Twenty-Sixth Report
of the Independent Monitor
for the Oakland Police Department

Introduction

The Court's Order of May 21, 2015 modified the monitoring plan that has been in place since the beginning of our tenure to make more efficient use of resources while focusing on the long-term sustainability of the reforms in the Negotiated Settlement Agreement (NSA) in the case of *Delphine Allen, et al., vs. City of Oakland, et al.,* in the United States District Court for the Northern District of California.[1] After 12 years of monitoring OPD's progress with the reforms, it is time for us to devote special attention to the most problematic component parts of the Tasks that are not yet in full compliance or have not been in compliance for at least one year.

To do this, per the Court Order, we have increased the frequency of our compliance assessments and our reports detailing our findings and other monitoring activities. We also provide increased technical assistance – via monthly joint monitoring/technical assistance visits by designated Team members – in these areas. We also provide particular guidance and direction to the Department on the three Tasks (5, 34, and 45) that are currently in partial compliance. (As of our most recent quarterly report, OPD was in full compliance with all Tasks except for these three Tasks.) As we move forward, part of our assessment of compliance for Tasks 5 and 45 will take into account the degree to which the City is adopting the recommendations listed in the recent (April 16, 2015) report on police discipline by the Court-Appointed Investigator – and the City's own commitments. In addition, per the Court's Order, we will also continue to monitor closely the Department's progress with the December 12, 2012 Court Order as it relates to Task 34 and other critical issues.

In this report, we will describe our recent assessments of Tasks 26, 30, and 34. As described previously, because we are now reporting on a monthly (as opposed to quarterly) basis, we do not assess and discuss each active or inactive Task in each report; however, for each report, we select several active and/or inactive requirements to examine, and discuss the most current information regarding the Department's progress with the NSA and its efforts at making the reforms sustainable.

Below is the current compliance status of the Tasks listed in the May 21, 2015 Court Order.

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[1] United States District Court for the Northern District of California, Master Case File No. C00-4599 TEH, Order Modifying Monitoring Plan, dated May 21, 2015.

Compliance Status of Tasks Listed in the May 21, 2015 Court Order		
Task	**Description**	**Compliance Status**
5	Complaint Procedures for IAD	As of the twenty-first reporting period (covering October through December 2014), in partial compliance. Not assessed in this report.
20	Span of Control	In compliance since the nineteenth reporting period (covering April through June 2014). Now considered inactive. Not assessed in this report.
26	Force Review Board (FRB)	In compliance since the nineteenth reporting period (covering April through June 2014). Now considered inactive.
30	Executive Force Review Board (EFRB)	In compliance since the nineteenth reporting period (covering April through June 2014). Now considered inactive.
34	Vehicle Stops, Field Investigation, and Detentions	In partial compliance since the fourth reporting period (covering July through September 2010).
41	Use of Personnel Assessment System (PAS)	In compliance since the twentieth reporting period (covering July through September 2014). Now considered inactive. Not assessed in this report.
45	Consistency of Discipline Policy	As of the twenty-first reporting period (covering October through December 2014), in partial compliance. Not assessed in this report.

Increasing Technical Assistance

Per the May 21, 2015 Court Order, "The Monitor will provide increased technical assistance to help Defendants achieve sustainable compliance with NSA tasks and address, in a sustainable manner, the strategies and benchmark areas included in the Court's December 12, 2012 Order re: Compliance Director and the shortcomings identified in the Court Investigator's April 16, 2015 report."

Accordingly, our Team has altered the nature of our monthly site visits so that they include both compliance assessments and technical assistance. As in the past, we meet with Department and City officials; observe Department meetings and technical demonstrations; review Departmental policies; conduct interviews and make observations in the field; and analyze OPD documents and files, including misconduct investigations, use of force reports, crime and arrest reports, Stop Data Forms, and other documentation. We also provide technical assistance in additional areas, especially those that relate to the remaining non-compliant Tasks or those areas identified by the Department. Within the last few months, we have provided technical assistance to OPD officials in the areas of Executive Force Review Board (Task 30); stop data (Task 34); risk management (Task 41); and several key Department policies and procedures.

Building Internal Capacity at OPD

Per the May 21, 2015 Court Order, "The Monitor will also help Defendants institutionalize an internal system of monitoring by the Office of Inspector General or other City or Department entity, along with internal mechanisms for corrective action."

As reported previously, we continue to work closely with the Office of Inspector General's (OIG) lieutenant and his staff to identify areas that it should audit or review – and to help design approaches to these audits that are not cumbersome, so as to ensure sustainability. Just recently, OIG hired two new police auditors, which significantly expanded the unit's staffing and, more importantly, signaled a commitment by the Department to self-reflection and analysis.

This week, OIG produced its third monthly progress report, which details the results of its most recent reviews. This progress report, like the first two reports OIG produced, is impressive and will be released publicly, via the Department's website. This most recent report focused on two areas: (1) review of administrative investigations; and (2) investigator bias.

As with its first two reports, in each of the areas where OIG identified problems, the report included recommendations to Department units to "close the loop" on outstanding or problematic issues. We look forward to reviewing future OIG progress reports, and also assisting OIG as it becomes a stronger unit and further develops its capacity to monitor the Department's continued implementation of the NSA reforms.

During our most recent site visit, members of the Monitoring Team observed a session of the group working on the review and revision of the collection of OPD policies and procedures. OPD is working with Lexipol, a vendor that has done this type of work with police departments across the county. Lexipol states that policies relevant to police departments in all states have already been written and are available for customization by local departments such as OPD. At the meeting, Lexipol noted that OPD is among its largest client departments.

As we noted while onsite, this project is of great importance. If the Department does not ensure that NSA-related policies are appropriately and sufficiently adopted as part of Lexipol, it could weaken sustainability by not accurately reflecting NSA changes. Of course, the devil is in the details, and the policies previously produced by the Department and approved by the Monitor and the Plaintiffs' attorneys are very detailed.

The meeting we attended included a detailed review of a draft policy prepared by Lexipol to ensure that it appropriately and sufficiently incorporated NSA and other OPD-specific requirements. There were several instances in which OPD personnel recognized incomplete or inaccurate inclusions in drafted policy revisions. We appreciate that these issues were identified by OPD. We have shared with OPD that, to ensure continuing compliance, the Monitoring Team and Plaintiffs' attorneys will need to review and re-approve all polices related to the active and inactive Tasks of the NSA. OPD has agreed to contribute to this process by putting together a detailed matrix that identifies NSA-related issues in previously approved policies and their parallels in the revisions made in conjunction with the Lexipol project. We look forward to working with that matrix, and continuing to follow the progress of the Department as it adopts Lexipol.

Focused Task Assessments

Task 26: Force Review Board (FRB)

Requirements:

OPD shall develop and implement a policy concerning its FRB proceedings. The policy shall:

1. *Set out procedures, membership and a timetable for FRB review of use of force investigations involving Level 2 incidents, as defined in Department General Order K-4, REPORTING AND INVESTIGATING THE USE OF FORCE;*

2. *Require the FRB to review all use of force investigations;*

3. *Require the FRB to make a recommendation as to whether the use of force was in policy or out of policy;*

4. *Require the FRB to forward sustained policy violations to the Discipline Officer.*

5. *Require the FRB not to review any use of force allegation until the internal investigations has been completed;*

6. *Authorize the FRB to recommend to the Chief of Police additional use of force training or changes in policies or tactics, or additional standards, investigatory policies, or training for use of force investigations;*

7. *Require the FRB to conduct an annual review of use of force cases examined, so as to identify any patterns of use of force practices that may have policy or training implications, and thereafter, issue a report to the Chief of Police;*

8. *Require that the FRB membership include, at a minimum, one member from the Training Division, one member from the Field Training Officer program, and either the Bureau of Field Operations Deputy Chief or his/her designee;*

9. *Minimally, that one member of the FRB shall be replaced at least annually.*

(Negotiated Settlement Agreement V. C.)

Relevant Policy:

Department General Order K-4.1, *Force Review Boards,* was published February 17, 2006 and most recently revised on October 16, 2014.

Commentary:

Force Review Boards are convened for the purpose of reviewing Level 2 use of force events.[2]

OPD is in compliance with this Task and it is therefore considered inactive; however, we continue to observe and assess FRB activities during our monthly site visits due to the importance of use of force reviews.

OPD did not convene any FRBs during the months of July, August, and September; accordingly, we did not include an assessment of this Task in our three most recent reports. The absence of force events requiring FRB review is reflective of successful OPD efforts to reduce the frequency of use of force events.

OPD conducted one board in October. The board was comprised of two Deputy Chiefs and a captain. The event under review began as officers, working as an arrest team for a surveillance operation, observed a motor vehicle containing four individuals who were conferring with known gang members. The officers' file check determined that the vehicle was unregistered. As the vehicle departed the area, officers attempting to make a traffic enforcement stop noted unusual activity within the vehicle; and as the vehicle stopped, one of the occupants quickly departed the vehicle and fled. Officers pursued and upon contacting the suspect, were met with the suspect's refusal to obey verbal commands and significant resistance, which resulted in officers using force. Upon gaining control of the suspect, officers recovered a loaded weapon. The officers and the suspect received multiple scrapes and abrasions from the encounter.

The investigating sergeant presented the case to the board, whereupon the board underwent a lengthy and thorough exploration of officer safety and tactical issues, including car stop and foot pursuit procedures, as well as the investigative sergeant's overall analysis of the event. Following this analysis, the board evaluated each use of force and determined the force (strikes) fell within policy. We concur.

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[2] Level 2 Use of Force includes, 1) Any strike to the head (except for an intentional strike with an impact weapon); 2) Carotid restraint is applied that does not result in the loss of consciousness; 3) Use of impact weapons, including specialty impact munitions or any other object, to strike a subject and contact is made, regardless of injury; 4) Any unintentional firearms discharge that does not result in injury; 5) A police canine bites the clothing or the skin of a subject, or otherwise injures a subject requiring emergency medical treatment (beyond first-aid) or hospital admittance; 6) Any use of force which results in injuries to the subject requiring emergency medical treatment (beyond first-aid) or hospital admittance; (NOTE: For the purposes of this order, an evaluation by a medical professional to assess a complaint of injury is not emergency treatment) 7) Any Level 3 use of force used on or applied to a restrained subject; 7.a) A restrained subject is a person who has been fully placed in a Department authorized restraint device such as both hands handcuffed, a WRAP or Rip Hobble; 7.b) A subject with only one handcuff on is not a restrained person.

Task 30: Executive Force Review Board (EFRB)

Requirements:

1. *An EFRB shall be convened to review the factual circumstances surrounding any Level 1 force, in-custody death, or vehicle pursuit-related death incidents. A firearm discharge at an animal shall be reviewed by the EFRB only at the direction of the Chief of Police. The Board shall have access to recordings and/or transcripts of interviews of all personnel on the scene, including witnesses, and shall be empowered to call any OPD personnel to provide testimony at the hearing.*

2. *OPD shall continue the policies and practices for the conduct of EFRB, in accordance with the provisions of DGO K-4.1, FORCE REVIEW BOARDS.*

(Negotiated Settlement Agreement V. G.)

Relevant Policy:

Department General Order K-4.1, *Force Review Boards,* was published February 17, 2006 and most recently revised on October 16, 2014.

Commentary:

Executive Force Review Boards (EFRBs) are convened for the purpose of reviewing Level 1 use of force events.[3] The EFRB consists of three senior commanders as voting members. In addition, regular non-voting attendees include the Training Section Commander and a representative of the City Attorney's Office.[4] A Level 1 use of force may include both criminal and administrative elements; accordingly, both the Criminal Investigation Division (CID) and IAD present the results of their respective investigations to an EFRB.[5]

Task 30 is currently inactive; however, we continue to observe and assess EBRB activities during our site visits.[6] We observed the boards conducted in July and August; however, no

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[3] Level I Use of Force events include: 1) Any use of force resulting in death; 2) Any intentional firearm discharge at a person, regardless of injury; 3) Any force which creates a substantial risk of causing death, (The use of a vehicle by a member to intentionally strike a suspect shall be considered deadly force, reported and investigated as a Level 1 UOF under this section. This includes at any vehicle speed, with or without injury, when the act was intentional, and contact was made); 4) Serious bodily injury, to include, (a) Any use of force resulting in the loss of consciousness; and (b) Protracted loss, impairment, serious disfigurement, or function of any bodily member or organ (includes paralysis); 5) Any unintentional firearms discharge, (a) If a person is injured as a result of the discharge; or (b) As directed by the CID Commander; 6) Any intentional impact weapon strike to the head; 7) Any use of force investigation that is elevated to a Level 1 approved by a Watch Commander.

[4] This includes two follow-up EBRBs and one re-presentation.

[5] CID staff present the criminal case investigation and recommendations. Following that, the IAD force investigator(s) present the administrative case in detail – including diagramming, audio and visual representations of the case, its findings and recommendations with regards to whether the force was reasonable, and whether the conduct of officers during the event was consistent with OPD policies and procedures.

[6] Compliance assessments include a review of the full case files and our regular observations of the boards.

boards were conducted in September or October. We reported our concurrence with the July findings in our last report.

The incident reviewed by the board in August involved an individual reportedly off his medication and attempting to assault family members with golf clubs. Four officers responded, and were confronted with the individual who charged at them swinging two golf clubs. Retreating and giving commands to drop the clubs, the scene turned chaotic. Within a short period of time (just a few seconds), officers pointed firearms at the suspect; deployed an Electronic Control Weapon (ECW), which was ineffective; and discharged two rounds from a firearm, which did not strike the individual. At that point, the individual briefly paused, lowered the golf clubs, and began walking away. The arriving sergeant began negotiating with the individual and was able to place him in custody for medical care within a short period of time.

Board members discussed a broad range of issues during its reviews of this event and also assigned deliverables to appropriate personnel. OPD received and evaluated the deliverables, and made the August report available for our review. The final report contained an exhaustive analysis of the event that included the receipt of the call; response of officers; request for additional units; staging of medical; development of an arrest plan; information gathering; ongoing communications with the complainant; communications with the subject; and an examination of the Personal Digital Recording Device (PDRD) video, tactics, and other factors. Following its analysis, the board found each use of force within policy. We concur.

In recent reports, we have noted that OPD has successfully reduced its uses of force overall, and up until this year, had a significant reduction in the number of Level 1 uses of force. We also noted, however, that the Department experienced four fatal officer-involved shootings (OISs) this past summer; accordingly, we recommended that OPD strengthen its review process.

OPD Force Review Boards serve as the processes in which these most critical events are reviewed – and at the same time, also present opportunities for OPD to look beyond the customary questions of policy compliance and legal justification when these events occur. We recommended that OPD should include in its EFRB deliberations an examination of whether the use of deadly force may have been avoided; the identification of tactics, strategies, and opportunities as events unfolded that may have supported such an outcome; and the enumeration of other available options that *could* or *should* have been considered. Lessons learned and detailed examinations of the force events examined should be widely shared across OPD. In addition, we recommended that OPD address the question of "whether the force, even though legally justified and within policy, was the only and/or best option."

Finally, we urged the Department to include the conduct of an analysis and the issuance of findings regarding whether the tactical direction provided by the on-scene supervisor led to or contributed to an *unnecessary* use of lethal force; the measure to which supervisors are held accountable for their tactical decisions leading to the use of lethal force; and the manner in which the involvement of a supervisor and/or officer in an unnecessary use of lethal force event will be recorded or in IPAS.

Recognizing that police officers are clearly authorized to use force, including deadly force, to neutralize a threat of serious injury or death to themselves or others, we suggest the above enhancements to the review process will serve to solidify any justification for an officer's use of

force when appropriately employed – and by extension, enhance the public's understanding of an officer-involved shooting.

During our August, September, and October site visits, we met with the Chief to discuss the way forward with the adoption of these recommendations; and have recently reached agreement. The Chief has commenced the implementation process, a portion of which includes a "meet and confer" component with the police officers' union, or OPOA. This meeting is scheduled to occur during the month of November; we will continue to follow this issue closely and will report on the Department's adoption of these crucial changes in our next report.

Task 34: Vehicle Stops, Field Investigation, and Detentions

Requirements:

1. *OPD shall require members to complete a basic report on every vehicle stop, field investigation and every detention. This report shall include, at a minimum:*

   a. *Time, date and location;*

   b. *Identification of the initiating member or employee commencing after the first year of data collection;*

   c. *Reason for stop;*

   d. *Apparent race or ethnicity, and gender of individual(s) stopped;*

   e. *Outcome of stop (arrest, no arrest);*

   f. *Whether a search was conducted, and outcome of search;*

   g. *Offense categories (felony, misdemeanor or infraction).*

2. *This data shall be entered into a database that can be summarized, searched, queried and reported by personnel authorized by OPD.*

3. *The development of this policy shall not pre-empt any other pending or future policies and or policy development, including but not limited to "Promoting Cooperative Strategies to Prevent Racial Profiling."*

(Negotiated Settlement Agreement VI. B.)

Relevant Policy:

Department policies relevant to Task 34 include: General Order M-19, *Prohibitions Regarding Racial Profiling and Other Bias-Based Policing;* Report Writing Manual (RWM) Inserts R-2, N-1, and N-2; Special Order 9042, *New Procedures Regarding Stop Data Collection* (published June 2010); and Special Order 9101, *Revised Stop Data Collection Procedures* (published November 2012).

Commentary:

In each of our prior monthly reports, we reported our findings that officers were accurately and fully completing the stop data forms as required.[7] Our findings were based on our review of Computer Aided Dispatch (CAD) entries, Field Contact Cards, traffic citations, and Stop Data Forms. Our review of forms and documents also included a careful examination of the *reason* for the stop – essentially the justification for the interaction between the officer and the person stopped. We found that the justification for the stops was appropriately documented and/or explained for >94% or all stops.

For the past several months, our reviews have included observation of OPD's monthly Risk Management Meetings, which occur during our regular site visits.[8] These meetings are designed to conduct in-depth reviews of risk management from one of the five OPD Areas on a rotating basis.[9] In advance of the meetings, we receive data and related risk management information pertaining to the Area scheduled for review, which includes stop data for the full City as well as for the particular Area scheduled for examination.

The past several reviews have focused on analyses of the ratio of searches and/or the search recovery rates among the identified population groups.[10] Search and search recovery data for the Area being examined, as well as for each of the squads within the Area is carefully reviewed. Prior to our review for this report, we have focused on squads with lower than average recovery rates, which resulted in our further examination of specific stop data in an attempt to identify the reason for the abnormality. The OPD examination noted that these abnormalities appeared to be related to either the experience level of the squad or the crime control strategy being employed within the Area; and the Department commenced addressing these issues with both training and enhanced supervision.

Our review of data in August found a significant increase in the overall recovery rate of squads in the Area under review, which we reported as a positive sign. Similarly, we noted increases in the September recovery data; and once again, reported this as positive, but cautioned with the admonition that there was a need to further authenticate the data to assure its accuracy. Once again, the October data indicated strong recovery rates; however, along with OPD, we began to further examine the data to include not only squads with *low* recovery rates, but also squads with *high* recovery rates.

OIG approached this issue by conducting a detailed "Analysis of Search Rates and Search Recovery Rates."   Similar to our prior findings, OIG found the searches to be lawful; and in

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[7] Required data includes 1) time; 2) date; 3) location; 4) identification of member making stop; 5) reason for stop; 6) apparent race/ethnicity of individual(s) stopped; 7) gender of individual(s) stopped; 8) outcome of stop (arrest or no arrest); 9) whether a search was conducted; 10) outcome of any search; and 11) offense category (felony, misdemeanor, or infraction).

[8] Risk Management Meetings are conducted monthly for the purpose of reviewing various data (including stop data) to identify performance/risk indicators requiring intervention or worthy of commendation. Each month, data from one of the five districts is reviewed by OPD command staff with the Area Commander. Any identified issues are assigned the Area Commander for resolution in the form of deliverables.

[9] The City of Oakland is divided geographically into five operational Police Areas.

[10] The term search recovery rate refers to the discovery of contraband or evidence of a crime discovered during a search.

addition, noted that the recovery rates appeared to "correlate with an officer's Section or Area of assignment; higher recovery percentages were more likely to be articulated as being tied to intelligence led policing strategies or operations." OIG also noted, "[P]robation and parole searches resulting in low search recoveries did not list an investigative nexus or additional reason for search other than the existence of the lawful search condition." [11]

OIG made numerous recommendations, including using the practices of top producing officers in the "coaching, mentoring, and instructing lower recovery squads of officers to improve the value of their stops and searches."

OIG also identified a need to clarify and/or strengthen the policy definition and/or instruction on the process for documenting recoveries in varying circumstances. For example, there is a lack of clarity regarding the process for recording a recovery in cases of multiple person stops and/or vehicle searches with multiple occupants. Also, there is a need to clarify the documentation procedure when there is a pat-down search of an individual, and an item is temporarily recovered during a search, but is ultimately returned to the person.

In an effort to verify whether the lack of clarity relating to the documentation of recoveries relating to pat-downs is resulting in a distortion of recovery results, we reviewed 43 such searches. Of the 43 pat-downs, evidence/contraband was clearly recovered in 15 (35%). Of the remaining 28 pat-downs, no evidence or contraband was seized in 20 (46%), and reports lacked clarity regarding the seizure in eight.

Encouragingly, OIG has set forth steps, including policy and training enhancements, to address stop data collection definitions and consistency. These changes will mandate "that only evidence, contraband and narcotics that are retained and appropriately processed by officers at the conclusion of citizen contacts will be included as search recoveries. Lawfully possessed and seized weapons which are returned to detainees at the conclusion of contacts will be assessed apart from aggregate search recover results." [12]

Finally, we recognize that the standard for conducting pat-down searches differs from the probable cause standard required for other searches; so does the expectation of evidence/contraband recovery. Accordingly, we have suggested that OPD separate the pat-downs from other searches so as to ensure consistent and accurate reporting of both. We anticipate the inclusion of that information in our December report.

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[11] Monthly Progress Report of the Office of Inspector General, Oakland Police Department, October 2015, pp. 4-9.
[12] Monthly Progress Report of the Office of Inspector General, Oakland Police Department, November 2015, page 3.

MONTHLY REVIEW OF SELECTED AREA

During our October site visit, we again attended the Risk Management Meeting, during which stop data for the selected Area was reviewed.

Vehicle and Pedestrian Stops

OPD officers assigned to this Area under review made 3,625 vehicle stops and 796 pedestrian stops, as illustrated in Table One.[13] The variance in the **percentage of stops** among the various population groups is a continuing point of interest and concern, both overall and within the individual Areas. As illustrated below, the variance among the population groups for *vehicle stops* within the Area under review for this report ranges from a high of 69% for African Americans to a low of 2% for Asians and Other. Similarly, the breakdown for *pedestrian stops* ranges from a high of 80% for African American to a low of 2% for Asians and Other.[14]

Table One					
	Vehicle Stops			**Pedestrian Stops**	
Race/Ethnicity	**Number**	**Percent**		**Number**	**Percent**
African American	2.494	69%		633	80%
Asian	70	2%		17	2%
Hispanic	819	23%		99	12%
White	168	5%		34	4%
Other	72	2%		13	2%
Total	**3625**	**100**[15]		**796**	**100%**

Searches-Recoveries

The variances in the **percentage of stops resulting in searches and the percentage of searches resulting in recoveries** among the various population groups are also of continuing interest. (See Table Two.) Data for the Area reviewed for this report indicate that members of the African American population group are searched at the highest rate during both vehicle stops (35%) and at the second highest rate for pedestrian stops (53%) – only exceeded by the Other population group. The average search rates for vehicle and pedestrian stops are 31% and 50%, respectively.

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[13] The dataset includes activity for the period January 17, to September 18, 2015.
[14] "Other" includes all individuals not identified as African American, Asian, Hispanic, or white.
[15] Percentages rounded.

Table Two					
	Vehicle Searches			**Pedestrian Searches**	
Race/Ethnicity	**Number**	**Percent**		**Number**	**Percent**
African American	792	35%		273	53%
Asian	4	6%		3	23%
Hispanic	209	28%		35	43%
White	26	16%		11	41%
Other	14	20%		5	56%
Total	**1045**	**31%[16]**		**796**	**50%**

Search recoveries (See Table Three) are also the highest among the African American population group for vehicle stops (35%); and except for the Other population group, also the highest during pedestrian stops (53%). The average search recovery rates for vehicle and pedestrian stops are 31% and 50%, respectively. [17]

Table Three					
	Motor Vehicle Recoveries			**Pedestrian Recoveries**	
Race/Ethnicity	**Number**	**Percent**		**Number**	**Percent**
African American	295	37%		89	33%
Asian	1	25%		1	33%
Hispanic	97	46%		12	34%
White	5	19%		4	36%
Other	7	50%		4	80%
Total	**1045**	**39%[18]**		**796**	**34%**

The variances in the **percentage of stops resulting in searches and the percentage of searches resulting in recoveries** among the various population groups are also of continuing interest, particularly at the squad level. For the present Area, the search recovery rates at the squad level for vehicle searches ranged from 24% to 52%; and for pedestrian related searches, from 18% to 41% – all of which indicate improved performance. As indicated earlier in this report, we are carefully reviewing this data to ensure accuracy and consistency.

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[16] Percentages rounded.

[17] We have disregarded one search and one recovery in the Other category as the high percentage.

[18] Percentages rounded.

Probation-parole stops and searches are also a matter of continuing interest and review. A detailed review of this data conducted by OPD identified these searches as the largest contributor of disproportionate search activity by race. However, this review also found that a large number of probationers sentenced to searchable probation with Oakland addresses are African American; for example, the data sample determined that 874 of 944 (93%) persons sentenced to searchable probation with Oakland addresses are identified as African American. OPD will share this data with Dr. Eberhardt's team for further study.

Comparative Citywide Stop Data

OPD recently issued its 2015 Midyear Stop Data Report, in which it reported measurable improvement in search recovery rates compared with the same 2014 period. African Americans and Hispanics were searched most frequently, at 36% and 29%, respectively. The report further illustrates an increase in the search recovery rates for both population groups with the search recovery rate for searches of African Americans from 25% in 2014 to 37% in 2015; and for Hispanics from 23% in 2014 to 45% in 2015.

Additional Thoughts

Encouragingly, Area commanders, during the monthly Risk Management Meetings, appear to be focused on ensuring that all stops are warranted and all searches are legitimate; and the most recent three months of stop data have shown ever-increasing recovery rates. However, we, along with OPD, have identified concerns regarding the consistent documentation of stop data; we and Dr. Eberhardt will continue to work with the Department to address these concerns through policy revisions, training, and focused supervision.

Conclusion

During our most recent site visit, we discussed with Department officials the status of the development of the new risk management system, which is currently known as IPAS2. (The system will soon be renamed PRIME, or Performance, Reporting, Information, and Metrics Environment.) The current risk management database continues to function as the core of the Department's risk management process. Officers who pass specific thresholds are identified, reviewed, and considered for monitoring or intervention when deemed appropriate. It is expected that this system will continue to function until the new database is brought online.

New dates for activation of IPAS2 have been set through the development process with Microsoft, OPD's selected vendor. OPD officials anticipate that the system will "go live" by the end of the first quarter of 2016. The Department is now going through a review of items that may be considered out of the original scope of work with the vendor. According to OPD officials, these seemingly minor issues are expected to be resolved as the program moves forward.

In the area of risk management, OPD has made great progress. This is reflected in the measures of the process of identifying and responding to risk-related behavior and in the declines in uses of force while arrests have remained stable or risen.

The Department can now move forward in efforts to further reduce risk for officers and the organization. The IPAS2 system will enhance the Department's capabilities to do this. To support ongoing improvements in risk reduction, however, will require a strong management focus as the new system moves forward. The technical enhancements to the system have certainly received this attention. It is important, at this stage, that the ability to effectively use the technology for risk reduction receives similar attention.

Also during the most recent site visit, members of the Monitoring Team attended one of the regularly scheduled Area Risk Management Meetings. As discussed above, these meetings provide an opportunity for Department command staff to review, assess, and provide guidance for risk management-related activities for each of the Area Commands.
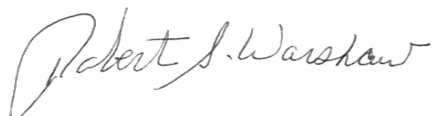
The meeting we attended in October involved a review of significant data on Area activities and the work done by squads and their member officers. The captain who presented the data and responded to questions was well prepared and provided detailed information on the work occurring in her Area.

There was one topic, however, that seemed incomplete. The stop data was carefully reviewed, but discussion regarding the most significant issues related to the collection of this data was limited. Stop data have been collected in Oakland and elsewhere around the country because of concerns over racial profiling and the potential for unequal or biased treatment of some members of the community. While acknowledging the significant progress OPD has made with the collection, analyses, and public reporting of stop data, the discussion of these issues during the Risk Management Meeting was limited. Focusing on these issues during these meetings can serve as the foundation for addressing them, particularly at the Area level.

The review of stop data *did* include considerable discussion of the number of stops, searches, and recoveries made by squads and by individual officers. But this discussion did not address the issue most central to the collection of the data: the issues of *race and racial disproportionality in stops, searches, and recoveries*. The concerns regarding risk in this area, of course, are not simply tied to levels of police activity; but are instead linked to racial equity in these matters. This is, of course, a complicated matter, but it is not made less complicated by avoiding it; these matters are central to issues of civil rights in policing and are, of course, central in this case.

With regard to stop data, we are also concerned that the technical aspects of data collection and recording are handled in a manner that makes the data easy to understand both inside and outside of the Police Department. For this to be true, definitions of stops, searches, and recoveries must be clear. Of course, the rate of recovery in search is the key issue in this chain of events. High levels of recoveries suggest that searches were credible; and credible searches can suggest the stops were credible. Examination of stop data suggests that the rate of recovery of contraband in

searches has risen. But this remains difficult to interpret because, as discussed above, a "recovery" at OPD is sometimes interpreted to include the temporary confiscation of some legal items such as screwdrivers, small knives, and even some ink pens, with the subsequent return of the items at the end of the search.   We believe that this does not reflect the customary understanding of recovery of contraband, which usually involves the confiscation of illegal items or other items that are regarded – and held – as evidence. We recommend that the Department examine this issue; and that all stop data reports include written definitions of the key concepts of stops, searches, and recoveries.

Chief (Ret.) Robert S. Warshaw
Monitor