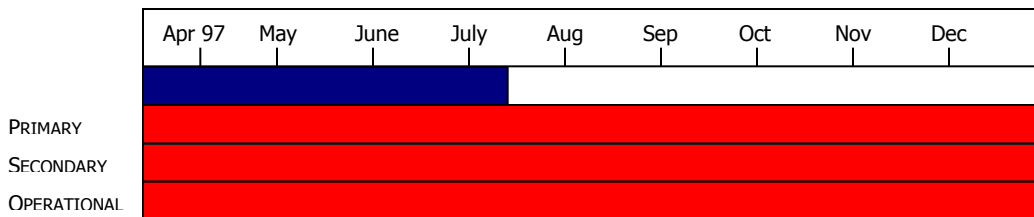
- AQR1-B; and
- AQR1-E.

Written directions for completions of these investigations will be forwarded under separate cover to the City and to Justice by the auditor.

While each investigation completed by OMI contains a final report, these reports are not routinely complete, and do not always reflect conformance to established standards for internal investigations, thus, while the City is in primary compliance, additional work is needed to meet secondary and operational compliance with task 63.

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

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



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

### Methodology

The auditor conducted a routine desk audit of OMI practices, caseload and work product. OMI is currently staffed by five full-time investigators, one of whom is on disability leave. The four remaining investigators receive approximately 28 cases per month, which is expected to increase during the course of this decree. Currently, the OMI investigators “work” approximately 300 cases per year. The four investigators assigned to OMI will work, on average, 75 cases per year. The “average” OMI investigator works only 225 work days per year,<sup>7</sup> yielding only three work days per case. Further, in 1997, OMI personnel completed 414 background investigations.

In the opinion of the auditor, based on his experience with nearly one dozen other internal investigations units, and based on a desk audit of the Office of Municipal Investigations, OMI is understaffed to perform its duties in the manner required. In the opinion of the auditor, three working days per case is not adequate to complete the type of complex investigations required of the unit at this time.

Based on currently available data, the “average” OMI case requires 218 calendar days and 155 working days to complete. Currently, the unit has approximately 150 open cases, with approximately 60 of those having been filed more than 90 days prior to November 15, 1997. OMI currently has on staff only four full-time investigators (one is absent due to a job-related injury, and has not been replaced). Simply to clear up existing case loads would require each investigator to complete 15 cases in the next two weeks, a goal not recommended due to the risk of prematurely closing cases or investigating them incompletely.

Some progress can be made by tightening up the management control on investigations: conducting case review and assignment conferences with each investigator prior to assigning the cases; reviewing investigator’s progress reports weekly, providing needed training for investigators and managers, and providing a full-time receptionist’s position—which removes investigators who are in the office writing case reports from telephone duty. In the estimate of the auditor, however, more personnel are needed immediately to release the backlog

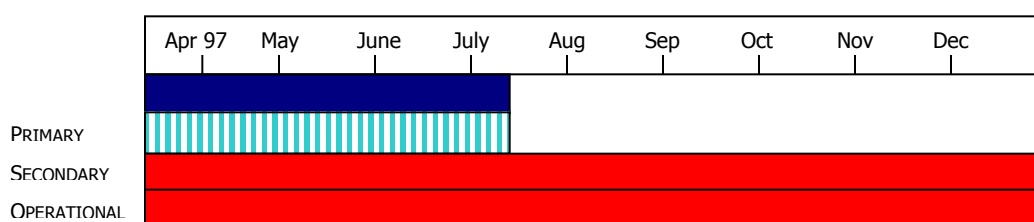
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<sup>7</sup> Investigators are provided an average of 13 days per year of vacation, nine days sick leave, and 13 holidays per year.

of cases open more than 90 days. It is highly probable that, given the training regimen needed for OMI personnel and given the projected increase in the numbers of citizens' complaints expected as a result of the decree, more personnel will be needed on a permanent basis.

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

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



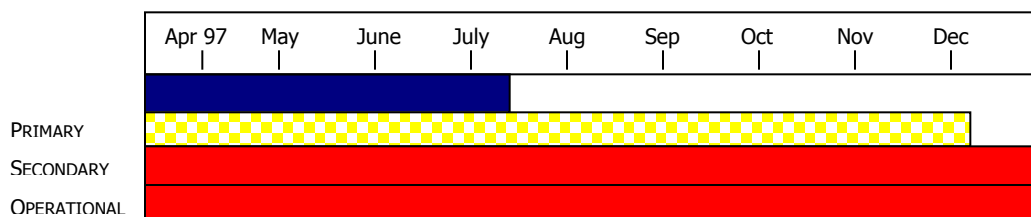
Paragraph 65 requires OMI to use the preponderance of the evidence standard in determining findings on cases assigned for investigation.

#### Methodology

The auditor reviewed the OMI Manual of Policy & Procedure, which states at Section 7-4 that "all findings by OMI shall be based upon the 'preponderance of the evidence standard.'" Unfortunately, the document does not define this standard for the reader, using applicable Pennsylvania or federal definitions. In addition, the auditor reviewed a randomly selected sample of cases completed by OMI during the first two months of the audit period. All of the findings reviewed appeared to be based on the preponderance of the evidence standard; however, given the lack of thoroughness of OMI investigations, insufficient evidence was documented in the case files to result in a single allegation raised by a citizen being sustained during the study period. Thus, while the City is in conformance with requirements of paragraph 65, the quality of investigations to date does not bring this aspect into question at the stage of development of findings.

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

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



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

### Methodology

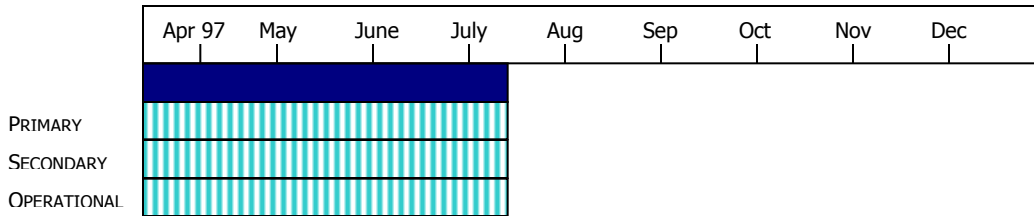
The auditor reviewed the OMI Manual of Policy and Procedure for references to preferences to officer's statements, and found none. There were, however, references to credibility determinations (Section 6-9) which conform to the requirements of paragraph 66. In addition, the auditor reviewed a random sample of OMI investigations completed during the study period for indications of conformance to this paragraph. No cases were noted in which the officers' statements were given preference, and most credibility statements were documented.

As noted above, however, given the relative lack of thoroughness of OMI investigations reviewed by the auditor, insufficient evidence existed in the case files to result in a single allegation raised by a citizen being sustained during the study period. Thus, while the City is in conformance with some requirements of paragraph 66, the quality of investigations to date does allow an assessment of conformance to the paragraph.

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



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



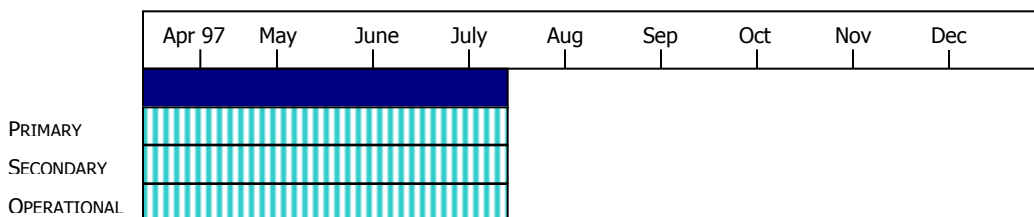
Paragraph 67 stipulates that OMI will retain final authority for investigations of police personnel. It stipulates that OMI retains final authority for determining findings and dispositions of all investigations, and specifically precludes supervisors and senior supervisors from modifying or reversing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

**Methodology**

The auditor reviewed all OMI investigations completed between September 16, and November 15, 1997 and which resulted in a sustained finding. Each case was reviewed for evidence of a "reversed" OMI finding by a supervisor or senior supervisor. No such evidence was found. It is clear from the record provided and assessed during this quarter that the department is in full compliance with paragraph.

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

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



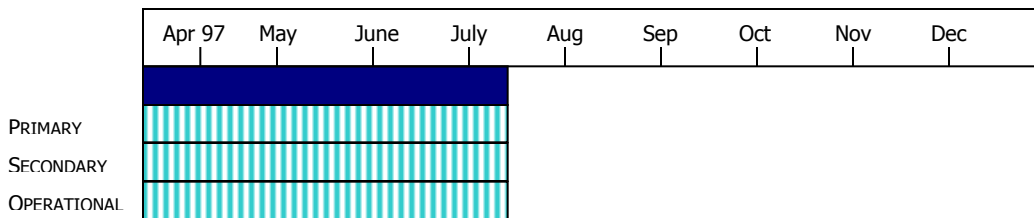
Paragraph 68 requires the City to change the OMI disposition category of "Not Sustained"

Methodology

The auditor reviewed the OMI manual, which stipulates at 7-1B, that cases which generate "evidence that is insufficient to prove or disprove that accountability standards have been violated" will be classified as "Not Resolved." Further, the auditor assessed all completed OMI investigations for the period of September 16 through November 15, 1997 to determine if the disposition of "Not Resolved" was appropriately used. In the cases reviewed that produced evidence which should be classified as "Not Resolved" all such cases were so classified.

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

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



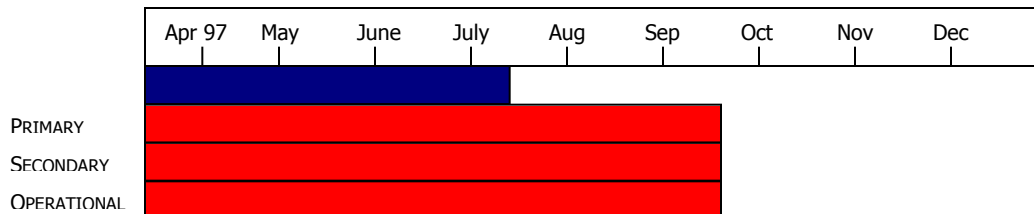
Paragraph 69 requires OMI to issue quarterly reports on its activities. The report is required to list each investigation's significant dates, general allegations, disposition and resulting discipline.

Methodology

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

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

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



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

#### Methodology

Conformance with this paragraph is measured by noting the date of the auditor's appointment. A contract for the audit has been issued, dated December 4, 1997 and as of December 8, 1997, the auditor has received no copy of the Notice of Appointment.

Even though the auditor began work on this project in September, 1997, the delay in appointment has delayed operational compliance in several areas, most notably within the OMI function, which due to the delay, received little if any early guidance from the audit in time to affect compliance.

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

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

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

- OMI final reports;
- Substance and timeliness of 50 percent of all OMI investigations completed;
- Statistical information on the number and types of complaints filed with OMI;

- Statistical information on discipline imposed on sustained complaints;
- Assessments of officer use of force, searches and seizures, and traffic stops.

Methodology

This quarterly report is offered as compliance with the requirements of Task 71. Although the draft of this report was due to Justice and to the City on December 1, the delay in appointment, and a delay in delivery of some of the items requested from the City, delayed the report. No future delays are anticipated for the remaining 19 quarterly reports required.

**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.

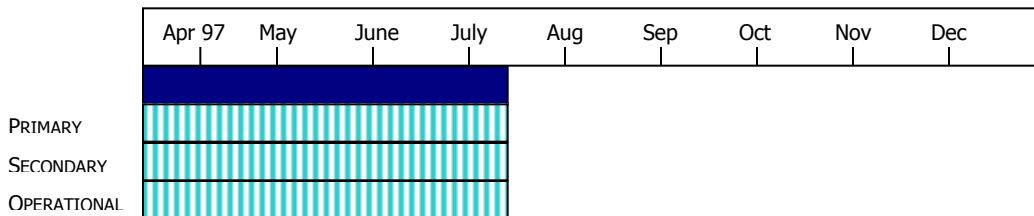
Methodology

The auditor has reviewed 12 of the 24 OMI investigations completed between September 16 and November 15, 1997.<sup>8</sup> Based on that review, the auditor requested that two OMI cases be reopened and brought into conformance with established practices for internal investigations. These are listed below.

- AQR1-B<sup>9</sup>; and
- AQR1-E.

Written directions for completion of these investigations will be forwarded under separate cover to the City and to Justice by the auditor.

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

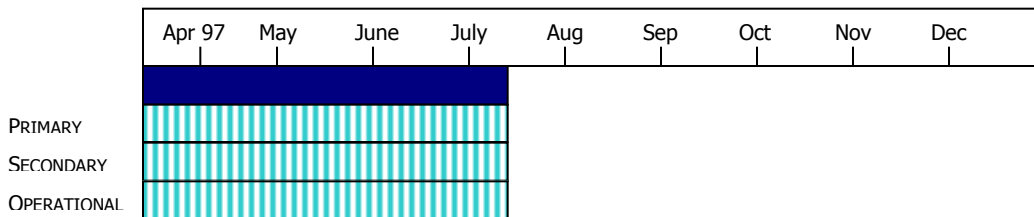


<sup>8</sup> See footnote four, above.

<sup>9</sup> See footnote four, above.

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.

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



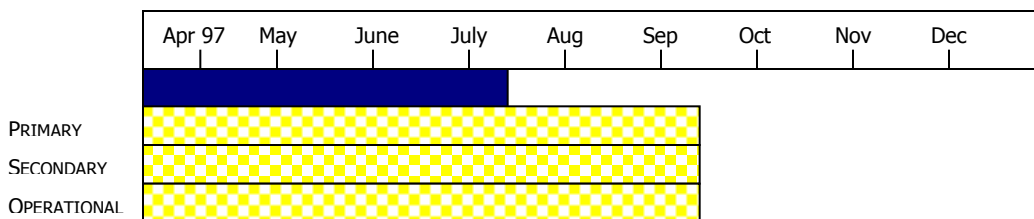
Paragraph 74 requires the City to maintain all records necessary to document their compliance with all terms of this decree. Further, it requires the City to maintain records required by or developed under this decree.

Methodology

The auditor asked for all pertinent copies of records required to document compliance with the decree, and, for the most part, received same in a timely manner. The only records not provided were those that did not exist due to failure to comply within time frames established by the decree, e.g., verbal de-escalation training, etc.

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

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



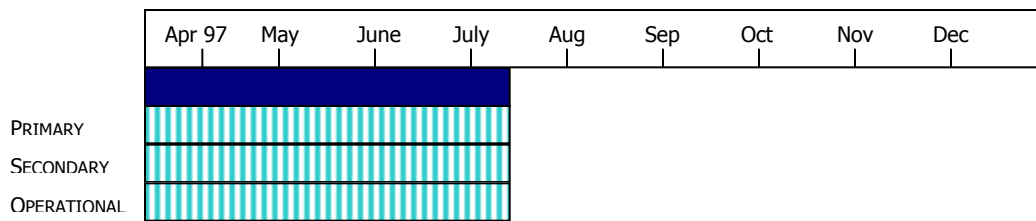
Paragraph 75 requires the City to provide the auditor with unlimited access to PBP records relating to the decree and conformance thereto. Further, access to all staff and facilities as needed to effectively monitor the decree is also required.

Methodology

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

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

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



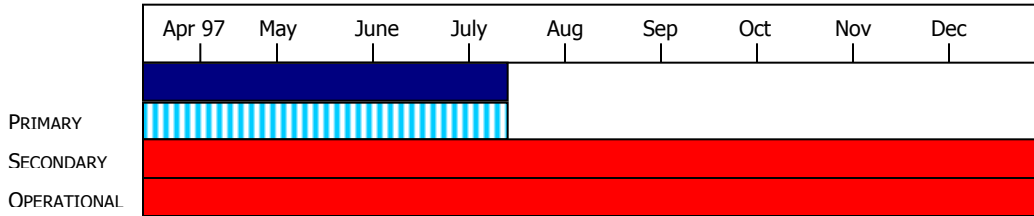
Paragraph 76 requires the City to provide the Department of Justice with access to documents, databases, and other data necessary to evaluate compliance with this decree. Further it requires access to staff and facilities upon appropriate notice.

Methodology

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

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

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



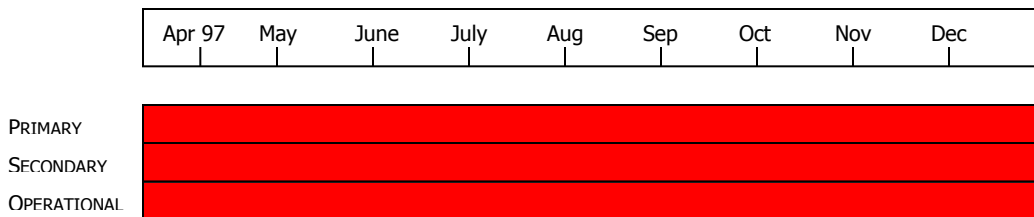
Paragraph 77 of the decree requires the City to provide copies of the consent decree to all officers, and to explain the terms of this decree to all current and future officers, OMI employees, and all DPS employees with oversight or responsibility for PBP operations. All such individuals are further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

**Methodology**

The auditor has reviewed signature records retained by the City acknowledging receipt, reading and understanding of the decree. These have been signed by all supervisors, senior supervisors, command personnel, OMI personnel, and appropriate individuals at the Department of Public Safety. A video has been developed explaining the consent decree, and all sworn personnel will be required to view 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. A training plan is in place for training for all officers. Until the City has trained all sworn officers, however, it has not reached full compliance with this section of the decree.

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

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



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

## Methodology

Each of the separate provisions of the decree is assessed for compliance to established timelines in the pages above. Of the 63 provisions to which the City should have complied by now<sup>10</sup>, the City is in **primary compliance** with 55. The City is in secondary compliance with 21 of the 62 provisions due as of December, 1997. It is also in operational compliance with 20 tasks, due as of December, 1997

### 3.0 Summary

The City, the Bureau of Police, and the Office of Municipal Investigations have taken a professional, positive and clear position on compliance with the decree. A great deal of progress has been made toward compliance—much more than the auditor would have anticipated. Despite more than 150 requests for information, data, files, and access to records, only one request processed more slowly than might be expected, an error rate of only seven tenths of one percent. The City's response to the auditor's team has been exceptional. After more than 100 similar projects, the auditor has yet to see a more committed, focused, open or candid City compliance team.

The City has recorded a **primary compliance** rate of 87 percent, and an **overall compliance rate** of 33 percent, which is commendable for a first-quarter performance. For the areas in which the City is in primary compliance, it reached that compliance level within the time allotted in approximately 62 percent of the cases. More commendable, however, is the attitude of the City's compliance team, which time and again was seen to go beyond "mere compliance" to insist on quality compliance. Several good examples of this attitude among the City's compliance team exist. The training in cultural diversity first delivered met the letter of the requirement for that task; however, the City—and the Bureau in particular—were not satisfied with mere compliance, and revised the curriculum to meet their own—higher—standards. The EWS envisioned in the consent decree will be far exceeded by the system designed by the City, and will result in even better management of the Bureau.

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<sup>10</sup> The City cannot be expected to comply with elements involving the EWS until April, 1998.



Further, the auditor and his team have not made a single suggestion, or expressed a single concern, that has not been taken to heart by the City's compliance team. There is no doubt among the audit team that the Bureau, OMI, and the City are determined to implement this decree to the fullest extent and to the best of their ability. When assessing compliance to date, one must remember that this is a long-term project designed to change and improve management and operations of the Bureau of Police. Such things do not occur in 90 days. An objective analysis of the City's performance to date would indicate that the Bureau of Police, with its current command staff, is an organization with its heart in the right place. The goal is to get its hands to follow.