UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiffs,

v.

Case No. 03-CV-72258
HONORABLE JULIAN ABELE COOK

CITY OF DETROIT,

Defendant.
_____/

QUARTERLY REPORT OF THE INDEPENDENT MONITOR FOR THE DETROIT POLICE DEPARTMENT ISSUED JANUARY 15, 2010

First Quarterly Report of the Newly Appointed Independent Monitor for the Detroit Police Department

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Independent Monitor

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SECTION ONE: INTRODUCTION

On October 5, 2009 the Honorable Julian Abele Cook, Jr., United States District Court Judge for the Eastern District of Michigan, Southern Division, issued an order appointing me to serve as the Independent Monitor of the Use of Force and Conditions of Confinement Consent Judgments resulting from the case of United States of America v. City of Detroit (Case no. 03-77758). I, along with my distinguished colleagues, am honored by the trust and confidence that the Court has vested in us.

With this appointment I have assumed responsibility for a monitoring process that had been in place for approximately six years. Our assembled team consists of exceptional law enforcement, corrections, consulting, and research expertise. The full team conducted its first quarterly site visit from November 16th through November 20th, 2009 though the period we evaluated was actually the four month span of June 1, 2009 through September 30, 2009. This will allow our regular quarterly visits to be coterminous with the quarters of the calendar year.

This document comprises our first "Quarterly" report. We also consider this to be a transitional document as we feel it appropriate to recognize that our efforts were preceded by another monitoring team that filed twenty-four reports with the Court. Accordingly, our text for this particular report will make numerous commentaries on the previous monitor's findings as these are important citations to best understand where the department was said to have been, where it currently is, and where all the parties hope the organization, and the communities it serves, shall go in forging an important partnership that brings to the citizens of Detroit a quality of life they so richly deserve.

In preparation of this report, the Monitoring team undertook its task with an appreciation for the efforts made by the Detroit Police Department under the past monitor. Our efforts benefit from the experience of the department and the many people who have worked diligently to bring the department into compliance with the consent judgments. We also recognize the Department's recommitment to this undertaking evidenced by some significant developments that have taken place since our engagement in this process. We are grateful for the support of Chief Warren C. Evans who has made clear his goals for successful implementation of these agreements and for significant change in the department. The Detroit Police Department's staff working on this project has contributed greatly to our understanding of the department as we completed the tasks associated with our first report. The monitoring team moves forward with confidence in the support of the parties and the dedication of the Chief's executive staff, the department's compliance team, and the many men and women of the Detroit Police Department who advocate for the best in professional policing.

This report follows our first on-site visit to assess the Detroit Police Department's compliance with the requirements of the Use of Force and Conditions of Confinement Consent Judgments. The work of the visit reflected a variety of goals and purposes, and involved a range of activity. Prior to the visit we became acquainted with the structure and organization of the Detroit Police Department. During the visit, we met as a team with many key Department personnel. While on site we endeavored to more fully understand the operations and administration of the Department as it addresses the policing needs of the City of Detroit.

With regard to the requirements of the Consent Judgments, our plan for the first report has been to consider, to the extent possible, the compliance status of the entire collection of requirements. This includes a total of 110 requirements in the Use of Force Judgment and an additional 65 requirements in the Conditions of Confinement Judgment. These numbers do not include subsections. In later reports we may append our normal protocols and focus special attention on particular areas of the Judgments.

Our work has benefitted from the existing documentation of the progress that the Department has made to date. The accumulated records of the prior monitoring team as well as the Department have been valuable. For this report we examined and analyzed the findings of the previous monitor as we made our assessments. Our goal was to reach our own conclusions with regard to compliance with the Consent Judgments' requirements. In subsequent reports we will continue to assess compliance as it exists at the time of our visits and therefore build on the record of our earlier analyses.

The body of this report is comprised of our assessments of compliance with the individual requirements of the Consent Judgments. We begin the report of our analyses with a narrative statement for each of the major areas of the Use of Force Judgment. In the Conditions of Confinement Judgment, there shall be only one introductory narrative statement at the beginning of that portion of our report.

The introductory narratives are followed by each of the requirements in the section as specified in the Judgments. Each requirement is followed by comments regarding the current status of compliance and then by a summary notation of Phase 1 and Phase 2 compliance. As Phase 1 and Phase 2 Compliance are achieved and maintained, a description of the requirement will be moved to the appendix of the Report.

A statement of "Critical Issues" follows the reviews of the requirements in each major section of the judgment. A brief statement of "Next Steps" follows in which we describe a plan of work for the next visit including a discussion of the data we plan to review. Finally a table summarizes the compliance finding for that particular section of the Judgment.

The major task of the Monitor is to regularly determine the status of the Detroit Police Department's compliance with the requirements of the Use of Force and Conditions of Confinement Consent Judgments. Our experience in previous monitorships reflects our commitment to the collection and analyses of data and to the reasonable interpretation of the requirements specified in the Consent Judgments.

To accomplish this, the monitoring team makes quarterly visits to Detroit to work with the Department's compliance team, known as the Office of Civil Rights (OCR), and other staff of the agency, in their field offices, the streets, or at the offices that the monitoring team occupies when on site in the City. These visits will be used by the team to collect and evaluate material, prepare for work to be done between visits, and to inform the parties and the Court with status information when meetings or hearings for that purpose are convened. Team members also interview key participants and observe departmental practices. Throughout the process we shall be reviewing agency policies and procedures and collect and analyze data using appropriate sampling and analytic procedures. The results of the compliance examination shall be reported quarterly to the Court and the parties.

Our team will determine compliance through an examination of policies and implementation of practices that support each requirement in the Consent Judgments. Compliance is measured by first determining if a policy or set of procedures has been established to support each Consent Judgment requirement. Having determined that an appropriate policy has been established, we then determine if that policy has been effectively implemented.

Based on this process, we report the degree of compliance with Consent Judgment requirements on two levels. We first report if policy compliance has been met. Compliance with policy requirements is known as **Phase 1 Compliance**. We also report the extent to which required policies have been implemented. Implementation level compliance is reported as **Phase 2 Compliance.**

In general, to achieve full compliance requires that both Phase 1 and Phase 2 compliance are achieved; that is, an appropriate policy must be both adopted and effectively implemented. We recognize, however, that some areas of the Consent Judgments require substantial work and time to achieve implementation and we, therefore, believe that it is appropriate to recognize when substantial progress towards implementation has occurred. Accordingly, under some limited circumstances, a third level of compliance, "Pending Compliance" may be appropriate.

In Compliance –This is reported when policy requirements are met (Phase 1) or effective implementation of a requirement has been achieved (Phase 2).

Pending Compliance – This is reported when it cannot be said that compliance has been achieved, but substantial progress toward compliance has been made. A requirement will be given this status for only two successive quarters at which time the status shall be changed to "Not in Compliance," unless, compliance has been achieved.

Not in Compliance – This finding is reserved for circumstances where compliance has not been achieved and substantial progress has not been made.

Many parts of the Consent Judgments require the analysis of multiple instances of activity, cases or observations. In those circumstances analysis is based on a review of all cases or data, or, when appropriate, on statistically valid samples of the population. To reach conclusions based on analyses of cases, a minimal standard must be met. To achieve compliance based on these analyses we have determined that more than 94% of relevant indicators must conform to the provisions articulated in the agreement.

While the >94% standard is reasonable under almost all circumstances, we recognize that there are conditions under which it may not accurately demonstrate the Department's compliance-related work. We appreciate the value of circumstances where corrective measures have been initiated through the command and supervisory structure but may not yet be fully reflected in the data being analyzed. There are also circumstances where the number of events to be analyzed is limited and a 6% error rate may overly influence the statistical result. Under these and similar instances a finding of "Pending Compliance" may be reported with the expectation that the limiting conditions will be rectified for future reviews.

This methodology supports a sound and rigorous review of the department's compliance with the requirements of the Consent Judgments. We recognize, however, that the high demands of this methodology may not be fully realized in all elements of all reviews. There will be circumstances in which we will be unable to fully determine the compliance status of some requirement due to a lack of data, incomplete data, or other reasons which do not support

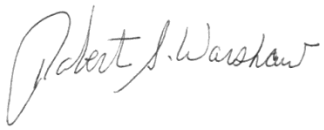
completion of our work in a manner consistent with timely reporting. Under such circumstances we will opt not to compromise our methodology by forcing a conclusion regarding compliance levels. Instead we will report a finding as **"deferred."** This finding is not intended to reflect negatively on the agency or to otherwise imply insufficient progress. It is intended to assure that the process is data-driven, but at all times, is conducted fairly. It is also expected that a more complete assessment of compliance in the area in question will be determined in the next report.

Our compliance assessment methodology directs the monitoring team in its work and underlies the findings presented in this report. We fully expect that this methodology will govern our work throughout our tenure in this project. Any consideration of revision or change of this methodology will, of course, be presented to the parties and the Court.

Some additional points are critical. It should be recognized that our methodology for determining compliance differs significantly from that of the previous monitor. There are instances in which we have cited the previous monitor's conclusion that a particular paragraph was a "policy only" requirement. However, our experience has supported the value of considering separately the creation of appropriate policies and the implementation of those policies. The City and the Department are to be commended for their concurrence with us in this important consideration. The division of assessment into Phase 1 and Phase 2 has the advantages of establishing a clear course for progress toward compliance and supporting the establishment of benchmarks along the way.

Further, the differences in methodologies between the two monitorships also have important implications for the results of the analyses and they make it imprudent to immediately draw direct comparisons. As we have made no comparisons between the two outcomes, we suggest that readers of this report assess our findings independently of previous evaluations. These implications are evident in our first report. Our bifurcation of the assessment process means that, when compared with the level of compliance reported by the previous monitor, we report substantially higher levels of Phase 1, policy related compliance, but substantially lower levels of Phase 2, or implementation related compliance. The differences in overall findings thus represent not only differences in our independent judgments but also important differences in our assessment methodologies that manifest themselves in our published results.

The independent monitorship of two consent judgments is a complex process involving complex issues. The delivery of police services to a community and the simultaneous retention of the public trust are perhaps the most fundamental and sacred roles of government. In the course of our responsibilities, we shall endeavor at all times to fulfill our mandate in a manner consistent with these principles.



Robert S. Warshaw
Independent Monitor

EXECUTIVE SUMMARY

This is the first report of the newly appointed monitoring team in the case of United States of America v. City of Detroit. We think it important to note that the results of our evaluation were to a large degree founded on documents provided to us or verbal representations made to us by representatives of the Detroit Police Department.

The Executive Summary is not intended to replicate the body of the entire report. Instead, it is meant to highlight what the monitoring team believes are some of the more significant findings, trends, patterns or concerns that materialized as a result of our evaluation. It is a snapshot narrative of where we believe the Detroit Police Department is at this crucial period of time.

From November 16, 2009 to November 20, 2009 the monitoring team conducted its first site visit. At that time we met with the Court, the parties, and with the leadership of the Department to begin our work. We interacted with the dedicated personnel of the agency's Office of Civil Rights (OCR) whose prime responsibility has been to assist the Chief of Police in his determination to bring the Detroit Police Department into full compliance with the provisions of the two consent judgments. We are fully aware that since the inception of this process, the City has experienced significant changes in both its municipal leadership and at the Chief's level.

Prior to our official site visit, some members of the team had the opportunity to meet with Mayor Bing, Deputy Mayor Green, Corporation Counsel Crittenden, and Chief Evans. We found the leadership of both the City and the Department to be fully committed to institutional change and reform. We are confident that the City views this process not merely as a compliance exercise but as a reaffirmation and commitment to the principles of professional law enforcement, constitutional policing, and the building of trust between the Detroit Police Department and the communities it serves.

Our first report recognizes the several years of monitorship that preceded our selection. Accordingly, we thought it important to bridge the findings of the previous monitoring team's twenty-fourth, and last, report with this, our first. Our review looked at the breadth of the requirements of both Consent Judgments. This includes a total of 110 requirements in the "Use of Force" judgment and an additional 65 requirements in the "Conditions of Confinement" judgment.

As was explained in the introduction, we report the degree of compliance with Consent Judgment requirements on two levels. Compliance with policy requirements is known as **"Phase 1 Compliance."** Implementation level compliance is reported as **"Phase 2 Compliance."** To achieve full compliance requires both Phase 1 and Phase 2 compliance. We will, on a limited basis, recognize measureable progress through a third level of compliance, **"Pending Compliance,"** and lastly, when there is insufficient data or other reasonable exigencies, we may defer a determination through a finding of **"Deferred."**

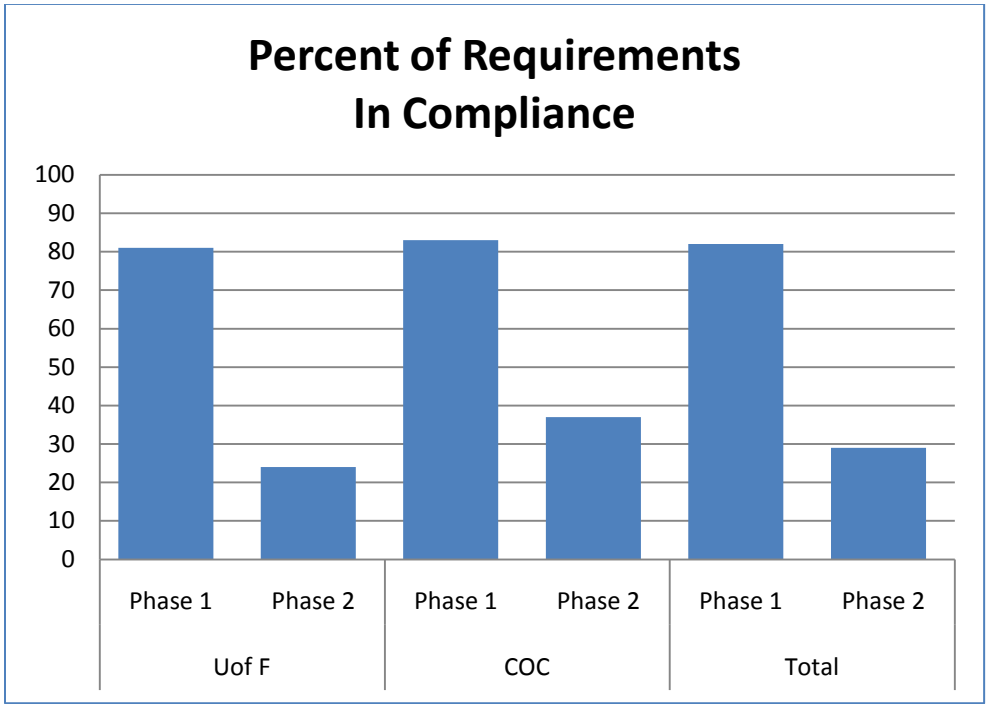
To reach conclusions based on analyses of data, a minimal standard must be met. To achieve compliance based on these analyses we have determined that more than 94% of relevant indicators must conform to the provisions articulated in the requirement.

Based on our review of the "Use of Force" requirements, the Department was found to be in Phase 1 compliance with 89 of the 110 (81%) requirements. The Department was found to be in Phase 1 and Phase 2 compliance (Full Compliance) with 26 of the 110 (24%) requirements.

In the "Conditions of Confinement" requirements, the Department was found to be in Phase 1 compliance with 54 of the 65 requirements (83%). The Department was found to be in Phase 1 and Phase 2 compliance (full compliance) with 24 of the 65 (37%) requirements.

In the aggregate, we have concluded that the Detroit Police Department is in Phase 1 compliance with 143 of the 175 (82%) monitored requirements. We found the Department to be in Full Compliance (Phase 1 and Phase 2 compliance) with only 50 of the 175 (29%) monitored requirements of the applicable paragraphs of both Consent Judgments. [1] Pending Compliance for Phase 2 was recognized for ten or 6% of all requirements. The Phase 2 compliance finding was deferred for eight or 5% of all the requirements.

The high level of Phase 1 compliance is a clear reflection of the substantial efforts of the DPD compliance team and others in the Department. It provides a significant foundation on which to support implementation as measured in Phase 2 compliance levels. It is the level of implementation that needs to be addressed.



[1] Combined, both Judgments have 266 paragraphs of which only 175 are evaluated by the Monitor for compliance.

FIRST QUARTERLY REPORT SUMMARY

	USE OF FORCE		COC		TOTAL	
	Phase 1	Phase 2	Phase 1	Phase 2	Phase 1	Phase 2
Paragraph Numbers	14-123		14-78			
Total Requirements	110	110	65	65	175	175
In Compliance	89	26	54	24	143	50
Not in Compliance	19	76	10	31	29	107
Pending Compliance	0	4	1	6	1	10
Deferred	2	4	0	4	2	8
Percent in Compliance	81%	24%	83%	37%	82%	29%

USE OF FORCE JUDGMENT

First and foremost we have grave concerns with an apparent failure to document a significant, but unknown, number of cases of use of force. Our concern grows out of the fact that there has been a decline by nearly 50% in reported use of force from the final year in which cases were manually reported to the first year of machine entered reporting. There is no reason to presume this decline reflects a change in the actual level of the use of force therefore the details of all documentation of force cannot be regarded as accurately reflecting the practice.

The Department has seen a reduction in some uses of force. Blows to the head with blunt instruments and the use of choke holds are minimal. Both techniques are viewed as a use of deadly force. Of the 175 cases reviewed, there was only one of each. Both of these cases, however, illustrated the issue of under reporting and under supervising. In one, the officer delivered a blow to the head with a PR-24 and noted it was accidental; in the other the officer utilized the choke hold, but not noting it as a use of deadly force. In both instances, the officers' supervisors failed to note that these were in fact uses of deadly force and failed to discuss any of the possible consequences of such actions.

Overall, a review of the 175 UF002 forms determined that only 60 of them (34%) contained information pertinent to the use of force; the remaining 115 had a variety of problems associated with their completeness. It was evident from reading the forms that supervisors are not taking their reviewing responsibilities seriously as many of the forms could have been corrected, had they been appropriately reviewed.

Another area of concern involves the command level reviews of the supervisor's investigation. With one or two exceptions, the reviews of the investigations demonstrated little or no effort to critically review the investigation(s). We failed to find a single documented rejection of a report, nor a referral to the training unit for a training review.

Of the 115 possible Command Level Investigations which should have been made available for review during our last site visit, only 63 investigations were accounted for; the remaining 52 Command Level investigations were unaccounted for. While we understand the underlying issue may rest with the Management Awareness System (MAS), we still must note the possibility that the forms were simply not prepared.

The monitoring team noted supervisory and accountability issues throughout our review process. We found there to be incomplete information regarding arrest and detention; a situation aggravated by deficient supervisory reviews. Officers failed to record complete information concerning their arrests and supervisors were lax in their responsibilities to remediate such omissions.

For example, the judgment requires a review for probable cause (PC) at the precinct or specialized unit within 12 hours of the arrest. In several instances, the PC review was days or months late. In these instances the agency's information system "lost" the reports. The Department must identify the cause and take measures to rectify the problem.

External Complaints

The monitoring team examined 31 closed and completed cases for the period June 1, 2009 through September 30, 2009. Though each IAD investigator is required to maintain a Case Supervision Sheet (CSS) where they chronicle, by date, each investigative action taken during the course of the investigation, our review disclosed that IAD supervisors infrequently used the log for its intended purpose of documenting case supervision and managing the investigative efforts of subordinate personnel.

During the review of the 31 IAD investigations, it was determined 10 of the cases were not completed within the prescribed 90 day timeframe, a 70% compliance rate. The delinquent cases are representative of a systemic case management issue. IAD requires investigators to complete a Monthly Synopsis Report (MSR) for each of their current cases. The review revealed that these reports were not included in the file or not prepared as required. IAD SOP also requires the supervisor to review each case with the assigned investigator noting the progress or status of the case. The MSR and CSS were established to record supervisory comments. The examination of these logs by the monitoring team revealed that most of the supervisory remarks did not provide specific investigative instruction and direction regarding the completion of the case in a timely fashion or within the 90 day deadline.

The monitoring team also examined 232 completed cases prepared by the Office of the Chief Investigator (OCI) for the period June 1, 2009 through September 30, 2009. This review similarly revealed that OCI does not utilize efficient and effective case management for the monitoring of investigative activity by assigned personnel. OCI Policy, Section 9.7, requires that investigators maintain an Investigator Activity Log where they record all investigative action taken related to the particular case. The failure to maintain this log subjects the investigator to disciplinary action. There is, however, no requirement by policy or practice for the supervisor to review the investigative activity documented on the log. Accordingly, there is no formalized process of determining investigative progress on a sustained basis.

We were advised that the OCI has an identified backlog of approximately 1,049 pending external complaints awaiting investigation. OCI partially attributes the delinquency rate to a lack of

investigative resources. The Chief Investigator has proposed that OCI create a Preliminary Investigations Process to review and eliminate those cases that can be closed under informal resolution provisions.

Our review of 232 OCI investigations revealed that 78 cases were not completed within the required 90 day timeframe, a 68% compliance rate. Many of the cases examined involved procedure, demeanor or service allegations, all of which were quickly resolved. Lack of appropriate supervisory oversight of investigative activity significantly contributes to the high delinquency rate.

We find that Phase 2 compliance with the requirements of misconduct investigations is impeded by problems of two kinds. First, the process of command review and supervisory oversight continues to be problematic. The second problem is the failure to meet the specific, and sometimes technical, requirements of the investigative process itself. These problems are, undoubtedly , related to one another. That is, the inadequacy of command review or supervisory oversight promotes, or at least fails to prevent, insufficient investigatory practices and incomplete documentation.

In-car Video Cameras

In May 2009 an expert in MVS technology visited Detroit and conducted an examination of the Department's in-car video system. The expert found many difficulties in the MVS systems deployed in the vehicles and concluded that the problems led to "a complete failure of the scout car video system infrastructure within the DPD." He noted that senior department executives, IT management and integrators, road supervisors and patrol officers agreed that "no confidence exits with the current DPD video infrastructure." He argued that the "current technology cannot be salvaged and integrated into any future workable solution" and recommended that DPD issue a Request for Proposal (RFP) for a single system with an experienced vendor. The Department began working to generate an RFP to acquire a new MVS system.

In August, 2009, the department added technological expertise to its administration. The head of the DPD Technical Service Bureau oversees all communications, dispatch, crime analysis, the message center, and IT services.

With this addition, the administration has moved quickly to address the difficulties with the MVS. Two precincts (#10 and #12) were selected to serve as pilots for a revised MVS. The two precincts were relatively typical for the city and, importantly, were located nearby the technology center. DPD has now examined the technical difficulties confronted in the two precincts and has concluded that technical adjustments to the apparatus may remedy the historical problem with the system. Briefly, the systems had been set to record full video (30 frames/second) 24 hours a day. When the cars returned to the precinct for a shift change, theoretically the data was to be uploaded automatically through a wireless system that communicated with the patrol cars as they sat for about one hour in the precinct parking lot. The system broke down because such a large amount of data (over 600 MBs per hour) was being generated. It simply could not be uploaded in the short time the cars sat in the parking lot before they were operational again.

In order to reduce the video storage to a manageable size, the cameras were adjusted to record a single frame per second and set to return to full video (30 frames per second) when the

emergency lights were activated. These changes lowered the data storage requirements and uploading during shift changes became more viable. The two pilot precincts are now estimated to be producing and successfully uploading about 85% of the video that is to be collected.

Even with the technological improvement, our visit to a precinct revealed that the difficulties experienced in the past with MVS have left many officers lacking confidence in the system. We found that senior officers and supervisors were unfamiliar with the capabilities of the newly revised system. We interviewed senior officers who were unaware that video could be accessed through the DPD intranet. Therefore, it is apparent that there is a significant need for additional MVS training for officers, supervisors and commanding officers alike.

Risk Management System

The Department's risk management system, known as the Management Awareness System (MAS) remains a challenge for the Department and the City. The fundamental question raised by a Department of Justice expert has not been addressed directly. Work on the system continues, although a clear decision of how best to proceed has not yet been made. Even the troublesome questions that remain open do not address the concerns that will be most critical over the long term. Those questions relate to the quality of the data entered into the system and to its use. A risk management system intended to identify and provide assistance to officers experiencing work related problems will never be any better than the quality of the data on which it runs.

There are three looming questions which are applicable to the Management Awareness System. First, what is the quality of the data being entered into the system, and does it capture and record the events articulated in the Judgment? Second, does it produce the output data needed by supervisors to assist them in managing the department? And third, do officers and supervisors utilize the system as it is intended?

Some initial concern over whether all of the required data are being entered in MAS was raised during the first site visit. It was learned then that in the final year of the manual reporting of Use of Force, over 1,200 reports were filed while in the first year of electronic filing, (November 2008 through October 2009) fewer than 600 were entered into the Management Awareness System (MAS).

The fundamental questions raised by the DOJ subject matter expert regarding MAS have yet to be addressed. The Deputy Chief has overseen some improvements in the system, but remains ambivalent about its future while recognizing the urgency of the situation. The Risk Management System is central to the Consent Judgment, and if clear progress is not made on MAS imminently, the Department will not only continue to fall significantly behind in this area but progress will be slowed on other data related elements of the judgment.

To assist DPD in its decision regarding the appropriate direction in this important requirement, we are proposing a comprehensive test of MAS on the Team's next visit. While the specifics of such a test are still being evaluated, we shall recommend that it include, but not be limited to:

a. A review of administrative structure and whether the location of MAS and the resources dedicated to it are sufficient to meet the requirements of the Consent Judgment.

b. A test of data entry in which incidents reflecting the required data elements and known to have occurred, are searched for in the data base. Among the incidents would be a random

selection of uses of force, allegations of use of force, vehicle and foot pursuits, stop and frisk reports and other events requiring data entry under the Consent Judgments. Sources of data sampling will include but not be limited to officer activity logs.

c. A test of data outputs by examining a sample of Officer Activity Reports from MAS.

d. A test of data outputs to see that supervisors are being notified when events occur which require their review, and MAS Threshold notification reports.

e. A test of data outputs by examining required summary reports such as the Monthly Intervention Status Report and Unit Performance Reports.

f. A review of a sample of supervisors' "dashboards" to determine required reviews are occurring in a timely fashion.

g. A review of data outputs and processes by examining a sample of Monthly Intervention Status reports and related documentation.

A comprehensive test of MAS based on such criteria, and an informed discussion of MAS involving the Department, the City, the Justice Department and the Monitor should assist the agency in determining its course of action.

Performance Evaluations

With regard to performance evaluation, the Detroit Police Department has not made progress with their performance evaluation reviews. There should be a concerted effort from all levels of command down to the first line of supervision to ensure that employee evaluations comply with the three issues detailed in CJ U91. There continues to be serious problems with the lack of content and accountability in the current manner in which supervisors complete the evaluation form. This should not be seen simply through the prism of a consent judgment. This is a fundamental practice in almost all police agencies, as it captures significant information upon which a variety of operational and administrative decisions are made.

Training

We found that with some exceptions, the Department does not have policy directives (e.g., general orders, standard operating procedures or special orders) that address the training requirements of the Consent Judgments. In spite of the absence of policy directives in a number of areas, the Department nonetheless considers the Consent Judgments to have the force of policy and endeavors to follow their mandates. The Department is, therefore, progressing toward compliance in spite of not having specific policy directives.

It is critical in implementing sustainable change for the Department to have its own directives that require the specific actions demanded by the Judgments. Absent the promulgation of such policies, if the Department relies on the Consent Judgments as its policy directives, the expiration of the judgments might lead to little, if any, enduring change and officers and community members alike might view the judgment as only a fleeting chapter of history with no enduring institutional changes. Accordingly, we found the Department to be "Not in Compliance" with Phase 1 for many of the judgments' training requirements. The Department acknowledged its need for policy directives and has begun rectifying the problem by writing new policy orders.

In-Service Training

Several of the requirements relating to training are to be fulfilled through the delivery of in-service training. Until the Department reaches the >94% level of officers and supervisors trained at its in-service training sessions, these requirements will not be fulfilled.

The agency did, in fact, implement an in-service training program in August, 2008, which saw its first year (FY 2009) completed on June 30, 2009. During that period the Department trained 2,400 (87%) of its 2,767 available[2] officers. Several of the CJ requirements relating to training are dependent upon affording training to all officers at in-service training.

We found that the department is making some headway in its in-service training delivery. During the first 15 weeks of FY 2009 the DPD trained 850 of its officers and during the same period in FY 2010, it trained 1,022 officers, an increase of slightly more than 20%

In addition, during FY 2009 the DPD trained 2,460 officers (89%) in PR-24, 2,429 (88%) in Laws of Search and Seizure, and 602 of 734 supervisors (82%) in Supervisory & Leadership training. While all these represent measureable progress, the Department has still failed to be compliant with this requirement.

CONDITIONS OF CONFINEMENT JUDGMENT

Fire Safety Policies and Emergency Preparedness

Fire safety equipment testing and staff familiarization with the Fire Safety Plan were not fully documented. The monitoring team noted that the key control system does not provide for ready access to keys by on duty staff in the event of an emergency. A key control system must be put in place which provides access to a set of keys for each staff member on duty. Exterior door control should be remotely operated and keys to those doors should be removed from the existing rings.

Medical and Mental Health Care Policies

The monitoring team found that several medical and health care policies are inadequate and/or have not been followed

Documentation is needed that a qualified medical professional has approved the Infectious Disease Control (IDC) Policy 403.2-12. The policy does not reflect current diseases posing risk in communities such as H1N1 and MRSA. Additionally, an initial on-site inspection was conducted of all five DPD facilities containing holding cells. We found that the current IDC Policy 403.2-12.1 has not been implemented adequately.

During our review of the Department's policy manual, it was determined that we were not provided with a policy outlining the requirements for updating and exchanging prisoner health information. Additionally health information assessments for detainees are not being conducted

[2] "Available" officers reflect the number of sworn officers on the rolls minus the numbers who are unavailable for training due to extended leave (e.g., military, medical, and administrative leave).

in a private setting and the health status of detainees is not being secured in a confidential manner *(The Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule)*.

Our findings revealed that the agency's policy for Mental Health High Risk and/or Suicidal Detainees 305.1-7.4 does not state that appropriate clothing must be provided to detainees at risk. This should be mandatory.

Prisoner Safety and Environmental Policies

The monitoring team noted that the well-being documentation for detainees held in close observation cells is either unavailable or is not maintained. There is no place for such required recording keeping on the DPD 659 form. Sanitation is not maintained at an acceptable level throughout the holding cell facilities and maintenance of facilities and equipment is not tracked through an auditable work order system.

In our inspection of each district/precinct with holding cells, we found that in many cases, implementation practices do not reflect policy. Many of the logs and forms used by the Department do not result in practical compliance with the Consent Judgment's requirements. Appropriate documentation for the sole purpose of meeting the technical requirements of each of the relevant Consent Judgment paragraphs does not correct operational problems. We found that the majority of the Department's COC policies have not been updated since 2005-2006.

Conclusion

The role of the police in a democratic society is a well-chronicled topic that has been addressed by law enforcement professionals, civil libertarians, academics, and a host of public and private citizens who understand the importance of the relationship between the police and the communities they serve.

The issues facing the Detroit Police Department are not unique. The presence of consent judgments as a tool to bring about reform and change has been experienced in other jurisdictions across the country. The police agencies in those jurisdictions not only became compliant with the provisions of those judgments, but became national centers of excellence in contemporary policing.

The City of Detroit is at a crucial time in its history. The economic downturn experienced by the City and its residual impact on a host of civic, financial, and social issues has been profound. Amidst all this, the Detroit Police Department has been part of an adversarial process through the Courts to remedy a variety of its policies and practices.

As the independent monitoring team, we fully understand the weight of the challenges facing the Detroit Police Department. But we also understand the consequences of not meeting them. The public trust is the fundamental element and lifeblood of any police organization. Without it, police agencies cannot collaborate with the very people they are sworn to protect.

We know the Department has been working for several years to meet the requirements of these judgments. Culture change and reform have always been daunting challenges for police agencies. With the new leadership of the Detroit Police Department, we are hopeful that the stated commitments of the Chief and his team will translate into an ethos that will permeate the

ranks of the organization and bring about a new era in the Department's history. Though the numbers are wanting, the hopes should be high, and the work must be intense.

SECTION TWO: COMPLIANCE ASSESSMENTS - THE USE OF FORCE AND ARREST AND WITNESS DETENTION CONSENT JUDGMENT

III. USE OF FORCE POLICY

This section of the Consent Judgment requires that the DPD review and revise its general use of force, firearms, and chemical spray policies. In addition, it requires the selection of an intermediate impact device, inclusion of guidelines on the use of the device in the revised policies, and the provision of appropriate training on its use.

The revised policies are to include a force continuum that identifies lethal and less lethal force options, relates the force options to the types of conduct by individuals justifying the various force options, and describes de-escalation, disengagement and other appropriate tactics and responses. The revised firearms policy must address qualification requirements, approved firearms and ammunition, and a prohibition on the firing at or from moving vehicles. The chemical spray policy must require, when appropriate, verbal warning prior to the deployment of chemical spray; set forth requirements for decontamination, medical assistance, and supervisory approval; and prohibit officers from using chemical spray on a handcuffed individual in a police vehicle.

The previous monitor considered several of the individual paragraphs as "policy only" requirements, and assessed implementation requirements within the parameters of U18. In order to assist the DPD with the achievement of compliance, we have elected instead to provide a detailed assessment of the individual tasks and requirements. These assessments should provide a clear picture of the effectiveness with which the policies have been implemented and provide guidance to the DPD with regard to the development of necessary materials and training.

To assist with our review of the requirements of this section, we requested copies of applicable policies and a variety of documents in advance of our December site visit.[3] During the site visit, we further reviewed and discussed policies, procedures and processes with OCR and field staff. Our findings are outlined in the following sections of this report.

A. General Use of Force Policies

CJ Requirement U14

The DPD shall revise its use of force policies to define force as that term is defined in this Agreement.

[3] Document requests communicated to DPD, dated October 16, and October 30, 2009 respectively.

Comments: The previous monitor found the DPD in compliance with this "policy only" paragraph and tested implementation within the requirements of U18.[4]

We reviewed DPD Directive #304.2, effective June 27, 2005, which defines force consistent with the requirements of the Consent Judgment. Our review of use of force (UF002), IAD, FIS and OCI investigations described in other sections of this report also show appropriate application of the term "force." However, our review of historical use of force data indicates the probable under reporting of use of force events, which precludes our finding DPD Phase 2 compliant.[5]

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U15:

The use of force policy shall incorporate a use of force continuum that:

a. *identifies when and in what manner the use of lethal and less than lethal force are permitted;*

b. *relates the force options available to officers to the types of conduct by individuals that would justify the use of such force; and*

c. *states that de-escalation, disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements or calling in specialized units are often the appropriate response to a situation.*

Comments: The previous monitor found the DPD in compliance with this "policy only" paragraph. According to the report, implementation was tested in conjunction with the requirements of U18. Concerns relating to officers' tactical procedures, investigators' reports and failure to address the precautionary measures described in this requirement were noted.[6]

We reviewed DPD Directive #304.2, Section 5.2, effective June 27, 2005 and Training Directive 04-3, effective, May 5, 2005, relating to the Force Continuum. These policies set forth the requirements of this CJ paragraph; therefore DPD is Phase 1 compliant.

Our review of 175 Use of Force (UF002) Reports found general indications that officers may have made attempts to de-escalate their encounters. However, the reports lacked sufficient documentation or specificity with regards to de-escalation efforts and were silent on any details of actual disengagement.

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[4] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, Issued July 16, 2009. (Report #23)

[5] DPD data indicates 1200 Use of Force, Detainee Injury and Allegations of Force in year 2007. These records were manually maintained at that time. DPD reports this record keeping was automated in August, 2008. A subsequent review of this same data for the period November, 2008 through October, 2009 indicates a reduction to 568 for these same activities.

[6] Report of the Independent Monitor for the Detroit Police Department, Report for the Quarter Ending May 31, 2009, Issued July 16, 2009. (Report #23)

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U16

The use of force policy shall reinforce that individuals should be provided an opportunity to submit to arrest before force is used and provide that force may be used only when verbal commands and other techniques that do not require the use of force would be ineffective or present a danger to the officer or others.

Comments: The previous monitor found the DPD in compliance with this "policy only" paragraph and tested implementation within the requirements of U18.[7]

We reviewed DPD Directive #304.2, Section 5.2, effective June 27, 2005 and Training Directive 04-3, effective, May 5, 2005, relating to the Force Continuum. These policies set forth the requirements of this CJ paragraph; therefore DPD is Phase 1 compliant.

We also reviewed 175 Use of Force Reports (UF 002) and found that 163 (93%) included verbal commands and an opportunity to submit to arrest prior to the use of force. Part of the dialog included officers advising subjects that they were under arrest and to place their hands behind their backs for handcuffing. The twelve reports that included no indication of officers giving verbal commands provided no indication that such commands would have proven ineffective or presented a danger to officers. Our review of the reports provided[8] indicates that DPD does not meet the standard of >94% of cases compliant with the implementation requirements of this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U17

The use of force policy shall prohibit the use of choke holds and similar carotid holds except where deadly force is authorized.

Comments: The previous monitor found the DPD in compliance with this "policy only" paragraph and tested implementation within the requirements of U18.[9]

We reviewed DPD Directive #304.2, Section 4.3, effective June 27, 2005, which describes prohibited action consistent with the requirements of this CJ paragraph, therefore DPD is Phase 1 compliant.

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[7] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, Issued July 16, 2009. (Report #23)

[8] See U14 regarding under reporting of the use of force and other activities.

[9] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, Issued July 16, 2009. (Report #23)

We also reviewed 115 Command Investigations (UF002a).[10] This review disclosed one case in which a choke hold may have been applied during a struggle in an effort to force a subject to release a choke hold he had on an officer. The UF002a does not indicate this case was treated as a deadly force case. The cases reviewed are indicative of implementation compliance with this CJ paragraph, however we are withholding that finding until there is a resolution to the under reporting concerns outlined in U14.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U18

The DPD shall develop a revised use of force policy within three months of the effective date of this Agreement. The policy shall be submitted for review and approval of the DOJ. The DPD shall implement the revised use of force policy within three months of the review and approval of the DOJ.

Comments: The previous monitor found the DPD in policy compliance with this CJ paragraph and reported that the assessment of implementation requirements was incomplete. The monitor did cite concerns with officers' tactical procedures related to use of force events and the failure to report precautionary measures required in U15(c).

We reviewed the DPD Use of Force Directive 304.2, effective June 27, 2005, reportedly approved by DOJ, and implemented by DPD. DPD is Phase 1 compliant. Phase 2 compliance will rely on DPD demonstrating effective field implementation of the specific policy requirements contained in CJ paragraphs U14-17 and U19. Resolving concerns with underreporting as described in the comments to U14 is also needed to achieve phase 2 compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U19

The use of force policy shall provide that a strike to the head with an instrument constitutes a use of deadly force.

[10] The 175 Use of Force Reports (UF 002), referenced in U16 constitutes the review materials for the 115 Supervisory Reviews (UF 002a) which were to be conducted during this reporting period. The difference in the numbers is attributed to some use of force events including multiple uses of force, each requiring the completion of a (UF002) form.

Comments: The previous monitor found the DPD in compliance with this "policy only" paragraph and tested implementation within the requirements of U18.[11]

We reviewed DPD Directive 304.2, Section 4, which specifically states "a strike to the head of any person with an instrument constitutes a use of deadly force." DPD is Phase 1 compliant.

Our review of the 175 Use of Force Reports found one report of an accidental strike to the face with a PR-24 Collapsible Baton. There was no Command Investigation Report[12] (UF 002a) completed for this event. We are unable to determine from the information provided whether the event was reported to or referred to another command or unit for investigation. We also reviewed eleven use of force investigations conducted by FIS and found no instances involving a strike or strikes to the head with an instrument. While the reports we reviewed are indicative of Phase 2 compliance, we are withholding that finding until the under reporting of force described in U14 is resolved.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

B. USE OF FIREARMS POLICY

CJ Requirement U20

The DPD shall revise its use of firearms policies to provide that officers must successfully qualify with their department-issued firearm and any other firearm they are authorized to use or carry on-duty on a bi-annual basis, as described in paragraph 113.

Comments: The previous monitor found the DPD in compliance with this "policy only" paragraph and tested implementation compliance when assessing U113.[13]

DPD Directive #304.1, Section 8.1, states "All members are required to train and qualify with their primary on duty firearm and any other on duty or off duty DPD issued or approved firearm bi-annually." DPD is Phase 1 compliant.

Our review of 2008 firearms training data found the DPD qualified 2,535 and 2,282 members respectively during the first and last half of 2008. During the same periods, 491 and 746 members failed to report for required training. DPD 2009 firearms training data was not available for review due to apparent automation issues. We will review that data in detail in U113 during the next reporting period.

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[11] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, Issued July 16, 2009. (Report #23)

[12] There were to be 115 Command Investigations available for review this site visit; however, only 63 were completed. The other 52 reports are unaccounted for.

[13] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, Issued July 16, 2009. (Report #23)

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U21

Officers who fail to re-qualify shall be relieved of police powers and relinquish immediately all department-issued firearms. Those officers who fail to re-qualify after remedial training within a reasonable time shall be subject to disciplinary action, up to and including a recommendation for termination of employment.

Comments: The previous monitor found the DPD in policy compliance with this CJ paragraph, but withheld a determination of compliance with the implementation requirements pending further follow-up regarding a significant number of officers who missed their 2008 firearms qualification.[14]

We reviewed DPD Directive # 304.1, Section 8.1. It provides "All members that fail to qualify with their duty weapon shall relinquish their DPD issued firearms and be relieved of their police powers" consistent with the requirements of this CJ paragraph. The DPD is Phase 1 compliant.

We noted a significant number of officers failing to show for 2008 firearms training and the inability of access 2009 training data in U20. We will review that data in detail in U113 during the next reporting period.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U22

The firearm policy shall prohibit firing at or from a moving vehicle. The policy shall also prohibit officers from intentionally placing themselves in the path of a moving vehicle.

Comments: The previous monitor found the DPD in policy compliance with this CJ paragraph, but not in compliance with implementation requirements due to incidents wherein officers violated policy by firing at or from a moving vehicle, the lack of an evaluation of the officers' tactics, as required byU32f, and the lack of a tactical evaluation containing necessary information for the consideration of other tactical options; therefore making it difficult to determine justification of the officer's action.[15]

[14] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009, Issued April 20, 2009. (Report #22)

[15] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009, Issued April 20, 2009. (Report #22)

We reviewed DPD Directive # 304.1, Section 5.3 wherein it provided "Firing at, or from a moving vehicle is prohibited… Moreover, officers shall not intentionally place themselves in the path of a moving vehicle." The DPD is Phase 1 compliant.

Our review of 175 Use of Force Reports (UF 002) found no instances where officers either fired at a moving vehicle or where they intentionally placed themselves in the path of a moving vehicle. Our review of 12 investigations conducted by FIS found one instance where an officer fired at a moving vehicle. The investigation appropriately determined the officer's conduct to be inconsistent with policy and recommended disciplinary action. While the reports we reviewed are indicative of Phase 2 compliance, we are withholding that finding until the under reporting of force described in U14 is resolved.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U23:

The DPD shall identify a limited selection of authorized ammunition and prohibit officers from possessing or using unauthorized firearms or ammunition. The DPD shall specify the number of rounds DPD officers shall carry.

Comments: The previous monitor found the DPD in policy compliance with this CJ paragraph, but not in compliance with implementation requirements noting several policy violations relating to firearms, ammunition, and inspection reports.[16]

We reviewed DPD Directive #304.1, Section 4, effective May 2, 2005, wherein requirements consistent with this CJ paragraph are established. We have requested the DPD provide documents to enable us to assess inspections and compliance with this CJ paragraph. In addition, we reviewed ten FIS critical firearm discharge investigations and documentation of an examination of the weapon and ammunition carried by the involved officer(s). In each case, the officer(s) were carrying authorized weapons and ammunition. In three cases the number of rounds reportedly carried was inconsistent with policy requirements. Upon making inquiry regarding this finding, we learned of an ongoing problem with the present ammunition magazines that does not allow them to be fully loaded], therefore leaving the officer short of the required number of rounds. While this difficulty was noted in one of the investigations, there was no verification by the involved officer that such a problem existed in those cases. The remaining two investigations were silent on the issue. We are advised the DPD will be issuing replacement equipment to address this issue; however in the meanwhile each officer should note and justify any deviation from the policy requirements in order to support a compliance finding for this paragraph.

[16] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009, Issued April 20, 2009. (Report #22)

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending Compliance

C. *INTERMEDIATE FORCE DEVICE POLICY*

CJ Requirement U24

The DPD shall select an intermediate force device, which is between chemical spray and firearms on the force continuum, that can be carried by officers at all times while on-duty. The DPD shall develop a policy regarding the intermediate force device, incorporate the intermediate force device into the force continuum and train all officers in its use on an annual basis.

Comments: The previous monitor found the DPD in compliance with policy, but not in compliance with training/implementation requirements of this CJ paragraph[17].

We reviewed DPD Directive #304.2, Use of Force, Section 6.3 Less Lethal Weapons and Methods, effective June 27, 2005; DPD Directive #304.4, PR-24 Collapsible Batons, effective July 1, 2008; and DPD Training Directive #04-3, effective May 9, 2005 to determine policy compliance with this CJ paragraph. These directives identify the PR-24 as the authorized DPD impact device offering a less lethal method for apprehending and subduing violent and/or actively resisting subject(s), relate the PR-24 to the force continuum, and set forth training requirements for all officers.

Training documentation related to the PR-24 was not available for review, however, DPD stated that 2,460 officers (89%) were trained in its use in FY2009. for this report; therefore it will be reviewed during the next reporting period. Our review of Use of Force Reports (UF002) found documentation of the PR-24 identification number and the officer's most recent PR-24 training for those events reported. While the reports we reviewed are indicative of Phase 2 compliance, we are withholding that finding until the under reporting of force described in U14 is resolved.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

[17] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009, Issued April 20, 2009. (Report #22)

D. CHEMICAL SPRAY POLICY

CJ Requirement U25

The DPD shall revise its chemical spray policy to require officers to:

a. *provide a verbal warning and time to allow the subject to comply prior to the use of chemical spray, unless such warnings would present a danger to the officer or others;*

b. *provide an opportunity for decontamination to a sprayed subject within twenty minutes of the application of the spray or apprehension of the subject;*

c. *obtain appropriate medical assistance for sprayed subjects when they complain of continued effects after having been de-contaminated or they indicate that they have a pre-existing medical condition (e.g., asthma, emphysema, bronchitis or heart ailment) that may be aggravated by chemical spray and if such signs are observed the subject shall be immediately conveyed to a local hospital for professional medical treatment; and*

d. *obtain the approval of a supervisor any time chemical spray is used against a crowd.*

Comments: The previous monitor found the DPD in policy compliance with this CJ paragraph, but not in compliance with implementation requirements noting the absence of completed UF 002A Forms (Supervisor's Investigation Reports) indicating completion of the required investigation of four of the fifteen chemical spray deployments reviewed. The Monitor did note the provision of warnings prior to the deployment of what appeared to be appropriate decontamination within the 20 minute period as required. There were no instances of chemical spray against a crowd or inappropriate use of chemical spray alleged in external complaints.[18]

We reviewed DPD Directive #304.3, Chemical Spray Device, and effective July 2, 2008 to assess compliance with this CJ paragraph. The DPD is Phase 1 compliant.

We reviewed 175 Use of Force Reports (UF002) for this reporting period and found DPD officers reported the deployment of chemical spray in seventeen instances. The reports indicate the provision of appropriate warnings in twelve (70%) of the seventeen. One report articulated the existence of danger as the reason for not providing warning. There were no reported warnings provided in the remaining four cases. Twelve of the seventeen reports indicated the appropriate decontamination within the twenty minute constraint; five were not within the 20 minute requirement. Of the twelve instances wherein decontamination was provided, only six indicated where and how the decontamination was accomplished. We noted some officers are carrying water bottles with them and have utilized that water for flushing of the eyes (decontamination); in other cases officers have obtained water from neighbors or from businesses to accomplish the flushing. We also noted cases wherein officers documented time was meaningless; for example "time sprayed 1, time flushed 4."

Medical assistance was provided to five of the individuals sprayed, with one of them receiving the medical attention on the scene from an EMS unit. The remaining individuals were

[18] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009, Issued April 20, 2009. (Report #22)

transported to the hospital. None of the individuals transported to the hospitals were as a result of a pre-existing medical condition.

There was one reported instance where an officer sprayed an unruly crowd. The required supervisory approval was not obtained prior to the deployment; however the officer explained that he felt threatened by the subjects' behavior.

We find the DPD should require thorough documentation of where, when and how the decontamination or flushing of the subject's eyes was accomplished. We also note the need for a careful supervisory review the UF002 Reports to insure they appropriately and correctly document the times of deployment and decontamination.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U26

The DPD shall prohibit officers from using chemical spray on a handcuffed individual in a police vehicle. The DPD shall also prohibit officers from keeping any sprayed subject in a face down position, in order to avoid positional asphyxia.

Comments: The previous monitor found the DPD in policy compliance with this CJ paragraph, but not in compliance with implementation requirements noting the absence of completed UF 002A Forms (Supervisor's Investigation Reports) indicating completion of the required investigation of four of the fifteen chemical spray deployments reviewed. There were no deployments of chemical spray on handcuffed individuals while in a police vehicle.[19]

We reviewed DPD Directive #304.3, Sections 5.1 and 6.1(6), effective July 2, 2008 and find the DPD Phase 1 compliant. These policies prohibit the use of chemical spray on a handcuffed subject in a police vehicle and prohibit officers from keeping sprayed subjects in a face down position.

Our review of 175 Use of Force Reports (UF002) identified no reported instances of the deployment or allegations of the deployment of chemical spray against a subject in a police vehicle. Neither did our review identify any reported instances or allegations where officers placed or kept subjects in a face down position after being sprayed. We did note that when sprayed individuals are transported in scout cars, officers generally indicate the lowering of windows to provide ventilation beneficial to the subject. While the reports we reviewed are indicative of Phase 2 compliance, we are withholding that finding until the under reporting of force described in U14 is resolved.

[19] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009, Issued April 20, 2009. (Report #22)

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

Critical Issues

Under reporting of use of force by officers and under supervision by supervisors

Our review of use of force cases revealed a number of instances where officers under reported and/or their supervisors under supervised. For example, our review of cases involving use of chemical spray revealed that while officers generally provided the required warning, the UF002's lacked complete information relating to the incidents. With few exceptions, officers failed to accurately document how the flushing occurred. In some instances the information recorded was obviously incorrect and/or incomplete. Further, in some instances where officers stated that the flushing took place at the station, the activity log failed to show when the officers changed locations. We found that in a number of instances supervisors had not thoroughly reviewed the forms; the times listed on the forms for flushing appeared to be incorrect and information detailing how the flushing was accomplished was absent.

DPD has accomplished a reduction in some areas of UOF. The Department is doing a good job of restricting blows to the head with blunt instruments and the use of choke holds. Both techniques are viewed as a use of deadly force. Of the 175 cases reviewed, there was only one of each. Both of these cases, however, illustrated the issue of under reporting and under supervising. In one, the officer delivered a blow to the head with the PR-24 noting it was accidental and in the other the officer utilized the choke hold not noting it as a use of deadly force. In their review of the UF002 forms for these two incidents, the officers' supervisors failed to note that these were in fact uses of deadly force and failed to discuss any of the possible consequences of such actions.

Overall, a review of the 175 UF002 forms determined that 60 of them (34%) contained information pertinent to the use of force; the remaining 115 had a variety of problems associated with their completeness. Given that this is the form which is the basis for the Command Level Investigations and/or the notification of other specialized units, its completeness is quite important. It was evident from our review that supervisors are not fulfilling their oversight responsibilities, as many of the forms could have been corrected immediately upon review.

Failure to train and qualify for firearms

During the first half of 2008 (from January 26, 2008 through August 17, 2008, qualifications were extended during this period) 2,535, DPD members qualified. 491 (16%) members did not show. In the second half of 2008 the qualification period (from August 18, 2008 through December 23, 2008) 2,282 members qualified. 746 (25%) members were no shows. Firearms qualification is required by Michigan law and the large numbers of DPD officers who do not qualify is damaging to the overall effectiveness of the Department. This information is critical to DPD's ability to fully staff shift assignments given that the Department's firearm directive tracks the Consent Judgment and requires that officers who have failed to qualify should be relieved of police powers until the deficiency is corrected. DPD does not have an auditable system that enables commanders to track officer compliance with the firearms training requirements. Such

a system with an early warning mechanism could alert commanders when their personnel are falling behind in the bi-annual training requirement.

Next Steps

During the next visit we will review documents relative to the distribution of Use of Force directive materials to the personnel, the training curriculum being utilized to present the specifics of the directives; when the last time training on the directives was provided to the personnel; training provided supervisors with respect to their responsibilities regarding use of force reporting and verification of attendance by personnel at the training.

We will review documentation concerning the firearms qualifications history of DPD personnel; a roster of personnel who have completed the bi-annual qualification for the last year, to include remedial actions taken with respect to the re-qualification of personnel.

We will review the PR-24 training curriculum and the qualifications history of DPD personnel.

We will review training materials with DPD personnel to determine training that pertains to the requirement that DPD personnel flush the subjects eyes following a spraying and that officers document the times.

¶	Requirements	**Phase 1 - Policy**	**Phase 2 – Implementation**
14	Revise use of force policies	In Compliance	Not in Compliance
15	The use of lethal, less lethal force	In Compliance	Not in Compliance
16	Allow opportunity to submit to arrest	In Compliance	Not in Compliance
17	Prohibit choke holds	In Compliance	Not in Compliance
18	Approval of policy	In Compliance	Not in Compliance
19	Strike to the head-deadly force	In Compliance	Not in Compliance
20	Bi-annual firearms qualification	In Compliance	Not in Compliance
21	Failure to qualify with firearms	In Compliance	Not in Compliance
22	Prohibit firing at vehicles	In Compliance	Not in Compliance
23	Selection of ammunition	In Compliance	Pending Compliance
24	Intermediate force device	In Compliance	Not in Compliance
25	Chemical spray policy	In Compliance	Not in Compliance
26	Spraying handcuffed subjects	In Compliance	Not in Compliance

IV. INCIDENT DOCUMENTATION, INVESTIGATION, AND REVIEW

This section of the Consent Judgment requires the DPD to review and revise its general investigative policies and practices to assure any prisoner injury, use of force, allegation of a use of force or other specified activity is fully, thoroughly, and completely documented, investigated and reviewed. It provides guidelines for interviews, timelines for completion, and supervisory review processes. In addition, it sets forth additional, specified requirements for responses to investigations and command reviews of critical firearm discharges.

The requirements of this section and the policies developed to assure operational implementation apply to the Office of Chief Investigator (OCI), the DPD Internal Affairs Division (IAD), Force

Investigations (FI) and all DPD commands having responsibilities for the specified investigative activities.

To assist with our review of the requirements of this section, we made a request for, received and reviewed copies of applicable policies and a variety of documents in advance of our site visit.[20] During the site visit, we further reviewed and discussed policies, procedures and processes with OCR, OCI, IAD and field staff. Our review determined the various written policies, including standard operating procedures, training directives, protocols and forms generally comport with this and other sections of the Judgment.

During our meetings and discussions with staff, and subsequent reviews of reports and documents, we noted mixed results with regards to the implementation of investigative processes outlined in the Judgment or policy. Our discussions with responsible staff have resulted in proposed modifications to investigative policy and are indicative of an interest to proactively address the areas of concern so as to both strengthen the investigative process and achieve full compliance.

A. General Investigations of Police Action

CJ Requirement U27

The DPD and the City shall revise their policies regarding the conduct of all investigations to ensure full, thorough and complete investigations. All investigations shall, to the extent reasonably possible, determine whether the officer's conduct was justified and the DPD and the City shall prohibit the closing of an investigation being conducted by the DPD and/or the City simply because a subject or complainant is unavailable, unwilling or unable to cooperate, including a refusal to provide medical records or proof of injury.

Comments: The previous monitor reported the DPD was in compliance with the policy requirements of U27, but not yet in compliance with the implementation requirements.[21] The monitor based this assessment on audits of 25 investigations submitted by the DPD on January 31 and February 28, 2009 respectively. The monitor cited variances with regard to detailed components of several specified paragraphs; therefore concluding the investigations were not thorough and complete.[22]

We reviewed DPD Directive 102.4, Standards of Conduct, effective July 1, 2008; DPD Directive 304:2, Use of Force, effective June 27, 2005; Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating; and Force Investigations, Standard Operating Procedures, revised November, 2009. The DPD is Phase 1 compliant with this CJ paragraph. We also reviewed The Holding Cell Compliance Committee (HCCC), Combined Use of Force Audit for the period ending July 31, 2009. The HCCC Audit, citing a number of investigative deficiencies, found the DPD non-compliant with U27. It noted, "The

[20] Document requests communicated to DPD, dated October 16, and October 30, 2009 respectively.

[21] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, Issued July 16, 2009. (Report #23)

[22] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, Issued July 16, 2009. (Report #23)

DPD commands' lack of a systematic tracking system that accounts for investigations makes it difficult to confirm a complete population of investigations. Due to this situation, the audit team cannot say with certainty that all investigations for commands were included for review."

In order to assess present compliance with this CJ paragraph, we reviewed 115 Use of Force Reports (UF002) completed during this reporting period that required command level investigations. We found that only 63 (55%) were submitted for review, some of which were lacking required information.[23] While we acknowledge this may be due to a faulty tracking system as the above described audit suggests, we are nevertheless unable to credit the DPD with compliance based on non-existent or lost reports. We suggest an immediate need for the DPD to commence providing more comprehensive, thorough and detailed command investigations that encompass the requirements contained in policy and CJ paragraphs U27-33. Our review also suggests the need for a review of the accountability system and of available training to determine if they are sufficient to assure a thorough understanding, especially by supervisory and command staff, of the requirements and responsibilities encompassed in the above specified CJ paragraphs and policy.

Our review also included an assessment of 12 FIS and/or JIST investigations, including ten critical firearm discharges, one pursuit and one excessive force external complaint. We found these investigations sufficiently detailed to support the findings relating to the officer's (s') conduct in each case and no investigations were closed because the subject or complainant was unavailable, unwilling or unable to cooperate. Though the investigations sufficiently supported the findings related to the officer's (s') conduct, we did find them lacking in various details or in some cases, required specificity; therefore we are unable to assess them as sufficiently thorough and complete (See U28-33). We have and are communicating with DPD staff regarding these issues and expect an expeditious resolution.

With regard to other investigations, the procedures articulated in the Internal Affairs Division (IAD) Standard Operating Procedures (SOP) Section Five and the Office of the Chief Investigator (OCI) Policy Section 9 were closely examined for consistency in their application of proper law enforcement techniques; specifically, how they addressed procedural fairness, timeliness, confidentiality and the meticulous reporting of facts and results of an investigation. It was noted in the review of external complaint investigations that the reports were factual and complete. Many of the reports did not reveal a clear and consistent pattern in the conduct and reporting of investigative activity. The OCI investigations were less consistent in their approach to determining a factual basis for conclusions and findings.

The monitoring team reviewed thirty (31) Internal Affairs Division (IAD) and 232 Office of the Chief Investigator (OCI) external complaint. Although there were problems with the submitted data, including duplicate cases, the review of completed cases determined that IAD and OCI investigations developed sufficient facts to support a determination that justified or did not justify the officer's actions. There were 54 incomplete investigations that contained insufficient information to make a determination of compliance. The investigative process used by IAD and OCI did not prohibit the critical examination of an external complaint or an allegation of misconduct by its personnel.

[23] There were 115 UF002s submitted which were then consolidated into 115 UF002a Command Level investigations; this reduction is the result of several investigations having multiple UF002s.

Overall, while we recognize positive accomplishments in the investigative process, the problems identified above, most notably the problems with command reviews do not support a finding of Phase 2 compliance.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U28 (This requirement is not applicable to IAD/OCI)

The DPD and the City shall ensure that investigations are conducted by a supervisor who did not authorize, witness or participate in the incident and that all investigations contain:

a. *documentation of the name and badge number of all officers involved in or on the scene during the incident and a canvas of the scene to identify civilian witnesses;*

b. *thorough and complete interviews of all witnesses, subject to paragraph 31 below and an effort to resolve material inconsistencies between witness statements;*

c. *photographs of the subject's(s') and officer's(s') injuries or alleged injuries; and*

d. *documentation of any medical care provided.*

Comments: The previous monitor reported the DPD was in compliance with the policy requirements of this paragraph, but not yet with the implementation requirements. The assessment cited the lack of witness interviews, photographs of injuries or alleged injuries, or canvassing for witnesses as the basis for the finding.[24]

We reviewed the policies referenced in U-27 (above) and determined them to be in compliance with the requirements of this CJ paragraph.

As indicated in U27, we reviewed 63 command level investigations (UF002A) and found the following:

- Two contained information indicating that in one case the supervisor conducting the investigation was present during the arrest and in the second case the supervisor conducting the investigation had ordered the arrest[25]
- The names and badge numbers of all involved officers were documented in the UF002A forms.
- Twenty-four of the 63 cases (38%) indicated the conducting of a canvas of the scene to identify civilian witnesses. The July, 2009 DPD Audit referenced in U27 found a 56% compliance rate. In some cases, supervisors provided explanations for the absence of the canvas, but generally merely indicated they conducted no canvas.

[24] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 209, Issued July 16, 2009. (Report #23)

[25] The Holding Cell Compliance Committee audit also reflected two involved supervisors conducting the command level investigations.

- The thoroughness and completeness of interviews of all witnesses is an issue in the above referenced audit and is also an issue in our review.
- In most instances, subjects of the use of force, who are interviewed on the scene or in a cell block, are unwilling to speak with a supervisor. In only one case did we find where a supervisor, in spite of the subject's initial refusal to be interviewed, followed up with a letter to the subject requesting information relative to the use of force.
- In one case, officers from an adjoining jurisdiction, who participated in the arrest and use of force, were not interviewed as part of the investigation.
- In one case the complainant kicked the subject while the subject was on the floor and no action was taken with that individual nor was she interviewed in any great detail to determine the cause of her hostility.
- In at least two of the cases reviewed the investigating supervisor refers the reader to the CRISNET Report to obtain the officers statements rather than conducting interviews detracting from the notion of a thorough and complete investigation.
- A subject with a swollen eye and a bloody nose was not asked how he received the injuries.
- And finally we noted a case in which a supervisor effected the arrest and handcuffing of a subject, following which he pokes the subject in the chest a couple of times, inflicting pain. The Lieutenant on the scene, who was responsible for preparing the Command Level Investigation, noted the incident on the report, but didn't question the supervisor about his actions nor recommend any corrective action. None of the individuals in the command review made any comments regarding the poking.
- While in many reports there were no material inconsistencies to resolve (the subjects refused to be interviewed or to comment regarding the incident(s), there were some examples where the investigating supervisor could have made a greater effort in conducting the review.
- In one case a subject complained that he was thrown off a porch by officers. The officer's statement is that the subject leaned on a railing and that the railing gave way. The supervisor could have taken a look at the porch to determine if in fact the railing gave way, but did not.
- In another case the use of force took place in a casino. The supervisor could have asked to view the casino video tapes, but did not. On the other hand, a supervisor handling a use of force in a casino parking lot asked to view that video tape and was able to eliminate the material inconsistencies between the officer and the subject.
- There was also an incident where a subject indicated he had been slammed into a door so hard that the door had broken; the supervisor examined the door and found no damage.

Based upon our review of the sixty-three command level investigative reports, we find 30 (48%) to meet the thorough and complete standard.

We also reviewed 12 Force Investigations and found appropriate documentation of the name and badge number of all officers involved in or on the scene of the various incidents, of witness

interviews (recorded and written), and documentation of any medical care provided. We found documentation of canvasses for civilian witnesses, but found two cases where the canvasses were not timely. We noted a number of canvasses, some in the early morning hours, that resulted in a "no answer" or "no contact" response; however the investigations contained no indication of further attempts to verify the presence or absence of witnesses.

Interviews with witnesses (recorded and written) were generally thorough, but in two cases where statements were inconsistent or apparently untruthful, there was no documented effort to resolve those issues. The majority of the investigations contained no photographs of officer or suspect injuries.

For this requirement, we again recognize positive accomplishments but the absence or lack of completeness of command reviews, in particular, is problematic.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U29

The DPD and the City shall revise their procedures for all investigatory interviews to require:

a. *officers who witness or are involved in an incident to provide a timely statement regarding the incident (subject to paragraph 31 below);*

b. *whenever practicable and appropriate, interviews of complainants and witnesses be conducted at sites and times convenient for them, including at their residences or places of business; and*

c. *that all IAD, OCI and Critical Firearm Discharge Investigations shall also include in-person video or audio tape-recorded interviews of all complainants, witnesses, and involved DPD officers and prohibit group interviews. In cases where complainants/witnesses refuse in-person video or audio tape recorded interviews, written statements shall be taken and signed by the complainant/witness along with a signed refusal statement by the complainant/witness.*

Comments: The previous monitor reported the DPD was in compliance with the policy requirements of this paragraph, but only in partial compliance with the implementation requirements. The assessment cited a lack of recorded interviews and the required, signed, refusal forms as the basis for this finding.[26]

Our review of the policies referenced in U-27 above determined DPD remains in compliance with the policy requirements of this paragraph.

Our review of command level investigations found those officers who are involved in or who witness a use of force incident are interviewed on a timely basis in a large number (87%) of cases and found eight cases where the interviews were not timely. In one, the incident occurred

[26] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 209, Issued July 16, 2009. (Report #23)

in July and the interviews were conducted in October. In two others there was no interview; the supervisor simply referred the reader to the CRISNET reports.

Interviews of complainants and witnesses were, for the most part, accomplished at the scene or at the cell block. There were only two reports where a supervisor made an attempt later in the investigation to contact a complainant. While conducting these interviews at the time of the incident may be appropriate for the officers and even some civilian witnesses to the incident, it is seldom fruitful with respect to interviewing the subjects, who are sometimes bellicose, intoxicated, or otherwise simply unwilling to speak with any authority figure at that time. We suggest the institution of a formalized procedure requiring follow-up contact with these individuals. Even though such a requirement may not result in improvement with the level of cooperation by the individual, it would clearly demonstrate DPD efforts to complete a thorough investigation.

We found no references to IAD, OCI or Critical Firearms Investigations included in any of the 63 files reviewed; rather the area of the file that would reflect a referral to these commands is illegible. We are advised this is due to a printer problem at MAS that is being addressed. We will review this issue during the next site visit.

We also reviewed 12 Force Investigations and found the appropriate taking of timely statements from witnesses and officers at sites and times convenient for the person being interviewed.

However, the practice with regards to the recording of witness statements varies. In cases where FIS members of the Joint Incident Shooting Team (JIST) interview witnesses, recorded statements are taken unless the witness declines, in which case, a written declination is obtained and a written, signed statement is taken. When homicide members of the JIST interview witnesses; they do not request or take recorded statements, but as a matter of practice, take written statements. We are in communication with the DPD in an effort to resolve this issue.

FIS investigators take officer's (s') statements consistent with the provisions of Garrity (U-31), though they generally are not timely with regard to the event under investigation. We found significant delays which raise both credibility and accuracy issues. The delays are primarily attributable to a requirement to await the receipt of prosecution declinations from the District Attorney before taking the Garrity statements.

We reviewed 263 external complaints and misconduct investigations conducted by IAD and OCI.[27] Our review found an inconsistent application of the DPD directive requiring timely statements from officers during these investigations. Interview of officers were often delayed with little justification other than availability. There were two notable exceptions involving the pending criminal proceeding against officers. Fifty-four cases contained no documentation regarding interviews. The investigations did reflect that when complainants or witnesses were interviewed, investigators interviewed them at a time and place selected by the individual. All interviews were conducted individually and appropriately recorded. There were three instances

[27] The Monitor received 244 OCI and 31 IAD cases for review. Twelve OCI cases were duplicates, leaving a total of 263 upon which to make our assessment. Fifty-four OCI cases contained only the complaint form and/or a copy of the receipt notification letter to the complainant.

involving written and signed statements where the complainant's refusal to record an interview was documented.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U30

The DPD and the City procedures for all investigatory interviews shall prohibit:

a. *the use of leading questions that improperly suggest legal justifications for the officer's(s') actions when such questions are contrary to appropriate law enforcement techniques; and*

b. *the use of interviews via written questions when it is contrary to appropriate law enforcement techniques.*

Comments: The previous monitor reported the DPD was in compliance with the policy requirements of this paragraph, but not with implementation requirements. This assessment was partially due to the lack of written questions in the command investigations to allow for a determination of compliance with the prohibition on the use of leading questions. It also cited other deficiencies in the fifteen command investigations assessed for compliance with this paragraph.[28]

The policies reviewed in U-27 are in compliance with the requirements of this CJ paragraph.

We reviewed 63 command level investigations and found no documentation of recorded interviews, written statements, records of questions asked during interviews or other evidence indicating the investigating officers conducted thorough interviews where applicable. We are therefore unable to assess whether leading questions have been asked during the conduct of the command level investigations, but will carefully assess this requirement when reviewing IAD, OCI and FIS investigations.

We also reviewed 12 FIS investigations, which included written and recorded statements. Our review of the written statements, including the questions asked, found no instances of leading questions. Our review of four randomly selected recorded interviewed did indicate leading questions were asked in two cases.

In addition, we reviewed 263 external complaints and misconduct investigations conducted by IAD and OCI. The interviews of DPD officers were conducted according to IAD Standard Operating Procedure (SOP) Section 5-4 and OCI Policy Section 9.5 entitled, Garrity Interviews. IAD SOP Section 5-4 and OCI Section 9.5 established guidelines for conducting interviews and specifically prohibits the use of leading questions that improperly suggest legal justification for an officer's actions. This review disclosed leading questions to develop information or facts in support of a conclusion or findings in five of the 31 IAD (84% compliance) and in 19 of 127

[28] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 209, Issued July 16, 2009. (Report #23)

OCI cases (85% compliance). However, it is noted that an additional 54 OCI cases contained no documentation regarding interviews.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U31

The DPD and the City shall develop a protocol for when statements should (and should not) be compelled pursuant to Garrity v. New Jersey, 385 U.S. 493 (1967).

Comments: The previous monitor found the DPD complied with policy and implementation requirements of this paragraph.[29]

We reviewed DPD Training Directive 04-4, Garrity Protocol, dated February 9, 2006, revised October 24, 2009, and find the DPD in compliance with the requirements of this CJ paragraph. The directive provides Criminal and Administrative Guidelines for investigators and supervisors regarding when statements should and should not be compelled from officers during internal investigations. The protocol requires that all officers sign a Certificate of Notification of Constitutional Rights - Departmental Investigations prior to any interview.

Our review of 63 command level investigations; 12 FIS investigations; and 157 IAD and OCI investigations involving Garrity, found supervisors and investigators consistently and meticulously compliant with Garrity requirements. Therefore, we are excluding the 54 incomplete OCI investigations from this assessment. The consistency with which the DPD comports with these requirements is sufficient for a compliant finding.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U32

The DPD shall revise its policies regarding all investigatory reports and evaluations to require:

a. *a precise description of the facts and circumstances of the incident, including a detailed account of the subject's(s') or complainant's(s')and officer's(s') actions and an evaluation of the initial stop or seizure;*

b. *a review of all relevant evidence, including circumstantial, direct and physical evidence;*

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c. *that the fact that a subject or complainant pled guilty or was found guilty of an offense shall not be considered as evidence of whether a DPD officer engaged in misconduct, nor shall it justify discontinuing the investigation;*

d. *reasonable credibility determinations, with no automatic preference given to an officer's statement over a non-officer's statement or discounting of a witness's statement merely because the witness has some connection to the subject or complainant*

e. *an evaluation of whether an officer complied with DPD policy;*

f. *an evaluation of all uses of force, including the officer's tactics, and any allegations or evidence of misconduct uncovered during the course of the investigation;*

g. *all administrative investigations to be evaluated based on a preponderance of the evidence standard;*

h. *written documentation of the basis for extending the deadline of a report and evaluation and provide that the circumstances justifying an extension do not include an investigator's vacation or furlough and that problems with investigator vacations or workload should result in the matter being reassigned; and*

i. *any recommended non-disciplinary corrective action or disciplinary action be documented in writing.*

Comments: The previous monitor reported the DPD was in compliance with the policy requirements of this paragraph, but not with all implementation requirements. This assessment was based on several noted deficiencies, including missing witness interviews, missing photographs of injuries, the lack of a credibility determination, and the lack of evaluations of officers' uses of force; issues pertaining to compliance with applicable use of force policies, and the evaluation of fundamental tactics used; and the failure to interview a key witness.[30]

Our review of the policies referenced in U-27 also determined them to comply with the requirements of this paragraph.

This is a comprehensive paragraph addressing the requirements for the effective investigation of use of force incidents; therefore in addition to our review of the previous monitor's comments, we reviewed the most recent HCCC audit. That audit comments "the investigations were deficient in the requirements of evaluating the initial stop or seizure, evaluating the tactics used by the officers, completing the investigations by the due date, requesting an extension for the due date will to extended, and reviewing all relevant evidence of the investigation."

Our review the 63 command level investigations supports the audit conclusions in that the reports provide precise descriptions of the facts and circumstances of the incidents with respect to the actions of the officers, complainants and subjects, but they lack the requisite evaluations of many of the initial stops. None of the 63 reports evaluated commented on the initial stop or seizure, though in many of the cases it was obvious to us that the initial contact was not indiscriminate; i.e., the officers were dispatched to a call for service and upon arrival were thrust

[30] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 209, Issued July16, 2009. (Report #23)

into a situation over which they had no real control.[31] We also noted the lack of supervisory evaluations of the officer's initial contact to determine whether other decisions or tactics could have negated the need for a use of force.

Meeting the requirement that all relevant evidence, including circumstantial, direct and physical evidence be reviewed is hampered by the fact that in most instances there is little, if any, information gathered from the subject who was arrested. In all but three of the cases[32] reviewed the effort to illicit information from the subject is made immediately following the encounter with the officer(s), either at the scene or in the cell block and when the subject refuses no further effort is made. Few of the cases reviewed contained photographs of injuries, either to the officers or the subjects. The previous monitor also commented on basically the same concerns, the missing interviews and the missing photographs.

The review of the cases failed to disclose any evidence that the fact that a subject or complainant pled guilty or was found guilty of an offense was considered as evidence of whether a DPD officer engaged in misconduct. There was also no evidence that this information was used to justify discontinuing the investigation.

In most of the investigations conducted the subject fails to cooperate with the investigator in explaining what occurred and there are few follow-ups to try to obtain additional information; there were several cases where witnesses who were with the subject were not interviewed either. However, it is difficult to ascribe this failure to follow-up with subjects and/or to interview additional witnesses as a contravention of making reasonable credibility determinations.

In 60 of the 63 cases reviewed, an evaluation of whether an officer complied with DPD policy was present; in one the evaluation just wasn't included; in one the supervisor conducting the investigation failed to comment on an officer's failure to provide a warning before dispersing the chemical spray. The officer also failed to articulate any danger which would have precluded the warning. In another case the evaluation was so brief as to almost not constitute an evaluation at all. There was, however, one case in which a supervisor conducted the evaluation and determined the officer had exceeded the authority to use force and recommended corrective action later in the form.

The reviews have also determined that in most instances there is no investigatory review of the tactics employed by the officer(s), simply a repetition of the appropriate DPD Directive governing the officer's actions. There is no discussion of other tactics an officer might have utilized (e.g. disengagement), nor are there any recommendations regarding training needs, etc.

The majority of the cases reviewed reflected reliance on the preponderance of evidence standard to reach a determination. There was one case in which the supervisory investigator observed an officer poke a subject in the chest after the subject had been handcuffed, "as if to inflict pain," noted it on the UF002a, but took no further action; the command level review took no further

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[31] There were several cases where the officers were dispatched to calls where individuals were known to be armed; there were also calls to burglaries and home invasions where immediately upon arrival an officer must take action to neutralize a situation or apprehend an offender.

[32] In two of the cases efforts were made to solicit more information from the subjects via letters; although neither subject responded, the supervisors did the right thing in making the effort. In the third case the supervisor requested a copy of a casino video tape, which visually helped clarify what had actually taken place in a casino parking garage.

action either. There were other instances previously alluded to which also should have had additional follow-up.

Of the 63 UF002a Command Level Investigations reviewed, three had extension request submitted and granted and none were determined to have been granted to accommodate vacations or furloughs. Given that all but eight investigations exceeded the deadline for the reports, it is obvious that DPD must work on addressing this issue. Finally, one recommendation for corrective action was documented in writing. Our review concludes the command level investigations are not compliant with the several sub-sections of this CJ paragraph.

We also reviewed 12 FIS investigations and found them all to contain a precise account of the facts and circumstances of the event, an evaluation of any stop or seizure, witness and officer interviews, a review of relevant evidence and evaluations of all uses of force and tactics. They also identified cases of misconduct uncovered in the course of the investigation. These were adequately investigated and addressed. Findings were based upon the preponderance of evidence standard, and recommended disciplinary action was documented. The investigations also contained requests and approvals for extending the deadline for completion of the investigations, none of which included vacation or furlough as reasons for the extension. However, the majority of the extension requests were not always made in a timely manner nor did they establish a new deadline for case completion.

We also reviewed 31 IAD and 232 OCI investigations[33] for compliance with the requirements of this paragraph of the Consent Judgment. Fifty-four OCI cases contained insufficient investigative documentation for a detailed review. The examined reports were judged to be factual and complete. They documented the investigator's review of relevant evidence, canvas of the incident location for witnesses, prosecutorial opinion, Garrity Interviews and a conclusion that summarized the investigative findings. All investigations were based on evidence of misconduct regardless of charges filed against the complaining individual. The investigators evaluated all officer and witness statements objectively. The integrity of the investigations was maintained through a complete, fair and analytical examination of the preponderance of evidence to either refute or substantiate the allegation.

The review concluded that 10 IAD and 78 OCI investigations were not completed within the prescribed 90-day timeframe. The common reason asserted by the IAD and OCI investigators for delay in the investigation was the availability of witnesses, complainants and officers for interviews. There were two IAD cases where the Prosecutor's opinion caused a significant delay beyond the deadline. As noted by the previous monitor, the IAD investigators extended deadline requests were often reviewed at the time of the submission of the final report, therefore granted after the fact and/or not reasonably supported by investigative necessity. OCI extension requests were frequently documented and approved by supervisory personnel. However, the requests were not based on investigative necessity. (See paragraph 33 for specific issues regarding investigative delinquencies and extension of reporting deadlines).

[33] The Monitor received a total of 244 OCI and 31 IAD cases. Fifty-four OCI case files contained only the compliant form and/or a copy of the receipt notification letter to the complainant. Twelve OCI case files were duplicates.

In summary, although appropriate policies are in place, the analysis of implementation through examination of command review investigations and those of IAD and OCI cases supports a Phase 2 finding of not in compliance.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U33

The DPD shall revise its policies regarding the review of all investigations to require:

a. *investigations to be reviewed by the chain of command above the investigator;*

b. *the reviewing supervisors to identify any deficiencies in those investigations and require the investigator to correct any deficiencies within seven days of the submission of the report and evaluation to the reviewing supervisor;*

c. *the reviewing supervisors to recommend and the final reviewing authority to refer any incident with training, policy or procedural implications to the appropriate DPD unit;*

d. *appropriate non-disciplinary corrective action and/or disciplinary action when an investigator fails to conduct or reviewing supervisor fails to evaluate an investigation appropriately; and*

e. *a written explanation by any supervisor, including the Chief of Police, who disagrees with a finding or departs from a recommended non-disciplinary corrective action or disciplinary action, including the basis for the departure.*

Comments: The previous monitor reported that DPD was in compliance with the policy requirements of this paragraph, but not with the implementation requirements. The assessment was based on supervisors' failure to identify errors in the investigations or, when errors were found, not demonstrating that corrections were made within seven days as required. Reports also lacked documentation demonstrating that corrective action was taken when appropriate.[34]

Our review of the policies referenced in U-27 determined them to comply with the requirements of this paragraph. Like the previous monitor, we find that DPD does not conduct command level reviews at required levels.

For the 63 UF002a Command Level Investigation reports reviewed there were only 30 instances of reviews that made it further up the chain of command. Five other reports had names typed into the command level blocks, but had no signatures. In the review we found that the reviewing supervisors are not identifying the problems the investigating supervisors are experiencing with adequate documentation of their investigations, nor did we see reports returned to investigating supervisors for corrections. Two reports had corrective notes in the margin which looked to have been placed there by a reviewing supervisor. For these reports an effort was made to correct a

[34] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 209, Issued July 16, 2009. (Report #23)

report and/or obtain more detailed explanations on statements contained in the report. Given that the notes were in the margin these were not corrected reports, but certainly reflected an interest on the part of a command level reviewer to conduct a thorough review. Aside from those two reports, there is no indication that any reports were returned for correction. There was no mention of the seven day time line in any of the reports.

There were no instances of a referral of any reports regarding any issues which may have been identified, with training, policy or procedural implications. There were also no instances of non-disciplinary corrective action and/or disciplinary action recommended when an investigator failed to conduct the investigation appropriately or when the reviewing supervisor failed to evaluate an investigation appropriately. Finally, none of the reports contained written explanations by any supervisor who disagreed with a finding or departed from a recommended non-disciplinary corrective action or disciplinary action, including the basis for the departure.

We also reviewed 12 FIS investigations and found a chain of command review of each, including appropriate recommendations and referrals related to training. The investigations also included references to supervisors' requests for additional information or investigative work. However, these references were generally found within the investigators notes or reports wherein the investigator indicates he or she is responding to the supervisor's request. Our discussions with FIS staff sufficiently satisfied us that there is a detailed supervisory review of each investigation, however the request for corrective, follow-up or further investigative work is provided orally and only reduced to writing when the investigator is not responsive. We are also satisfied there were no cases requiring disciplinary action during this reporting period.

We also reviewed 31 IAD investigations for the period June 1 through September 30, 2009. The review indicated that IAD supervisors did not comply with these requirements. For example, IAD requires that each investigator maintain a Case Supervision Sheet (refer to DPD Directive 201.2 - 8 and IAD SOP 2-3), which chronicles by date each investigative action taken to further the case. The investigator should utilize this log to document their investigative activity. An examination of the Case Supervision Sheets disclosed that IAD supervisors infrequently used the log for its intended purpose of documenting case supervision and managing the investigative efforts of subordinate personnel. Additionally, this review revealed that the Commander, IAD and final reviewing authority did not find that any of the cases examined should be referred for training, policy or procedural issues.

In addition, the monitoring team did not find any documentation that the Commander conducted a review to determine if supervisors appropriately evaluated an investigation or that an investigator was disciplined for failing to conduct an appropriate investigation. There is no evidence that the IAD Commander monitored the job performance of supervisory officials and investigative personnel according to departmental guidelines. There were no instances where supervisors disagreed with findings of a case and recommended a departure from established non-disciplinary corrective action or disciplinary action. It was also noted that supervisors did not adequately document corrective action during the review of investigative reports.

The monitoring team reviewed 232 OCI investigations for compliance with this requirement of the Consent Judgment. Fifty-four of these case files contained insufficient investigative documentation for a detailed review. The analysis showed that the supervisors do not record case management efforts or the progress of an investigation. The monitoring team requested but did not receive additional documentation addressing this.

OCI Policy Section 9.9 dictates that supervisors shall review completed cases for any deficiencies and require the investigator to the correct any deficiencies noted within 7 days of evaluating the report. The monitoring team did not find any evidence that the supervisors were complying with the policy. The supervisors are not routinely documenting investigations returned for correction or identifying and recording recommendations to the final reviewing authority regarding appropriate non-disciplinary corrective action or disciplinary action when an investigator fails to conduct an appropriate investigation. OCI supervisors do not use any type of reporting process to document the performance of subordinate personnel. The Chief Investigator and final reviewing authority does not document when or if supervisors failed to properly evaluate an investigation or monitor the performance of assigned supervisors or investigators (see also U67 and U68 regarding OCI).

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

B. USE OF FORCE AND PRISONER INJURY INVESTIGATIONS

CJ Requirement U34

The DPD shall revise its reporting policies to require officers to document on a single auditable form any prisoner injury, use of force, allegation of use of force, and instance in which an officer draws a firearm and acquires a target.

Comments: The previous monitor reported the DPD was in compliance with the policy requirements of this paragraph, but not with all implementation requirements. This assessment was based on HCI and PI Audits submitted by the DPD on January 31, 2009 and February 28, 2009, respectively, wherein they found the lack of inclusion of auditable forms in command, IAD, and FIS investigations.[35]

We reviewed DPD Directive 304.2, Use of Force, effective June 27, 2005, and find the DPD compliant with this CJ paragraph.

The DPD also provided 175 Auditable Forms (UF002) for review, which primarily documented non-priority uses of force, i.e. incidents other than a firearm discharge, visible injury, or a complaint of injury. One firearm discharge at an individual was included and we noted it was appropriately referred to FIS. In addition, there were two firearm discharges at animals that resulted in injuries from ricochets to bystanders. Neither report indicated a referral to a specialized unit for investigation. We also found a general lack of thoroughness and completeness. Only 60 of the 175 reports contained all of the required information and signatures. The remaining contained various problems associated with the forms, mostly a failure to complete the bottom portion of the form, which requires the officer to indicate the time and date the form was completed, whether a supervisor was on the scene, and requires a

[35] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 209, Issued July 16, 2009. (Report #23)

supervisory review of the form.[36] Fifty-four reports contained several deficiencies including the lack of information regarding decontamination following the use of chemical spray; the lack of proper notifications; failure to indicate the intermediate weapon used; no data on the medical treatment provided; and a lack of information regarding the subjects actions leading up to the use of force and the type and level of force used by the officer(s). We suggest the need for a more comprehensive review of these reports by the supervisors in order to mitigate these deficiencies.

Our review of twelve FIS investigations found only three cases contained the required auditable forms (UF002).

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U35

The DPD shall revise its policies regarding use of force and prisoner injury notifications to require:

a. *officers to notify their supervisors following any use of force or prisoner injury;*

b. *that upon such notice, a supervisor shall respond to the scene of all uses of force that involve a firearm discharge, a visible injury or a complaint of injury. A supervisor shall respond to all other uses of force on a priority basis. Upon arrival at the scene, the supervisor shall interview the subject(s), examine the subject(s) for injury, and ensure that the subject(s) receive needed medical attention;*

c. *the supervisor responding to the scene to notify IAD of all serious uses of force, uses of force that result in visible injury, uses of force that a reasonable officer should have known were likely to result in injury, uses of force where there is prisoner injury[37]; and*

d. *IAD to respond to the scene of, and investigate, all incidents where a prisoner dies, suffers serious bodily injury or requires hospital admission, or involves a serious use of force, and to permit IAD to delegate all other use of force or prisoner injury investigations to the supervisor for a command investigation*

Comments: The previous monitor reported the DPD was in compliance with the policy requirements of this paragraph, but not with all implementation requirements. This assessment was based on HCI and PI Audits submitted by the DPD on January 31, 2009 and February 28, 2009, respectively, wherein they found non-reporting of uses of force by involved or witness officers, a failure of supervisors to respond to the scenes of events as required, and a failure to notify FIS as required.[38]

We reviewed DPD Directive 304.2, Use of Force, effective June 27, 2005, and find the DPD compliant with this CJ paragraph.

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36 There were 61 of these UF 002 forms which had no supervisory review.

37 Consent Judgment amendment, September 15, 2008.

38 Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 209, Issued July 16, 2009. (Report #23)

We reviewed 175 Auditable Forms (UF002) reports. Supervisor notifications are indicated in 164 (93.7%) of the reports. The reports show that, in incidents involving the discharge of a firearm, or a physical injury, a supervisor responded to the scene in all but one case.[39]

To consider interviews of the subjects, examinations of the subjects, and insuring proper medical attention for the subjects, we relied on the 63[40] UF002a's, Command level Investigations. Forty-one of the reports indicate the subject was interviewed at the scene; five others indicate the subject was interviewed in the cell block or at the station. In the instances where the supervisor interviewed the subject, whether at the scene or at the station, supervisors ensured that subjects needing or requesting medical attention were provided that service. There was one exception and that was a case where a lieutenant advised a sergeant to send a subject to the hospital and to arrange for an evidence technician to photograph the injuries. The sergeant did neither and when interviewed eleven days later advised she had no recollection of the case. This was not further investigated nor did the review, through the command level, recommend any disciplinary action for the sergeant.

The UF002a, the form which documents the supervisor's investigation of the incident, has a block at the top of one of the pages to document notifications to specialized units. In the reports provided for review, that block is illegible. When questioned regarding the problem, we were advised that the printer utilized for duplicating the reports is defective and that the problem has been brought to the attention of the staff at MAS. There was only one report in which the narrative commented on the notification to Force Investigations; there were no narrative references to notifications of IA.

With the exception of the one shooting case previously mentioned, there were no cases reviewed which indicated that IA had been contacted or in which one could discern that IA had assumed responsibility for the investigation. Sixty-two of the sixty-three investigations presented for review were investigated at the command level. We also reviewed 12 cases referred to FIS and closed during this reporting period. The notification, supervisor's response, interviews of subjects, examinations for injury and medical care were appropriately documented in each case.

The review of cases relevant to this requirement shows that, taken together the bulk of these reports did not meet the required standards.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U36

The DPD shall revise its use of force and prisoner injury investigation policies to require:

[39] There was no response to a case in which a subject was sprayed with the chemical spray, but also had facial injuries.

[40] 52 of the UF002a's which should have been available for review are unaccounted for.

a. *command use of force preliminary investigations to be completed within 10 days of the incident. These investigations shall include a synopsis of the incident, photographs of any injuries, witness statements, a canvas of the area, a profile of the officer's prior uses of force and allegations of misconduct, and a first-line supervisory evaluation. The final command use of force investigation shall be completed within 30 days of the incident;*

b. *IAD investigations to be completed within 60 days of the incident; and*

c. *copies of all reports and command investigations to be sent to IAD within 7 days of completion of the investigation.*

Comments: The previous monitor reported the DPD was in compliance with the policy requirements of this paragraph, but not with all implementation requirements. This assessment was based on HCI and PI Audits submitted by the DPD on January 31, 2009 and February 28, 2009, respectively, wherein they found the reports failed to document canvasses of the scene, generally did not include photographs of detainees' injuries, and did not contain profiles of officers' UOF history.[41]

We reviewed DPD Directive 304.2, effective June 27, 2005 and found it compliant with this CJ paragraph.

We also reviewed the 63 completed UF002a's, Command level Investigations and found eight (13%) preliminary investigations clearly completed within ten days of the event. Two cases reflected extensions requested and subsequently granted. In many of the other cases the monitor was unable to make a determination of when they were done as the reports were either incomplete or dates were simply left off of the appropriate blocks. Thirty-eight (60%) of the 63 cases contain a synopsis of the incident. In one instance, the command level critique notes in the margin of the report assist the supervisory investigator in composing an improved synopsis. There were three cases in which evidence photos were available in the file, with two more cases where one could see some level of facial injury in the booking photos. There were several other investigations which reflected that evidence technician injury photos had been taken, but they were not available in the files. Witness statements, to include those of witness officers, were taken in 35 (55%) of the 63 cases. There was one notable exception and that was in the case of the ricochet wounding of two individuals during the shooting of a vicious dog. In that case neither of the two injured individuals was interviewed. In 18 of the 35 cases, there was no canvas conducted, with varying explanations of why the canvas was not conducted. Seven of the cases included the profile of the officer's prior uses of force and allegations of misconduct. Three other cases listed the profile as an attachment to the file; however they were not in the package. Five of the 63 cases (8%) were submitted within the 30-day time frame.

We also reviewed 12 FIS investigations completed during this reporting period. Each of the investigations reviewed included a synopsis of the events and witness statements. The ten critical firearm discharge investigations included information regarding the officers' critical firearm discharge history, but included no profile of officers' prior other uses of forces or allegations of misconduct as required. The remaining two cases involving an allegation of

[41] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 209, Issued July 16, 2009. (Report #23)

excessive force and a pursuit resulting in injury contained no documentation whatsoever of the involved officers' profile as required. In addition, the majority of the investigations contained no photographs of the subject's injuries. And while investigators conducted the required canvas of the area to locate witnesses, they were not always timely or complete. We did not find, however, that these discrepancies mitigated the investigative findings that, in each case, were otherwise supported.

We also reviewed the IAD log of reports and completed command investigations received by that office within seven days as required. IAD received a total of 75 cases, 38 of which included no date of case closure or were turned back to command for signature or further investigation, therefore the DPD is not compliant with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

C. REVIEW OF CRITICAL FIREARM DISCHARGES AND IN-CUSTODY DEATHS

CJ Requirement U37

The DPD has created a Shooting Team, composed of officers from the Homicide Section and IAD. The Shooting Team shall respond to the scene and investigate all critical firearms discharges and in-custody deaths.

Comments: The previous monitor reported the DPD was in compliance with the policy and implementation requirements of this paragraph.[42]

We reviewed the Joint Incident Shooting Team (JIST), Standard Operating Procedures (SOP); the Force Investigation Section (FIS) Standard Operating Procedure and Training Directive 04-07, all of which were provided by the DPD OCR to demonstrate compliance with the requirements of this and subsequent paragraphs. The first two of the above are unsigned and undated, but reportedly approved by the previous monitor. While we have not determined the validity of the unsigned and undated SOPs, Training Directive 04-07 sufficiently complies with the requirements of this paragraph. We will meet with the applicable investigative commanders during the next site visit to clarify/identify additional controlling policies.

We also reviewed ten critical firearm discharge investigations completed during the period June 1 –September 20, 2009 as follows: fatal (1), non-fatal (4) and shots fired (5). Eight Investigations required a JIST response; the remaining two occurred in neighboring jurisdictions. The respective police agencies conducted criminal investigations. DPD Force Investigations monitored those investigations and also conducted an appropriate administrative investigation. The DPD complies with policy and implementation requirements of this paragraph.

[42] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending November 30, 2008, Issued February 2, 2009. (Report #21)

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U38

The DPD shall develop a protocol for conducting investigations of critical firearm discharges that, in addition to the requirements of paragraphs 27-36, requires

a. *the investigation to account for all shots fired, all shell casings, and the locations of all officers at the time the officer discharged the firearm;*

b. *the investigator to conduct and preserve in the investigative file all appropriate ballistic or crime scene analyses, including gunshot residue or bullet trajectory tests; and*

c. *the investigation to be completed within 30 days of the incident. If a Garrity statement is necessary, then that portion of the investigation may be deferred until 30 days from the declination or conclusion of the criminal prosecution.*

Comments: The previous monitor reported DPD was in compliance with the policy requirements of this paragraph, but not with the implementation requirements of this paragraph.[43] The assessment found that case investigations were not completed within the required 30 days.

Our review of the policies referenced in U-37 determined them compliant with the requirements of this CJ paragraph.

In order to determine implementation compliance, we reviewed ten critical firearm discharge investigations, two of which occurred outside of the geographical boundaries of Detroit and were investigated by the respective police agencies. While we found the overall investigations to account for all shots fired and the locations of officers, there was an inadequate accounting for shell casings in one case, an absence of gunshot residue collection and analysis in one case, and the absence of DNA collection in another. We are advised that gunshot residue is no longer collected since residue analysis is no longer available. We are also advised that DNA analysis is limited. All of the investigations exceeded the 30-day requirement due primarily to delays in receiving prosecution declinations from the District Attorney. The majority of the investigations also exceeded the additional 30-days allowed after the taking of a Garrity statement. Based on the forgoing, we determined the DPD to be in policy, but not yet in implementation, compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

[43] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending Quarter Ending November 30, 2008, Issued February 2, 2009. (Report #21)

CJ Requirement U39

The DPD shall require a Command Level Force Review Team to evaluate all critical firearm discharges and in-custody deaths. The team shall be chaired by the Deputy Chief who directly supervises IAD. The DPD shall establish criteria for selecting the other member of the team.

Comments: The previous monitor determined the DPD to be in policy compliance but not yet in compliance with the implementation requirements of U39.[44]

DPD Special Order 09-13 issued March 2, 2009 established the Command Level Force Review Team (CLFRT) to evaluate all critical firearm discharges and in-custody deaths. The team is chaired by the Commander, IAD and with DC, Patrol Operations Bureau, Director, Office of Training and Professional Development, DC, Risk Management Bureau and the Second DC, Legal Advisor as members. The Special Order does not comport with this requirement of the Consent Judgment in that the CLFRT shall be chaired by the Deputy Chief who directly supervises IAD. However, under the current DPD organizational structure the Commander, IAD reports directly to the Chief of Police and the Commander exercises operational control over IAD. Therefore, the Special Order supersedes the CJ by establishing the Commander, IAD as the Chair of the CLFRT. The selection of the Commander, IAD, as the chair creates a potential conflict of interest and does not represent the appearance of an independent review body whose purpose is to evaluate each investigation and provide finding/recommendation to the Chief of Police. Consequently, the selection of CLFRT members should be reviewed by the Chief of Police. In addition, the Special Order 09-13 does not establish selection criteria for team members as required in the CJ.

Compliance Status

Phase 1: Not In Compliance

Phase 2: Not in Compliance

CJ Requirement U40

The DPD policy that defines the Command Level Force Review Team's role shall require the team to:

a. *complete its review of critical firearm discharges that result in injury and in-custody deaths within 90 days of the resolution of any criminal review and/or proceedings and all other critical firearm discharges within 60 days and require the Chief of Police to complete his or her review of the team's report within 14 days;*

b. *comply with the revised review of investigations policies and procedures;*

c. *interview the principal investigators; and*

[44] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending Quarter Ending November 30, 2008, Issued February 2, 2009. (Report #21)

d. prepare a report to the Chief of Police in compliance with the revised investigatory report and evaluation protocol.

Comments: The previous monitor last reported on this requirement in the report dated February 2, 2009. The DPD was determined to be in policy compliance but not yet in compliance with the implementation requirements of U40.[45]

Special Order 09-13 defines the role of the Command Level Force Review Team (CLFRT) and stipulates that team will meet monthly to conduct reviews of all critical firearm discharge and in-custody death investigations conducted by the Force Investigation Unit after any criminal reviews have been completed. The CLFRT will evaluate investigations for tactical implications, equipment utilized, training or risk management issues that need to be addressed. The CLFRT will, when appropriate, make recommendation to the Chief of Police concerning the results of their deliberations.

During the period June 1 through September 30, 2009, the CLFRT reviewed 13 critical firearm discharges, of which 3 resulted in a fatality. The review of the reports revealed that all critical discharges involving injury were review within the prescribed timeframe of 90 days. However, 3 of the critical firearm discharge reports not resulting injury were not reviewed within 60 days. There were 6 reports that made specific recommendations to the Chief of Police concerning improper actions or violations of policy by police personnel. The reports concerned sustained misconduct resulting from critical firearm discharges and violations of policy developed during the investigation of the incident. The review also disclosed that in 3 cases the CLFRT recommended that the officers attend Officer Survival or Firearms Training. In one additional case, the investigator was counseled regarding the quality and efficiency of the investigation. There was no documentation of the CLFRT interviewing principal investigators or the Chief of Police acknowledging receipt and review of the completed reports within 14 days.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U41

The Chair of the Command Level Force Review Team shall annually review critical firearm discharges and in-custody deaths in aggregate to detect patterns and/or problems and report his or her findings and recommendations, including additional investigative protocols and standards for all critical firearm discharge and in-custody death investigations, to the Chief of Police.

Comments: The previous monitor found the DPD in compliance with the policy and implementation requirements of U41.[46]

According to DPD the annual review and critique of critical firearm discharges and in-custody deaths in the aggregate for calendar year 2009 will be prepared by the Chair of the Command

[45] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending Quarter Ending November 30, 2008, Issued February 2, 2009. (Report #21)

[46] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending Quarter Ending November 30, 2008, Issued February 2, 2009. (Report #21)

Level Force Review Team in January 2010.[47] Accordingly, since the previous monitor reported that DPD was in compliance, it is continued in compliance.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues

A review of the 175 UF002 forms determined that 60 of them (34%) contained the required information. The remaining 115 had a variety of problems associated with their completeness. Given that this is the form which is the basis for the Command Level Investigations and/or the notification of other specialized units, its completeness is quite important. It is evident from reading the forms that supervisors are not taking their "reviewer" responsibilities serious enough as many of the forms could have been corrected almost immediately following a comprehensive review by a supervisor.

The investigations themselves are deficient in that the supervisors do not actually evaluate the uses of force; frequently supervisors simply quote a section from the directive(s) and report that the officers were compliant. As DPD notes in their recommendation #4 of the HCCC Audit report: "When conducting investigations and examining the tactics used, supervisors should document in the investigative report their evaluation of the following components relative to the tactics:

- The officer's force tactics used to control the situation and the subject.
- Whether officers provided a subject an opportunity to submit before force was used.
- Whether officers used force only when a verbal command and other techniques were ineffective or presented a danger of harm to the officers or others.
- Whether exigent circumstances existed in the incident.

Another area of concern involves the command level reviews of the supervisor's investigation. With one or two exceptions, the reviews of the investigations showed little or no effort to critically review the investigations. There was not one rejection of a report, nor was there one referral to the training unit for a training review of the tactics used, etc. As previously mentioned, we believe that DPD is ready for an intensive training program to reinforce the importance of supervisors and command level reviewers taking their responsibilities seriously.

In addition to the use of force reports provided to the monitoring team, we also requested CRISNET reports in which individuals were arrested on charges reflecting incidents which could have been confrontational in nature, e.g., resisting arrest, obstructing an officer in the performance of his/her duties, disorderly conduct, assault on a police officer, etc. 108 reports were provided for review, including 6 duplicate reports. Of the remaining 102 reports reviewed, 25 reports were found to have some level of force used with no use of force number associated

[47] On January 28, 2009, the Court amended this paragraph to require the DPD provide the Monitor with a copy of the annual review and critique of critical firearm discharges within five months after the end of the year reported on.

with the CRISNET number assigned to the case. Operational supervisors should review the CRISNET reports to ensure that the appropriate use of force report(s) are completed required.

General Investigations of Police Action Recommendation #1 in the Holding Cell Compliance Committee (HCCC) Audit provided to the monitors by DPD states, "The DPD should develop one automated system for tracking all investigations. This system should at least, identify:

- the type of investigation;
- the unit conducting the investigation;
- the corresponding incident information; and
- extension requests and approval.

We agree completely with that recommendation. Of the 115 possible Command Level Investigations which should have been made available for review during our last site visit, only 63 investigations were accounted for; the remaining 52 Command Level investigations were unaccounted for. It is possible, as has been suggested, that the problem lies with the MAS, but at this time that is only one of the possibilities. It is also possible that the forms were not prepared. The DPD must closely scrutinize the degree to which supervisors are held accountable for their failure to appropriately review the conduct and documentation of their subordinate personnel.

Many of the 63 investigations reviewed were incomplete, with all witnesses not interviewed, subjects infrequently interviewed, officers statements cut and pasted from the CRISNET reports, inconsistencies left unaddressed, and time lines infrequently met, with no extensions requested. We believe that an intensive training program has to be created for supervisors to ensure that they are taking their responsibilities seriously and that they are devoting the attention to critical areas in the report that those areas merit.

Next Steps

During the next site visit we will follow-up on recommendation #1 in the HCCC Audit and receive a briefing on any progress made towards the development of one automated system which can track all investigations. We will request a timetable of when a system like that recommended by the Department's own audit could come online. We agree with the Audit team that currently it is almost impossible to determine if all UF002s and UF 002a's are accounted for. As recommended, the automated system should be capable of identifying types of investigations, unit(s) conducting the investigation, any corresponding incident information, and details of any extension request, the approval, and the new suspense date for completion. We will review documentation relating to plans to provide training once again to supervisors as required in the Consent Judgment.

A review of DPD's recommended actions to address the shortcomings in this area of the Consent Judgment will be scheduled. It appears that in addition to training, the department should consider the creation of detailed check lists which the supervisors can utilize and then attach to reports when they are finished. A review of DPD's recommended actions to address the shortcomings in this area of the Consent Judgment will be scheduled.

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
27	Revise investigative policies	In Compliance	Not in Compliance
28	Investigation by uninvolved supervisor	In Compliance	Not in Compliance
29	Procedures for investigative interviews	In Compliance	Not in Compliance
30	Leading questions prohibited, etc	In Compliance	Not in Compliance
31	Garrity protocol required	In Compliance	In Compliance
32	Revise investigatory report policies	In Compliance	Not in Compliance
33	Chain of command reviews	In Compliance	Not in Compliance
34	Auditable form required	In Compliance	Not in Compliance
35	Notification of supervisors etc	In Compliance	Not in Compliance
36	Completion of command investigations	In Compliance	Not in Compliance
37	Joint Incident Shooting Team	In Compliance	In Compliance
38	Protocol for critical discharge investigations	In Compliance	Not in Compliance
39	Command level force review team	Not in Compliance	Not in Compliance
40	Review critical firearm discharges	In Compliance	Not in Compliance
41	Command level force review requirements	In Compliance	In Compliance

V. ARREST AND DETENTION POLICIES AND PRACTICES

Compliance with Arrest and Detention Policies and Practices requirements is examined here. The arrest policies prohibit an officer from making an arrest without probable cause and the existing policy requires supervisory review within 12 hours of the arrest. It further requires that for an arrest unsupported by probable cause or a warrant not sought, an auditable form must document the circumstances within 12 hours of the event.

The DPD revised its investigatory stop and frisk policies to define investigatory stop and reasonable suspicion. The policy authorizes a frisk only when the officer has reasonable suspicion to fear for his or her safety and that the scope of the frisk must be narrowly tailored to those specific reasons. Written documentation of all investigatory stops and frisks are required by the end of the officer's shift and those unsupported by reasonable suspicion shall be reviewed.

DPD also revised its witness identification policies to comply with the revised arrest and investigatory policies. Seizure of an individual without reasonable suspicion or the individuals consent is prohibited. The policy prohibits the conveyance of any individual without reasonable suspicion. The DPD is required to document all interviews, interrogations and conveyances on an auditable form those in violation of policy within 12 hours of the event. A material witness can only be taken into custody by obtaining a court order prior to such taking.

The DPD revised its arrest and detention documentation to require, for all arrests, a record to contain accurate and auditable documentation on the detainee. The information required includes personal information, crimes charged, date and time of arrest and release, arraignment information including the date of the arraignment, outstanding warrants or holds, name and badge of the officer who submitted the warrant and the individual's custodial status.

Command notification is required in all instances where there exists reported violations of DPD arrest, investigatory stop and frisk, witness identification and questioning policies and all reports in which an arraignment warrant is not sought.

A. ARREST POLICIES

CJ Requirement U42

The DPD shall revise its arrest policies to define arrest and probable cause as those terms are defined in this Agreement and prohibit the arrest of an individual with less than probable cause.

The previous monitor classified this as a "policy only" paragraph and accordingly found the DPD in compliance.[48]

We reviewed DPD Policy 202.1, Arrests, effective July 1, 2008 and found it compliant with the elements of this paragraph and U43. Phase 2 compliance is linked with and dependent upon the implementation of U43.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U43

The DPD shall review all arrests for probable cause at the time the arrestee is presented at the precinct or specialized unit. This review shall be memorialized in writing within 12 hours of the arrest. For any arrest unsupported by probable cause or in which an arraignment warrant was not sought, the DPD shall document the circumstances of the arrest and/or the reasons the arraignment warrant was not sought on an auditable form within 12 hours of the event.

Comments: The previous monitor determined that the DPD was in compliance with U43. It was noted that in their assessment of November 30, 2008 the DPD was not in compliance.[49]

For the review of U43 a random sample of 125 case reports were examined to determine compliance. The documents reviewed were CRISNET reports, Detainee Input Sheets, DPD warrant verification logs, officers' Daily Activity Logs, Arraignment Verification Logs, Detainee File Folders, and Detained Persons Details Page. The review indicated that in five instances the probable cause review exceeded the requirement of "within 12 hours." In other words, 96% of cases met the time requirement. In several of the Probable Cause verifications that exceeded the 12 hours, some of them were days late and in one case it was four months late. DPD personnel advised that occasionally the reports get lost in processing but reappear eventually. In some of these cases, the Detainee Input Sheet did verify the PC occurred within the required 12 hours. In all cases sufficient probable cause existed to effect each of the arrest reviewed.

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[48] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending Quarter Ending May 31, 2009, Issued July 16, 2009. (Report #23)

[49] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 209, Issued July 16, 2009. (Report #23)

In cases of warrants not being sought it is required that auditable form U004 is completed. All of the forms indicated that they were properly reported within 12 hours of the event. However, in some of the auditable forms (U004), the form did not contain the reasons for the warrant not being sought. In several cases the reviewer had to revert to the Detained Persons Detail Page to retrieve this information. On three of the forms the Commander failed to either sign the form or they did not receive the form timely.

On form U004, the person submitting the form (usually it is the OIC) failed to place the date and time on the form by their signature and, in the box provided, a description of why the warrant was not sought. This will verify the reason the arraignment warrant was not sought and that the form was generated within 12 hours of the event.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

B. INVESTIGATORY STOP POLICIES

CJ Requirement U44

The DPD shall revise its investigatory stop and frisk policies to define investigatory stop and reasonable suspicion as those terms are defined in this Agreement. The policy shall specify that a frisk is authorized only when the officer has reasonable suspicion to fear for his or her safety and that the scope of the frisk must be narrowly tailored to those specific reasons.

Comments: This section comprises paragraphs U44-U45. The previous monitor classified this as a "policy only" paragraph and accordingly found the DPD in compliance.

We reviewed DPD Policy 202.1, Arrests, effective July 1, 2008 and found it compliant with this CJ paragraph. Phase 2 compliance is dependent upon the implementation of U45.

Compliance Status

Phase 1: In Compliance

Phase 2: Not In Compliance

CJ Requirement U45

The DPD shall require written documentation of all investigatory stops and frisks by the end of the shift in which the police action occurred. The DPD shall review all investigatory stops and frisks and document on an auditable form those unsupported by reasonable suspicion within 24 hours of receiving the officer's report.

Comments: The previous monitor found the DPD was not in compliance with the implementation requirements of this CJ paragraph.[50]

For this portion of the assessment a copy of the Officers Daily Activity Log was requested with the 125 case reports that were reviewed in CJ 43. There were a few case reports that did not contain the Activity Logs. There were a total of 42 *Frisks* listed on the Activity Logs with a limited number of them articulating reasonable suspicion on the log or not listing the frisk in the narrative. In one instance a frisk was conducted on a female who was arrested for Driving Under the Influence when the officer appeared to already have reason to affect an arrest. Fourteen of the Frisks contained enough information to articulate reasonable suspicion. All frisks were documented by the end of the officer's shift. There were no *Investigatory Stop and Frisk Exception Forms (*auditable form uf003) included in the case report packets. Although there is evidence of some progress with articulating reasonable suspicion, the DPD remains in non-compliance.

We reviewed the DPD's internal audit for the annual period ending August 31, 2009 and their findings are in agreement with our conclusions. The audit team has recommended a number of steps to ensure compliance with the Stop and Frisk policies that include retraining of officers and timely review of all stop and frisk situations by supervisors and command personnel.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

C. WITNESS IDENTIFICATION AND QUESTIONING POLICIES

CJ Requirement U46

The DPD shall revise its witness identification and questioning policies to comply with the revised arrest and investigatory stop policies. The DPD shall prohibit the seizure of an individual without reasonable suspicion, probable cause or consent of the individual and require that the scope and duration of any seizure be narrowly tailored to the reasons supporting the police action. The DPD shall prohibit the conveyance of any individual to another location without reasonable suspicion, probable cause or consent of the individual.

Comments: This section comprises paragraphs U46-48. The previous Monitor determined that paragraphs U46 and U47 are policy only paragraphs and found DPD compliant with those requirements.[51]

Paragraphs U46 and U47 require the revision of policies for implementation as prescribed in U48. We reviewed DPD policy 203.9, effective July 1, 2008, as the source document and found

[50] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 209, Issued July 16, 2009. (Report #23)

[51] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 209, Issued July 16, 2009. (#23)

it meets U46-48 Phase 1 compliance requirements. Phase 2 compliance for this CJ paragraph is dependent on the implementation of U48.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U47

The DPD shall develop the revised witness identification and questioning policies within three months of the effective date of this Agreement. The revised policies shall be submitted for review and approval of the DOJ. The DPD shall implement the revised witness identification and questioning policies within three months of the review and approval of the DOJ.

Comments: This section comprises paragraphs U46-48. The previous Monitor determined that paragraphs U46 and U47 are policy only paragraphs and found DPD compliant with those requirements.

We reviewed DPD policy 203.9, effective July 1, 2008, as the source document and found it meets U46-48 Phase 1 compliance requirements. Phase 2 compliance for this CJ paragraph is dependent on the implementation of U48.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U48

The DPD shall document the content and circumstances of all interviews, interrogations and conveyances during the shift in which the police action occurred. The DPD shall review in writing all interviews, interrogations and conveyances and document on an auditable form those in violation of DPD policy within 12 hours of the interview, interrogation or conveyance.

Comments: The previous Monitoring team determined that paragraphs U46 and U47 are policy only paragraphs and found DPD compliant with those requirements. The team also found the DPD Phase 1 compliant with this CJ paragraph, but determined it was not in compliance with implementation requirements due to issues with accuracy of the information documented on officer's daily activity logs and the completeness of underlying documentation for documented interviews, interrogations and conveyances.[52]

On November 20, 2009, we requested the DPD provide specific documents demonstrating compliance with the requirements of paragraphs U46-48. Those documents have not been received; therefore we were unable to assess compliance with the requirements of the CJ paragraph. We have requested similar documentation applicable to the 4th quarter, which we will

[52] Report of the Independent Monitor for the Detroit Police Department, Report for the Quarter Ending May 31, 2009, issued July 16, 2009 (Report #23).

assess and report on in the next quarterly report. DPD's *Witness Identification and Questioning Audit Report* for the Annual Period Ending August 31, 2009 came to similar conclusions as the previous Monitor. However, it was noted that improvements to documentation were supported by the revision of the Witness Statement Form (DPD 103) and the Witness Consent Form (DPD 668).

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

D. PROMPT JUDICIAL REVIEW POLICIES

CJ Requirement U49

The DPD shall revise its policies to require prompt judicial review, as defined in this Agreement, for every person arrested by the DPD. The DPD shall develop a timely and systematic process for all arrestees to be presented for prompt judicial review or to be released.

Comments: The previous Monitor determined U49 included policy only requirements and found the DPD compliant.[53] The monitor also memorialized the opinion that prompt judicial review required by paragraph U49 applies to only warrantless arrests, but does not appear to have substantially changed U49.[54]

We reviewed DPD Policy 202.1, Arrests, effective July 1, 2008, and found it compliant with this CJ paragraph. Phase 2 compliance for this CJ paragraph is dependent on the implementation of U50.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U50

The DPD shall require that, for each arrestee, a warrant request for arraignment on the charges underlying the arrest is submitted to the prosecutor's office within 48 hours of the arrest.

Comments: The previous Monitor found the DPD in full compliance with this CJ paragraph.[55]

We reviewed DPD Policy 202.1, Arrests, effective July 1, 2008, and found it compliant with policy requirements.

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[53] Kroll Memo, Status of Current Assessments of (Detroit Police Department) Compliance at August 31, 2009, dated September 8, 2009.

[54] Report of the Independent Monitor for the Detroit Police Department for the Quarter Ending February 29, 2008, Issued April 15, 2008. (18th)

[55] Kroll Memo, Status of Current Assessments of (Detroit Police Department) Compliance at August 31, 2009, dated September 8, 2009.

Due to the large number of case reports that involved traffic, probation violations and warrant arrests that are handled by other means, the Monitor was able to review 61 case reports that eventually were submitted to the prosecutor's office for arraignment. The documentation supporting this review included CRISNET Reports, Warrant Verification Logs, Arraignment Sheets, Detainee Input Sheets, Warrant Tracking Hold Forms and Officer Daily Activity Logs. Of these 61, there were three that did not meet 48 hours requirement (95% in compliance). In 4 other cases, the arraignment was not completed within the 48 hour time frame however the warrant was submitted to the prosecutor prior to the 48 hour requirement. The source document for U50 is DPD Policy 202.1

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U51

The DPD shall document on an auditable form all instances in which the request for an arraignment warrant is submitted more than 48 hours after the arrest. The DPD shall also document on an auditable form all instances in which it is not in compliance with the prompt judicial review policy and in which extraordinary circumstances delayed the arraignment. The documentation shall occur by the end of the shift in which there was: 1) a failure to request an arraignment within 48 hours, 2) a failure to comply with the prompt judicial review policy, or 3) an arraignment delayed by extraordinary circumstances.

Comments: The previous monitor found DPD in compliance with this CJ paragraph.[56] The assessment of compliance for this CJ paragraph is based on a review of the same documents referenced in U50. We reviewed a total of 61 arrest case reports for documentation of compliance with the 48-hour arraignment request requirement. In two of the three cases where a failure to request an arraignment was not requested within 48 hours, there was not an auditable form completed. In the remaining case (homicide), the officer detailed the reasons, on an auditable form, the reason the arraignment was delayed even though she met the time lines of submitting the warrant. The compliance rate for DPD is 95%.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

[56] Kroll Memo, Status of Current Assessments of (Detroit Police Department) Compliance at August 31, 2009, dated September 8, 2009.

E. HOLD POLICIES

CJ Requirement U52

The DPD shall revise its hold policies to define a hold as that term is defined in this Agreement and require that all holds be documented. This policy shall establish a timely and systematic process for persons in DPD custody who have holds issued by a City of Detroit court to have those holds cleared by presenting the arrestee to the court from which the warrant was issued or the setting and posting of bond where applicable. The fact that an arrestee has not been arraigned or charged on the current arrest shall not delay this process.

Comments: The prior monitor found the DPD in compliance with this policy only CJ paragraph.[57]

We reviewed DPD policy 305.2, Detainee Registration, effective September 12, 2005 and found in compliant with this requirement. Phase 2 compliance is dependent on the implementation of U53.

Compliance Status

Phase 1: In Compliance

Phase 2: Pending Compliance

CJ Requirement U53

The DPD shall document all holds, including the time each hold was identified and the time each hold was cleared. The DPD shall document on an auditable form each instance in which a hold is not cleared within 48 hours of the arrest. The documentation shall occur within 24 hours of each instance of a hold not being cleared.

Comments: The prior monitor found the DPD in Phase 1 compliance with this CJ paragraph, but determined it had not complied with implementation requirements. The monitor noted that although the dates and times of the holds were identified, they were not documented on the DIS as required.[58]

We reviewed DPD policy 305.2, Detainee Registration, effective September 12, 2005 and found it compliant with the above requirements.

In order to assess implementation compliance, we reviewed 125 Detainee Input Sheets and found a total of 47 holds/warrants listed on the form.[59] Seven of the forms did not list the date or times the holds were identified or cleared. With few exceptions, the majority of the Detainee Input Sheets did not indicate a "time cleared or date cleared" in the appropriate location (box), although the actual time of release (hold/warrant cleared) may have been indicated in Section

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[57] Report of the Independent Monitor for the Detroit Police Department, Report for the Quarter Ending May 31, 2009, issued July 16, 2009. (Report #23)

[58] Report of the Independent Monitor for the Detroit Police Department for the Quarter Ending February 28, 2009, Issued April 20, 2009. (Report #22)

[59] UOF CJ, Section I .v. sets forth "the term 'hold' means any outstanding charge(s) or warrant(s) other than those which serve as the predicate for the current arrest."

(3), Final Charging, and Disposition and Release portion of the form. In one case, the hold did not have a time or date indicating when the hold was discovered nor did it contain the time and date of clearance. The date the detainee was released appears to have exceeded the 48-hour requirement. Although the date the detainee was released may indicate the hold/warrant was cleared, seven of the forms did not list the required time frames. DPD has an 85% compliance rate with implementation of this requirement.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

F. RESTRICTION POLICIES

CJ Requirement U54

The DPD shall develop a policy regarding restricting detainee's access to telephone calls and visitors that permits individuals in DPD custody access to attorneys and reasonable access to telephone calls and visitors.

The prior monitor found the DPD in compliance with this CJ paragraph, but determined it to be a policy only paragraph.[60]

We reviewed DPD policy 305.2, Detainee Registration, effective September 12, 2005 and found it compliant with the applicable policy requirements. Phase 2 compliance is dependent upon the implementation of U55.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U55

The DPD shall require that such restrictions be documented and reviewed at the time the restriction is issued and reevaluated each day in which the restriction remains in effect. The DPD shall document on an auditable form any violation of the restriction policy by the end of the shift in which the violation occurred.

Comments: The prior monitor found the DPD in Phase 1 compliance with this CJ paragraph, but determined it had not complied with implementation requirements. The monitor noted that although the dates and times the holds were identified or cleared, they were not documented on the DIS as required.[61]

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[60] Report of the Independent Monitor for the Detroit Police Department, Report for the Quarter Ending May 31, 2009, issued July 16, 2009. (Report #23)

[61] Report of the Independent Monitor for the Detroit Police Department for the Quarter Ending February 28, 2009, Issued April 20, 2009. (Report #22)

We reviewed DPD policy 305.2, Detainee Registration, effective September 12, 2005 and found it compliant with the applicable policy requirements.

The previous Monitor reported the DPD's annual Custodial Detention Audit Report indicated that DPD was non compliant with the requirements of U55. As a result of the audit, in March of 2009 the DPD revised and combined the privilege Restriction Log (DPD 700) which initiates the placing of a restriction for a period of 24 hours, provided two Roll Call Training Forums and commenced annual in-service training which includes the requirements of this paragraph.

Evidently DPD's response to the issues brought forward in the annual Audit reference U55 were addressed in a positive manner as there were no restrictions in the 125 cases reviewed. DPD personnel advise that restricting a detainee's access to visitors, attorneys, and the use of telephone privileges rarely occurs. A telephone restriction can occur when a detainee makes threatening or harassing type calls to individuals outside the facility. There are pay phones in each holding facility for the detainee's use. There were no auditable forms or complaints presented to the Monitor that would indicate non-compliance with the restriction policies.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

G. MATERIAL WITNESS POLICIES

CJ Requirement U56

The DPD shall revise its material witness policies to define material witness as that term is defined in this Agreement and remove the term "police witness" from DPD policies and procedures.

The prior monitor found the DPD in compliance with this CJ paragraph, but determined it to be a policy only paragraph.[62]

We reviewed DPD Policy 202.1, Arrests, effective July 1, 2008, and found it compliant with the above requirements. Phase 2 compliance is dependent on the implementation of U57.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

[62] Report of the Independent Monitor for the Detroit Police Department, Report for the Quarter Ending May 31, 2009, issued July 16, 2009. (Report #23)

CJ Requirement U57

The DPD shall obtain a court order prior to taking a material witness into DPD custody. The DPD shall document on an auditable form the detention of each material witness and attach a copy of the court order authorizing the detention.

Comments: The previous monitor found the DPD compliant with both the policy and implementation requirements of this CJ paragraph.[63]

We reviewed DPD Policy 202.1, Arrests, effective July 1, 2008, and found it compliant with the above requirements and U56.

On November 20, 2009, we requested the DPD provide specific documents demonstrating compliance with the requirements of this paragraph. Those documents have not been received; therefore we were unable to assess compliance with the applicable requirements. We have requested similar documentation applicable to the 4th quarter which we will use to assess compliance in our next report. Since the Department was found to have been in compliance by the previous monitor, we have determined that the DPD is now in Pending compliance.

Compliance Status

Phase 1: In Compliance

Phase 2: Pending Compliance

H. DOCUMENTATION OF CUSTODIAL DETENTION

CJ Requirement U58

The DPD shall revise its arrest and detention documentation to require, for all arrests, a record or file to contain accurate and auditable documentation of:

a. the individuals personal information;

b. the crime(s) charged;

c. the time and date of arrest and release;

d. the time and date the arraignment was submitted;

e. the name and badge number of the officer who submitted the arraignment;

f. the time and date of arraignment; was lodged and cleared, if applicable;

g. the time each warrant was lodged and cleared, if applicable; and

h. the individual's custodial status, e.g.., new arrest, material witness or extradition.

[63] Report of the Independent Monitor for the Detroit Police Department for the Quarter Ending February 28, 2009, Issued April 20, 2009. (Report #22)

Comments: The previous Monitor found the DPD not yet in compliance with this CJ paragraph, citing a review of 24 arrests that lacked information required in subsections d through h.[64]

We reviewed DPD Policy 305.2, Detainee Registration, effective September 12, 2005 and found it compliant with the above requirements.

In order to assess implementation of these requirements, we reviewed a random sample of 62 case files that contained sufficient information from the initial arrest through the arraignment process for a valid audit. The source documents utilized for the review were the Detainee Input Sheet, the Warrant Verification Log, the Arraignment Log and the LiveScan Form. In all instances the (a) individual's personal information, (b) crime(s) charged, (c) date and time of arrest and release, (d) the time and date the arraignment was submitted, (f) the time and date of arraignment, (g) the time and date each warrant was lodged and cleared, if applicable, and (h) the individuals custodial status were listed on one of the applicable forms.

In the review of U58e, the judgment indicates that the following will be documented; "the name and badge number of the officer who submitted the arraignment warrant" revealed that in 25 of 62 cases, although the officer's name was listed, they failed to include their badge number on the warrant verification log. This omission appears to be ongoing as it occurred by the same officer(s) more than once.

We tested the 62 cases for compliance with eight individual requirements (496) and found compliance with 47 of a rate of 94.9%, not including the issue noted above.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

I. COMMAND NOTIFICATION

CJ Requirement U59

The DPD shall require the commander of the precinct and, if applicable, of the specialized unit, to review in writing all reported violations of DPD arrest, investigatory stop and frisk, witness identification and questioning policies and all reports of arrests in which an arraignment warrant was not sought. The commander's review shall be completed within 7 days of receiving the document reporting the event. The commander's review shall include an evaluation of the actions taken to correct the violation and whether any corrective or non-disciplinary action was taken.

Comments: The previous Monitor found the DPD not yet in compliance with implementation of this CJ paragraph citing the lack of the required auditable forms involving stops, frisks, interviews, interrogations and conveyances.[65]

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[64] Report of the Independent Monitor for the Detroit Police Department, Report for the Quarter Ending May 31, 2009, issued July 16, 2009. (Report #23)

[65] Report of the Independent Monitor for the Detroit Police Department, Report for the Quarter Ending May 31, 2009, issued July 16, 2009. (Report #23)

We reviewed DPD Policy 202.1, Arrests, effective July 1, 2008, and found it compliant with the requirements of this CJ paragraph.

On November 20, 2009, we requested the DPD provide specific documents demonstrating compliance with witness identification and questioning policies. Those documents have not been received; therefore we were unable to assess implementation compliance with the applicable requirements. We have requested similar documentation applicable to the 4th quarter, which we will assess and report on in the next quarterly report.

The DPD provides us with Officer's Daily Logs documenting 42 investigatory stops where frisks were conducted. In order to be lawful, the stop must be supported by reasonable suspicion and narrowly tailored in scope and duration to the reasons supporting the seizure. During a limited seizure, the officer may conduct a frisk if they have reasonable suspicion to believe that the suspect may have the means to do them harm. While in a few of the frisks there was articulated suspicion, in many, the officer did not document the basis for the frisk. While supervisors do review the Officer's Daily Logs, they are not challenging them to document the stop/frisk. The officers in most cases are only noting the stop. There were no completed DPD forms (DPD uf003, Investigatory Stop and/or Frisk Exception Form) included in the case report packets.

There were 11 cases where documentation was completed indicating an arraignment warrant was not sought. Auditable forms (DPD uf004, Warrant Tracking Form) were completed for all 11 cases. On two of the forms the commander did not review the form. One form was incorrectly routed and the commander did not receive it timely. The remaining eight forms were completed timely. Due to the large number of frisks that did not articulate reasonable suspicion, DPD is not in compliance with U59.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U60

The DPD shall require the commander of the precinct, and, if applicable, of the specialized unit, to review in writing all violations of DPD prompt judicial review, holds, restrictions and material witness policies on a daily basis. The commander's review shall include an evaluation of the actions taken to correct the violation and whether any corrective or non-disciplinary action was taken.

Comments: The previous Monitor found the DPD non-compliant with the requirements of this CJ paragraph noting the lack of documentation of holds and restrictions which require commander reviews, and in one case where a commander review was documented, it occurred three months after the occurrence.[66]

We reviewed DPD Policies 202.1, Arrests, effective July 1, 2008 and 305.4, Holding Cell Areas, effective May 9, 2005 and found them compliant with the above requirements.

[66] Report of the Independent Monitor for the Detroit Police Department for the Quarter Ending February 28, 2009, Issued April 20, 2009. (Report #22)

On November 20, 2009, we requested the DPD provide specific documents demonstrating compliance with the requirements of this CJ paragraph. Those documents have not been received; therefore we were unable to assess compliance with the requirements of the CJ paragraph. We have requested similar documentation applicable to the 4th quarter on which we will assess and report in the next quarterly report.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

Critical Issues

Incomplete information regarding arrest and detention and deficient supervisory reviews

We found officers failed to record complete information concerning arrests and detentions and that supervisory reviews were often deficient. For example, the CJ UOF requires a review for probable cause (PC) at the precinct or specialized unit within 12 hours of the arrest. In several instances, the PC review was days or months late. In these instances DPD's information system "lost" the reports. DPD must identify the cause and take measures to rectify the problem. When the arrestee is booked, the personnel in the processing area should review and verify the PC and log it on the Detainee Information Sheet where indicated. This will ensure that the PC is completed within the 12 hour requirement.

DPD policy requires written documentation of all investigatory stops and frisks. Our review indicates that the officers often fail to articulate "reasonable suspicion." During the supervisory review of the officer's daily activity logs, the supervisor is required ensure that reasonable suspicion exists for these stops prior to signing off on the log. Monitoring of stops and frisks has been an ongoing issue since the beginning of the Consent Judgments.

DPD must document all holds including the time each hold was identified and the time each hold was cleared. A review of the Detainee Input Sheets (DIS) indicates that in most instances the date and time of the holds were correctly identified and were noted on the DIS, however, the time and date the holds were cleared were rarely indicated.

DPD is required to record the name and badge number of the officer who submitted the arraignment warrant. In many instances the submitting officer failed to list their badge number on the form.

Next Steps

During the next on-site visit we will meet with DPD's Audit Team to discuss probable cause reviews, material witness issues and stop and frisk concerns. Completeness, accuracy and timeliness of all reports and auditable forms continue to be an issue that is a reoccurring theme from field units to administrative review.

Personnel who are responsible for the detainee booking process will be observed and interviewed on their process and procedures for detailing detainee information and how they can assist in the probable cause review as a backup for the PC verification normally completed on the CRISNET Report.

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
42	Define & prohibit arrest w/o probable cause	In Compliance	In Compliance
43	Review all arrests for probable cause	In Compliance	In Compliance
44	Revise investigatory stop and frisk policy	In Compliance	Not in Compliance
45	Written account of stops and frisks	In Compliance	Not in Compliance
46	Revise witness policies	In Compliance	Not in Compliance
47	Revise above in three months	In Compliance	Not in Compliance
48	Documentation of interviews	In Compliance	Not in Compliance
49	Arrests receive prompt judicial review	In Compliance	In Compliance
50	Charges to prosecutor within 48 hours	In Compliance	In Compliance
51	Document of late warrant requests	In Compliance	In Compliance
52	Define hold policies	In Compliance	Pending Compliance
53	Documentation of all holds	In Compliance	Not in Compliance
54	Policy for restricting phone access	In Compliance	In Compliance
55	Document and review such restrictions	In Compliance	In Compliance
56	Define material witness	In Compliance	Not in Compliance
57	Custody material witnesses-court order	In Compliance	Pending Compliance
58	Arrests and detention record requirements	In Compliance	In Compliance
59	Required written review of violations	In Compliance	Not in Compliance
60	Required written review of hold violations	In Compliance	Not in Compliance

VI. EXTERNAL COMPLAINTS

The Internal Affairs Division (IAD) states that their mission is to ensure the public's trust and confidence in the Detroit Police Department (DPD) by conducting thorough and impartial investigations into allegations of criminality and serious misconduct lodged against members of the department, as well as other City of Detroit employees. Consistent with this obligation, the Internal Affairs Division will accept information from any source and requires that all officers and employees document all complaints filed in writing, verbally, in person, mail, telephone, facsimile or by electronic mail.

This on-site review examined the investigative procedures utilized by IAD for consistency in the application of procedural fairness, timeliness, confidentiality and the meticulous reporting of facts and results of an investigation. It was noted that the reports were generally well written, clear, concise, factual and complete. The investigations were conducted in accordance with DPD policy and IAD Standard Operating Procedures (SOP).

The Office of the Chief Investigator (OCI) is the investigative arm of the Board of Police Commissioners (BPC). The OCI has the responsibility for investigating non-criminal external complaints. The Board has plenary authority over citizen complaints. The OCI operates independently of the Detroit Police Department and is lead by a civilian Chief Investigator who is appointed by the BPC. The OCI is staffed with a combination of civilian and sworn investigators who assist in the investigation of citizen complaints. The OCI mission is to provide meaningful and objective investigation of citizen complaints of police misconduct.

The OCI investigates non-criminal allegations of misconduct against Detroit Police Department personnel for the following: Arrest, Demeanor, Entry, Harassment, Force, Procedure, Property, and Search and Seizure. OCI employees are required to accept complaints from any source and by any method of communication to include in writing, verbally, in person, mail, telephone,

facsimile or by electronic mail. The public may also file a complaint at the BPC Office or BPC meetings.

This on-site review examined the investigative procedures utilized by the OCI for thoroughness of investigative effort, inclusion of information from all sources and the development of pertinent facts of the incident. The review of closed and completed investigations revealed that most cases were well written, clear, concise, factual and complete. All investigations were conducted in accordance with the OCI Policy established by the Board of Police Commissions.

CJ Requirement U61

The DPD and City shall revise their external complaint policy to clearly delineate the roles and responsibilities of OCI and the DPD regarding the receipt, investigation and review of external complaints. At a minimum, the plan shall specify each agency's responsibility for receiving, recording, investigating and tracking complaints; each agency's responsibility for conducting community outreach and education regarding complaints; how, when and in what fashion the agencies shall exchange information, including complaint referrals and information about sustained complaints.

Comments: The previous monitor found DPD in compliance with paragraph U61 in its Report for the Quarter Ending May 31, 2008, noting that the requirements to receive, record, investigate and track complaints were effectively implemented by the DPD and OCI. In subsequent visits, the previous monitor did not review compliance with U61 but scheduled it to be reviewed again after November. 2009.

The delineation of the jurisdictional responsibility of IAD and OCI is clearly documented in DPD Policy Directive Section 102.6 entitled, Citizen Complaints, IAD Standard Operating Procedures Section 1 and 3 and OCI Policy Section 7. The IAD is charged with the prevention, discovery, and investigation of criminal allegations and allegations of serious misconduct against department members and city employees who are assigned within the Detroit Police Department. The DPD IAD will handle all external complaints alleging possible criminal misconduct. The OCI investigates non-criminal allegations of misconduct against Detroit Police personnel in the following categories; Arrest, Demeanor, Entry. Harassment, Force as it relates to threats, Property, Search and Service.

In addition, the cited policies and standard operating procedures provide guidance when addressing the receiving, recording, tracking, referral and the investigation of each complaint. The IAD and OCI track each open, pending, closed case by the unique case identifier which is placed on all communications produced regarding a specific external complaint and provided to each citizen upon lodging a complaint. Each entity utilizes a computerized database to record data developed concerning external citizen complaints. On an annual basis, the OCI must compile a summary of its investigations. These summaries are distributed throughout the department, Board of Police Commissioners and are available for release to the public. The City of Detroit has placed external complaint informational posters in all police districts, public libraries, and public building. The city has also sponsored community meeting and has run public service announcements concerning how to file a citizen's complaints against the police. The Board of Police Commissioners through the OCI maintains a Community Outreach Coordinator. The coordinator attends meeting and makes presentations at the request of

community organizations or public forums. The Board of Police Commissioners' website provides access to an OCI fact sheet on external police complaints. The website also allows the online filing of complaints. The review by the monitoring team confirmed that IAD and OCI investigators closely followed the established policy and procedures.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U62

The DPD and the City shall develop and implement an informational campaign regarding external complaints, including:

a. *informing persons that they may file complaints regarding the performance of any DPD employee;*

b. *distributing complaint forms, fact sheets and informational posters at City Hall, OCI, all DPD precincts, libraries, on the internet and, upon request, to community groups and community centers;*

c. *broadcasting public service announcements that describe the complaint process; and*

d. *posting permanently a placard describing the complaint process, with relevant phone numbers, in the lobby of each DPD precinct.*

Comments: The previous monitor found DPD in compliance with policy and implementation requirements of U62.[67]

During this on-site visit, we inspected Police Headquarters, Northeastern, Eastern, Southwest, the Central Police Districts and the Office of the Chief Investigator for compliance with the requirements of this paragraph. All locations had permanent placards describing the complaint process displayed in a prominent location in the lobby of the district stations. All desk personnel were able to immediately produce Citizen Complaint Brochures and were aware that they should not discourage citizen from filing a complaint.

A review of the audit conducted by the Office of Civil Rights, DPD dated November 20, 2009, regarding the Inspection of Detroit Public Libraries revealed that 22 of the 23 public libraries had external complaints informational posters prominently displayed near the customer service areas of the facility. Additionally, staff at 21 of 23 libraries were able to locate and immediately distribute informational brochures and citizen complaint forms upon request. The monitoring team inspected four public libraries to verify the results of the audit. The locations contained posters displayed in locations near customer service areas and citizen complaint brochure and forms were available when requested.

Both DPD and OCI performed Community Outreach programs to specifically inform citizens of the complaint process and the procedures for filing complaints. The Board of Police

[67] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, Issued July 16, 2009. (Report #23)

Commissioners' website allows for online submission of complaints against the police. The City of Detroit broadcasts public service announcements that describe the complaint process (see U61 for additional information).

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U63

The DPD shall require all officers to carry informational brochures and contact forms in their vehicles at all times while on-duty. The DPD shall develop a contact form within 60 days of the effective date of this Agreement. The contact form shall be submitted for review and approval of the DOJ. The DPD shall implement the contact form within 60 days of the review and approval of the DOJ. The DPD shall require all officers to inform an individual of his or her right to make a complaint, if an individual objects to an officer's conduct. The DPD shall prohibit officers from discouraging any person from making a complaint or refusing to take a complaint.

Comments: The previous monitor found DPD in compliance with policy and implementation requirements of U63.[68]

DPD Policy Directive Section 102.6 - 6.2, effective July 1, 2008, requires all on-duty officers to carry informational brochures and contact forms to provide to complainants on request. The officers are issued numbered Citizen Complaint Brochures and each district or precinct maintains a log to track the forms. All officers are also required to inform each complainant of his/her right to make a complaint and prohibits officers from discouraging any individual to make a complaint or refuse to take a complaint.

A review of the audit conducted by the Office of Civil Rights, DPD dated November 20, 2009 regarding Citizen Complaint Informational Brochures and Contact Forms carried in police vehicles was conducted on a random selection of officers from Northeastern, Eastern, Southwest and Central Police Districts. The audit revealed that each officer contacted provided the documents for review and were aware of the requirements of the DPD policy concerning citizen complaints.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

[68] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, Issued July 16, 2009. (Report #23)

A. INTAKE AND TRACKING

CJ Requirement U64

The DPD and the City shall revise their policies regarding the intake and tracking of external complaints to define complaint and misconduct as those terms are defined in this Agreement and require all officers and OCI employees to accept and document all complaints filed in writing or verbally, in person or by mail, telephone (or TDD), facsimile or electronic mail.

Comments: The previous monitor found DPD in compliance with policy and implementation requirements of U64.[69]

DPD Policy Directive 102.6, effective July 1, 2008, IAD Standard Operating Procedures Section 3 and OCI Policy Section 8 describe the intake and tracking policy as defined by the Consent Judgment. The review of 31 IAD and 232 OCI investigations revealed that the complaints were filed utilizing all of the communication facilities identified in this paragraph. Most external complaints involved non-criminal police actions and were referred to the OCI for investigation.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U65

The DPD and the City shall permit the intake officer or employee to include a factual account and/or description of a complainant's demeanor and physical condition but not an opinion regarding the complainant's mental competency or veracity.

Comments: The previous monitor found DPD in compliance with policy and implementation requirements of U65.[70]

DPD Policy Directive 102.6, effective July 1, 2008, IAD Standard Operating Procedures Section 3 and OCI Policy Section 8 described the procedures for the intake of external complaints. In the review of 263 OCI and IAD external complaint investigations, the monitoring team did not find that personnel accepting a complaint reported any opinions regarding the mental capacity or veracity of the complainant.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

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[69] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 29, 2009, Issued April 20, 2009. (Report #22)

[70] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 29, 2009, Issued April 20, 2009. (Report #22)

CJ Requirement U66

The DPD and the City shall assign all complaints a unique identifier, which shall be provided to the complainant, and a description of the basis for the complaint (e.g., excessive force, discourtesy or improper search).

Comments: The previous monitor found DPD in compliance with policy and implementation requirements of U66.

The monitoring team reviewed 31 IAD and 232 OC external complaint investigations for the period June 1 through September 30, 2009. Each investigative file contained a City of Detroit Citizen Complaint Report (CCR) and a letter acknowledging the receipt of the complaint with the name of the assigned investigator and the office contact number.

The letters also provided a case specific identifier (CCR number for OCI and Case number for IAD) for the complainant to reference with contacting either IAD or OCI.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

B. EXTERNAL COMPLAINT INVESTIGATIONS

CJ Requirement U67

The DPD and the City shall revise its policies regarding external complaint investigations to:

a. *provide that all complaints shall be referred for investigation and resolution by OCI or, if the complaint alleges potentially criminal conduct by an officer, by IAD;*

b. *permit the informal resolution of complaints alleging only inadequate service or the complainant's innocence of a charge and require the investigation and formal resolution of all other complaints;*

c. *refer all complaints to the appropriate agency within five business days of their receipt;*

d. *require that the complainant shall be periodically kept informed regarding the status of the investigation;*

e. *develop written criteria for IAD and OCI investigator applicants, including the applicant's complaint and disciplinary history and investigative experience;*

f. *implement mandatory pre-service and in-service training for all IAD and OCI investigators, including intake, investigations, interviews and resolutions of external complaints;*

g. *require IAD and OCI to complete all investigations within 90 days of receiving the complaint; and*

h. *require that: (1) upon completion of the investigation by a command other than OCI, the complainant shall be notified of its outcome and, if the complaint is sustained, whether*

disciplinary or non-disciplinary corrective action has been recommended; and (2) upon completion of an investigation by OCI the complainant shall be notified of its outcome and, if the complaint is sustained, its referral to the Chief of Police for appropriate disciplinary or non-disciplinary corrective action.

Comments: The previous monitor determined the DPD to be in compliance with subparagraphs a, b, f, and h; and non-compliant with subparagraphs c, d, e, and g.[71]

DPD Policy Directive 102.6, IAD Standard Operating Procedures and OCI Investigative Policy and Board of Police Commissioners by City of Detroit Charter dictates that all external complaints shall be referred to the appropriate investigative entity holding jurisdiction in the matter. OCI has investigative jurisdiction over all complaints alleging non-criminal misconduct involving police personnel or complaints about police service. IAD is responsible for conducting thorough and impartial investigations of allegations of criminality and serious misconduct lodged against member of the department. The monitoring team reviewed 263 IAD/OCI cases which determined that both entities conducted investigations according to the delineation of jurisdiction as stated above. Both agencies were in compliance with this requirement.

IAD Standard Operating Procedures do not specifically permit or encourage the informal resolution due the nature of their investigative jurisdiction of alleged criminality and/or serious misconduct lodged against department personnel. The OCI by policy (Section 8.1) and as a direct result of this Consent Judgment permits the informal resolution of complaints alleging only inadequate service or the complainant's innocence of criminal charges. OCI does not pursue resolution if resisted by the complainant. There were no noted instances where this method of resolution was utilized.

IAD Standard Operating Procedures and OCI Policy require that all complaints be referred to the appropriate agency within five business days of their receipt. The Monitor reviewed 12 complaints involving referrals. IAD had four referrals, two of which were not referred within five business days. The OCI had eight referrals, four of which were not referred within the prescribed timeframe. Fifty-four OCI cases had no documentation regarding referrals. Both entities were not in compliance with this requirement.

The monitoring team reviewed 263 IAD/OCI investigations.[72] Except for three OCI cases, each case file contained initial letters of notification to complainant regarding the opening of the investigation, the assigned investigator and the status of the case. During those cases requiring prolonged investigative activity, the complainant received appropriate advisement. Upon the closure of an investigation, an additional letter was sent addressing the outcome of the investigation and where appropriate, the non-disciplinary corrective action or disciplinary action taken. The 54 OCI cases referred to above contained no information regarding case closure or notification of the complainant. The DPD is in compliance with this requirement; the OCI has not yet achieved compliance with this requirement.

IAD Standard Operating Procedures Section 1-5 and OCI Policy Section 5 describe the personnel selection process utilized by each agency. The IAD process includes a review of the applicant's attendance records, performance evaluation ratings, disciplinary history, a review of

[71] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 29, 2009, Issued April 20, 2009. (Report #22)

[72] The total reflects thirty-one IAD and 232 OCI cases

complaints made against the applicant, a review of use of force history and a review of any civil litigation where the applicant was named as a defendant. The IAD Commander must deem the applicant suitable for the assignment. OCI policy differs slightly for civilian personnel. It requires criminal background checks, reference checks, drug screening, and review of complaint and disciplinary history of former and current city employees. Civilian employees must be approved by the Board of Police Commissioners. Sworn members of the Detroit Police Department assigned to OCI must meet standards similar to the IAD selection process. Both agencies are in compliance with this requirement.

IAD Standard Operating Procedures Section 7.3 - 7.4 and OCI Policy Section 5.2 specifically state training objectives for both agencies. IAD pre-service training provides newly selected personnel with a basic understanding of the uniqueness of Internal Affairs. The training involves seven areas of concern; police ethics, review of Standard Operating Procedures, review and discussion of sections of Detroit Police Directives pertinent to Internal Affairs, assignment of a training officer, report writing, investigative and interview techniques and relevant law to include bargaining agreements and Garrity/Miranda interviews. In-service training is acquired through utilization of the Standard Operating Procedures and periodically reinforced by internal training sponsored by the Commander, IAD. In addition, all sworn personnel must attend the annual mandatory 40-hour block of instruction which includes bi-annual firearms qualification, PR-24 recertification, legal updates and Use of Force Policy.

OCI pre-service training for new personnel includes classroom instruction on the following subjects: City of Detroit Charter provisions, overview of the Board of Police Commissioners, overview of the Office of the Chief Investigator, overview of the Detroit Police Department, DPD policies and procedures, Relevant law, collective bargaining agreements and procedures, investigative techniques, report writing, citizen complaint report format, intake process and the resolution of external complaints. New hires also undergo an orientation that includes ride along and placement with a training officer. Additionally, OCI conducts 32 hours of annual in-service training addressing changes in the law, DPD policies and procedures, collective bargaining agreements and pertinent issues regarding external complaints. Both agencies are in compliance with this requirement.

The monitoring team reviewed thirty-one completed and closed IAD cases for the period June 1 through September 30, 2009. During the review, it was determined that ten of the cases were not completed within the prescribed 90-day timeframe (70% compliance rate). There were two cases that involved extensive delays in obtaining prosecutorial declinations. However, the remaining eight investigations involved case management issues. IAD Standard Operating Procedures Section 5-26 entitled Supervisory Review and Month Reviews states, "Investigators shall prepare a Monthly Synopsis Report for each of their current cases, including those closed during the month. This report shall be submitted to the squad supervisor, not later than the 1st of the month." In addition, the investigator must complete a Case Supervision Sheet where their daily investigative activity is documented. Further, Section 5-26 also states in part, “supervisors shall review each case with the assigned investigating member. However, this review may be more frequent depending on the specifics of the case. The reviewing supervisor and the investigating member shall both sign the Case Supervision Sheet, indicating the date of review as well as noting the progress or status of the case." The review by the monitoring team revealed that the Monthly Case Synopsis reports were not included in the file or not prepared as required. In addition, the review of the Case Supervision Sheets enclosed with each investigation noted

infrequent and incomplete notations by supervisors. Most of the remarks did not provide specific investigative instruction and direction regarding the completion of the case in a timely fashion or within the 90-day deadline. The supervisory comments were generally confined to the review of the completed investigative report. Finally, it was determined that in 11 of the 31 cases reviewed, the initial assignment of the case to investigative personnel was delayed from eight to 38 days. Both situations significantly contribute to the IAD delinquency rate. IAD is not in compliance with this requirement.

The monitoring team examined 232 OCI investigations for the period June 1 through September 30, 2009. The review concluded that 54 of the cases were not processed beyond the initial intake/investigative stage. All of these cases did not meet the 90-day deadline. The remaining 178 completed and closed cases were reviewed for compliance with the requirements of OCI policy and the Consent Judgment. It was noted that 78 of the total 232 cases reviewed were not completed within the 90-day timeframe (68% compliance rate). Many of cases examined involved procedure, demeanor or service allegations all of which should be quickly resolved.

OCI Policy Section 9.7 requires that investigators maintain an Investigator's Activity Log where they record all actions taken related to the particular file to include dates and times of actions taken, telephone calls, any canvas activity, and appointments. By Policy, the failure to accurately make appropriate notations in the activity log will result in disciplinary action. However, the monitoring team did not find any evidence that failure to document investigative actions has resulted in disciplinary action. It also should be noted that the activity log is the perfect vehicle for the supervisor to monitor investigative activity and record the progress of an investigation. However, a review of this log by the supervisor is not required by policy or practice. There is little evidence that supervisors maintain constant interaction with the investigator regarding the progress of the investigation or a lack of investigative effort. The only apparent supervisory review is conducted when the investigation is submitted for closure. There is no formalized process of determining investigative accomplishments with a greater frequency.

Another issue related to the lack of appropriate case management is the identified backlog of 1,049 pending external complaints awaiting investigation. This impacts the Board of Police Commissioners' and the OCI's ability to accomplish their mission objective of improving the quality of law enforcement services by instilling citizen confidence in the integrity of the Detroit Police Department. This situation further promotes the perception that DPD is not responsive to citizen complaints when in reality they do not exercise any control over this process. The excessive backlog inhibits the OCI's ability to comply with the City Charter for the Board of Police Commissioners and their policy to begin efforts to contact the complainant within 10 days of receiving the complaint. In addition, the OCI is required to periodically inform the complainant concerning the status of the investigation if a delay is foreseen. The backlog has prevented the OCI from effectively following established investigative procedures and efficiently handling investigations of citizen complaints in accordance with the City Charter of Detroit.

The Chief Investigator has stated that the OCI receives approximately 150 cases per month, while closing a similar amount. The Chief Investigator concedes that with the current closure rate, compliance will be difficult to achieve. This situation has had a dramatic effect on any attempt to reduce the backlog of cases. As a consequence, the OCI cannot effectively resolve the backlog without developing a comprehensive plan to specifically address this issue. To that end, the Chief Investigator is proposing the creation of a Preliminary Investigations Process to reduce

the current backlog and prevent the future accumulation of open cases. The process would require the OCI to take the following actions;

- *close cases where the complainant refuses to cooperate with the investigation for a period exceeding 30 days.*[73]
- *review and attempt of informal resolve complaints alleging inadequate service or complainant's innocence of charges as authorized in U67b*
- *institution of a weekly case management sheet for the file for supervisors as well as investigators. This process would effectively track the investigative accomplishments of each investigator and supervisor on a weekly basis*
- *Introduce a formalized case management system where supervisors are charged with conducting weekly written evaluations of all investigations. The OCI will create a document to memorialize the evaluations.*

The Chief Investigator admitted that a large percentage of the investigations received are not completed within the 90-day timeframe. He states that by applying these measures, the OCI could lower the number of delinquent cases and significantly reduce the backlog of pending cases. The Chief Investigator has presented these recommendations to the Board of Police Commissioners for their approval. It is noted that at least one of the recommendations will require an amendment to the Consent Judgment. This amendment will require agreement of the parties and the approval of the U.S. District Court. This may be a good initial step in an attempt to resolve this mounting crisis. The OCI is not in compliance with this requirement.

Finally, the monitoring team reviewed 263 IAD/OCI completed and closed investigations. The appropriate notification correspondence was noted in each file (see Paragraph 67d).

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U68

The DPD and the City shall review and evaluate the external complaint review process to require:

a. the Chief Investigator or his/ her designee to complete review of OCI investigations within 7 days of completion of the supervisor's review;

b. the BPC to complete review of OCI investigations within 45 days of completion of the Chief Investigator's review; and

c. the Chief of Police or his or her designee to complete his or her review of external complaints within 7 days of completion of the BPC's review.

[73] Consent Judgment paragraph U27 prohibits the closing of cases where the complainant is unavailable, unwilling or unable to cooperate; therefore an amendment to the Judgment with the approval of the parties is necessary for implementation of the suggested change.

Comments: The previous monitor found the DPD in compliance with policy requirements but not in implementation compliance with U68.[74]

DPD Policy Directive 102.6 - 4.2, effective July 1, 2008, and OCI Policy Section 9.9.1 describe the policy related the review of completed cases by the Chief Investigator. We reviewed 232 OCI investigations of external complaints for the period June 1 through September 30, 2009. We noted the Chief Investigator or his designee consistently reviewed the complete case within seven days of the supervisor's review. In addition, the review and approval of the Citizen Complaint Subcommittee, Board of Police Commissioners (BPC) completed their review within the prescribed timeframe of 45 days. All closed cases, after approval by the BPC, are forwarded to the Chief of Police. As previously discussed in this report, we received 54 OCI cases lacking sufficient information upon which to assess specific investigative requirements; therefore we were unable to make a compliant finding. However, our review of completed OCI cases illustrates a consistent, unwavering procedure regarding the required review of completed cases; therefore satisfying the compliance requirements of this paragraph. Issues relating to the 54 cases will be addressed elsewhere.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U69

In addition to the investigatory report and evaluation requirements, each allegation in an administrative external complaint investigation shall be resolved by making one of the following dispositions:

a. *"Unfounded," where the investigation revealed no facts to support that the incident complained of actually occurred;*

b. *"Sustained," where a preponderance of the evidence shows that the alleged conduct did occur and the actions of the officer violated DPD policies, procedures or training;*

c. *"Not Sustained," where there are insufficient facts to decide whether the alleged misconduct occurred; and*

d. *"Exonerated," where a preponderance of the evidence shows that the alleged conduct did occur but did not violate DPD policies, procedures or training.*

Comments: The previous monitor found DPD in compliance with the policy and implementation requirements of U69.

DPD Policy Directive 102.6 - 8, effective July 1, 2008, IAD Standard Operating Procedures Section 5-21 and OCI Policy Section 9.8 describe the case closure classifications as stated above.

[74] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 29, 2009, Issued April 20, 2009. (Report #22)

Each allegation in an administrative external complaint investigation is to end with one of the four stated dispositions.

The monitoring team reviewed 31 IAD and 232 completed OCI external investigations and determined that 209 (82%) were resolved utilizing the stated dispositions based on the findings of the investigator.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

Critical Issues

The monitoring team examined 31 closed and completed cases for the period June 1, 2009 through September 30, 2009. The review disclosed the following issues that require immediate attention.

Inadequate IAD Case Management

Each IAD investigator is required to maintain a Case Supervision Sheet (CSS) where they chronicle by date each investigative action taken during the investigation of each case. An examination of the Case Supervision Sheets disclosed that IAD supervisors infrequently used the log for its intended purpose of documenting case supervision and managing the investigative efforts of subordinate personnel.

During the review of 31 IAD investigations it was determined ten of the cases were not completed within the prescribed 90-day timeframe, a 70% compliance rate. The delinquent cases are representative of a systemic case management issue. IAD requires investigators to complete a Monthly Synopsis Report (MSR) for each of their current cases including those closed for the month. The review revealed that these reports were not included in the file or not prepared as required. IAD SOP also requires the supervisor to review each case with the assigned investigator noting the progress or status of the case. The MSR and CSS were established to record supervisory comments. The examination of these logs by the monitoring team revealed that most of the supervisory remarks did not provide specific investigative instruction and direction regarding the completion of the case in a timely fashion or within the 90 day deadline.

It was determined that in 11 of the 31 cases reviewed, the initial assignment to investigative personnel was postponed from eight to 38 days. The monitoring team could not determine the rationale for the assignment delay.

Inadequate OCI Case Management

The monitoring team examined 232 completed cases for the period June 1, 2009 through September 30, 2009. This review revealed the OCI does not utilize efficient and effective case management for the monitoring of investigative activity by assigned personnel. OCI Policy[75]

[75] Section 9.7

requires that investigators maintain an Investigator Activity Log where they record all investigative action taken related to the particular case. The failure to maintain this log subjects the investigator to disciplinary action. There is, however, no requirement by policy or practice for the supervisor to review the investigative activity documented on the log. There is no formalized process of determining investigative accomplishments with greater frequency.

We were advised that the OCI has an identified backlog of approximately 1,049 pending external complaints awaiting investigation. OCI partially attributes the delinquency rate to a lack of investigative resources. The Chief Investigator has proposed that OCI create a Preliminary Investigations Process to review and eliminate those cases that can be closed under informal resolution provisions.

Our review of 232 OCI investigations revealed that 78 cases were not completed within the required 90-day timeframe, a 68% compliance rate. Many of the cases examined involved procedure, demeanor or service allegations, all of which were quickly resolved. Lack of appropriate supervisory oversight of investigative activity significantly contributes to the high delinquency rate.

Next Steps

We will review documentation regarding the supervision of the investigative process. Our review will examine: 1) compliance with IAD SOP Section 5-26, entitled Supervisory Review and Monthly Reviews, which requires supervisors to review each case with the assigned investigating member; 2) case assignment procedures to reduce assignment delays; and 3) steps to improve supervision of the investigative process.

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
61	Revise external complaint policies	In Compliance	In Compliance
62	Information campaign re complaints	In Compliance	In Compliance
63	Officers to carry information/contact forms	In Compliance	In Compliance
64	Policy to define complaint intake/tracking	In Compliance	In Compliance
65	Permit factual account, no opinion	In Compliance	In Compliance
66	Unique identifier for complaints	In Compliance	In Compliance
67	Revision of complaint investigations	In Compliance	Not in Compliance
68	Time limits for review of inv/complaints	In Compliance	In Compliance
69	Specified findings required	In Compliance	Not in Compliance

VII. GENERAL POLICIES

This section of the Consent Judgment addresses a variety of issues in general terms. It seeks to ensure that when developing policies all the terms used are clearly defined. It seeks to ensure that prior to making revisions to DPD policies the community is made aware of the proposed revisions, instructing DPD to post the proposals on the DPD website. It requires DPD to advise all of its officers that taking police actions in violation of DPD policies shall subject its officers to a variety of possible actions, to include disciplinary, criminal prosecution or civil liability. Additionally, this section requires officers to report acts of misconduct by other officers, whether on or off duty. It also required DPD to revise its policy regarding police actions by off-duty

officers. DPD was required to revise the policies on how they handle prisoners, to include summoning first aid as necessary, summoning assistance if required, and prohibiting the accompanying of prisoners to the holding cell area. DPD was also required to develop a foot pursuit policy and to plan for adequate distribution of manpower.

In all instances DPD has developed the appropriate policies and is taking steps to achieve implementation.

CJ Requirement U70

In developing and revising the policies discussed in this Agreement, the DPD shall ensure that all terms are clearly defined.

Comments: The previous monitor found the DPD in compliance with this CJ paragraph.[76]

We reviewed DPD Directives 101.1 and 404.1 and found them compliant with the policy requirements of the CJ paragraph. Directive 101.1 establishes the process to be used by the department to manage its written directive system. It clearly defines the following terms: Directives; Legal Advisor Updates; Personnel Orders; Policy; Special Orders; Standard Operating Procedures; Teletypes (Investigative Info); Teletypes (Administrative); and Training Bulletins. Directive 404.1 sets forth a comprehensive listing of frequently used terms and definitions used within the department commencing with "Actively Resisting" and ending with "Writ of Restitution".

The previous monitor noted the DPDs formation of a Policy Focus Committee (PFC), ostensibly established to focus on policy issues. In our discussions with staff we determined that the last meeting of the PFC was the one noted in the previous monitor's report, May 12, 2009.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U71

The DPD shall continue to make available proposed policy revisions to the community, for their review, comment and education. Such policy revisions shall also be published on the DPD's website to allow comments to be provided directly to the DPD.

Comments: The previous monitor found the DPD to be in continuing compliance with the requirements of this CJ paragraph.[77]

The DPD has three documents which govern the process to be followed to insure compliance with this requirement. There is an SOP which outlines the procedures to be followed when posting proposed policies to the web site; there is a Protocol for Proposed Policy Revisions; and

[76] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, Issued July 16, 2009. (Report #23)

[77] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, Issued July 16, 2009. (Report #23)

there is a flow chart (Visio-DPD Policy Flow Chart) which tracks the movements of proposed policy revisions through the department and through the public review.

Our review determined that there were no proposed policy revisions during this evaluation period; DPD remains in compliance with this requirement.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U72

The DPD shall advise all officers, including supervisors, that taking police action in violation of DPD policy shall subject officers to discipline, possible criminal prosecution, and/or civil liability.

Comments: The previous monitor found that Section 102.3 of the DPD Code of Conduct addresses this requirement. The previous monitor noted that DPD was in compliance with the policy requirements, but not yet in compliance with the training requirements.[78]

We reviewed Section 102.3 of the DPD Code of Conduct and found it compliant with the requirement of this CJ paragraph.

During our discussions with staff regarding the training issue identified above, we were informed that DPD had not yet trained a sufficient number of personnel to meet the 94% requirement. DPD staff advises that roll call training teletypes relative to this requirement were issued; however, they do not substitute for the more formal in-service training we believe this requirement merits. We will review training documents, to include the roll call training teletypes, during the next site visit.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U73

The DPD and the City shall develop a plan for ensuring regular field deployment of an adequate number of supervisors of patrol units and specialized units that deploy in the field to implement the provisions of this agreement.

Comments: The previous monitor reported a DPD agreement on a 1:10 ratio of supervisors to officers in patrol and specialized units.[79] This agreement was reached during the reporting period ending August 21, 2007. It is memorialized in electronic mail dated November 6, 2007. The

[78] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009 (Report #22)

[79] Section I, Paragraph of the UOF CJ defines a supervisor as a sworn DPD employee at the rank of sergeant or above and non-sworn employees with oversight responsibility for DPD employees.

monitor also found the DPD compliant with the associated policy requirements of this CJ paragraph, but not with the implementation requirements, noting the lack of training on these requirements.[80]

The DPD commenced its annual in-service training, which includes the requirements of this CJ paragraph in July 2009. This training is ongoing and is assessed within our review of U118. We reviewed an updated DPD Administrative Message, dated November 14, 2009, that provides the basis for Roll Training during the next reporting period.

We also reviewed DPD Compliance Inspection Reports/Evaluations regarding staffing ratios and found them lacking sufficient information to determine compliance with the requirements of this CJ paragraph.[81] These inspections provided sufficient data for analysis in only one of 16 and four of 15 commands, respectively.

During our interviews with various staff, we found the objective of the sergeant/officer ratio significantly impeded by the present group assignment practice. For example, four sergeants may be assigned responsibility for the supervision of 20-40 officers, clearly within prescribed ratio; however none of the sergeants are assigned responsibility for the conduct or performance of specific officers nor are any officers accountable to a specific sergeant. This practice raises issues with regards to reporting and documentation of the use of force and other policing activities, the conducting of complete and meaningful annual performance evaluations, and appropriate supervisory intervention in matters of general conduct and discipline.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U74

The DPD shall enforce its policies requiring all DPD officers to report any misconduct committed by another DPD officer, whether committed on-duty or off-duty.

Comments: The previous monitor determined the DPD compliant with the policy requirements of this CJ paragraph but not in compliance with the training requirements.[82]

We reviewed the DPD Code of Conduct 102.3 and found it compliant with this CJ paragraph.

In July 2009 the DPD commenced its annual in-service training which included the requirements of this paragraph. We will assess training on this issue on the next site visit.

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[80] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009 (Report #22)

[81] The Inspections referenced, dated September 22, October 7, and 25, 2009, were conducted subsequent to this reporting period; however were the most recent available for review during the site assessment.

[82] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009 (Report #22)

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U75

The DPD shall revise its policies regarding off-duty officers taking police action to:

a. *provide that off-duty officers shall notify on-duty DPD or local law enforcement officers before taking police action, absent exigent circumstances, so that they may respond with appropriate personnel and resources to handle the problem;*

b. *prohibit off-duty officers from carrying or using firearms or taking police action in situations where an officer's performance may be impaired or the officer's ability to take objective action may be compromised; and*

c. *provide that, if it appears the officer has consumed alcohol or is otherwise impaired, the officer shall submit to field sobriety, breathalyzer, and/or blood tests.*

Comments: The previous monitor found the DPD in compliance with policy requirements, in compliance with implementation requirements of subsection (b) and (c) but not in compliance with the training requirement. The monitor acknowledged compliance with subsection (a) had not been assessed. [83]

We reviewed DPD Police Directives 102.3, Code of Conduct and found it is compliant with the requirements of this paragraph.

We also received and reviewed a joint communication issued by the parties wherein they agree the DPD had complied with the policy creation, dissemination, and training requirements of this paragraph. They further agreed the Monitor should assess implementation of the requirements of this paragraph by reviewing investigative files and review of the chief's letter to the Michigan Association of Chiefs of Police requesting any member agencies report any off-duty action by DPD officers to the DPD IAD.

During our review of IAD and FIS investigations, we noted three cases involving officer conduct described in this paragraph. The first involved an officer reporting for duty in an impaired state. The DPD officer submitted to a battery of field sobriety tests including the breathalyzer. The second involved an off-duty officer, apparently impaired by the use of alcohol, taking action to break up an argument and while doing so, discharged his firearm. Both incidents were appropriately investigated. The third case involved an off-duty officer who took police action in a personal controversy without notifying the local jurisdiction. The officer was engaged in trying to resolve the theft of his daughter's property. The officer was accused of assaulting the person suspected of taking the property. Following the required investigation, it was determined that the officer violated this policy.

[83] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009 (Report #22)

The cases reviewed are demonstrative of compliance; however the number of cases is insufficient to satisfy a compliant finding at this time. During the next reporting period we will review the chief's letter to the Michigan Association of Chief of Police and any responses generated by the letter. We will further review any available documentation relating to reported off-duty police action by DPD officers.

Compliance Status

Phase 1: In Compliance

Phase 2: Pending Compliance

CJ Requirement U76

The DPD shall revise its policies regarding prisoners to:

a. *require officers to summon emergency medical services to transport prisoners when the restraints employed indicate the need for medical monitoring;*

b. *require officers to utilize appropriate precautions when interacting with a prisoner who demonstrates he or she is recalcitrant or resistant, including summoning additional officers, summoning a supervisor and using appropriate restraints; and*

c. *prohibit arresting and transporting officers from accompanying prisoners into the holding cell area.*

Comments: The prior monitor found the DPD in compliance with the policy requirements of this paragraph, but not yet in compliance with the training requirements.[84]

We reviewed DPD Directive 304.2, Use of Force, effective June 27, 2005; Training Directive 04-7, effective November 21, 2005; and Directive 305-1, Detainee Intake/Assessment, effective May 9, 2005 and find they comport with the requirements articulated herein.

Our reviews of use of force UF002 and UF002a forms detailed in sections U15 through U36 cite numerous examples of aid being rendered to subjects who had been injured in the course of their arrest and in the one or two occasions where the injuries were more serious there were indications that Emergency Medical Service (EMS) unit(s) had been requested. Furthermore, the review of those documents reflected that officers routinely requested assistance when dealing with subjects who were resisting, including summoning a supervisor.

Our review reflects that DPD has formulated the policies to address these requirements; however, Phase 2 compliance requires the training of >94% of the personnel.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

[84] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009 (Report #22)

CJ Requirement U77

The DPD shall develop a foot pursuit policy to:

a. *require officers to consider particular factors in determining whether a foot pursuit is appropriate, including the offense committed by the subject, whether the subject is armed, the location (e.g., lighting and officer familiarity), whether more than one officer is available to engage in the pursuit, the proximity of reinforcements, and the ability to apprehend the subject at a later date;*

b. *emphasize alternatives to foot pursuits, including area containment, surveillance, and obtaining reinforcements;*

c. *emphasize the danger of pursuing and engaging a subject with a firearm in hand; and*

d. *require officers to document all foot pursuits that involve a use of force on a separate, auditable form, such as the use of force report.*

Comments: Detroit Police Department Directive 202.7 addresses the requirements listed in this task. Its contents articulate all of the required salient points. The preparation of a Foot Pursuit Evaluation Form (DPD 699), previously required by this Directive is no longer a requirement. It was discontinued based on a review by DPD of "best practices" as related to foot pursuits.

This information was communicated to DPD members via Teletype #09-02966, which states in part, "Effective on August 15, 2009, DPD members who engage in a foot pursuit shall no longer prepare the Foot Pursuit Evaluation form (DPD666). However, if a foot pursuit results in a use of force or detainee injury, it shall be documented on a Use of Force Auditable Form (UF-002) and the check box for "foot pursuit: shall be checked." DPD Directive 202.7 requires revision to reflect current practice.

Following the revision of the Directive and our review of in-service training, which will be provided the work force regarding foot pursuits and the implementation of the revised policy, we will be able to better evaluate DPD's compliance status. DPD is currently in Phase 1 compliance.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

Critical Issues

Inadequate training regarding general policies

DPD has crafted the policies to address requirements U70, U71, U72, U74, U75, U76 and U77 but has not been able to document that the necessary training on these policies has been provided to greater than 94% of the personnel. Providing this training is critical as it is a requirement for achieving Phase 2 compliance. In some instances the Department has yet to develop a method of measuring their performance in these areas. For example, we learned that DPD currently has no mechanism for collecting information relating to foot pursuit.

Next Steps

A review of lesson plans and in-service training must be conducted to determine where DPD stands with respect to providing in-service training to >94% of the personnel. We will meet with staff to determine if the department needs to continue the Policy Focus Committee and to determine what steps may have to be taken to discontinue the committee if that should be the determination. We will pursue the issue of creating an audit/inspection mechanism for foot pursuits.

	Requirements	Phase 1 - Policy	Phase 2 - Implementation
70	Clear definitions in policies	In Compliance	In Compliance
71	Policy changes available to the community	In Compliance	In Compliance
72	Discipline for policy violations	In Compliance	Not in Compliance
73	Adequate officer/supervisor ratio	In Compliance	Not in Compliance
74	Enforce misconduct reporting requirements	In Compliance	Not in Compliance
75	Revise policies regarding off-duty officers	In Compliance	Pending Compliance
76	Revise prisoner related policies	In Compliance	Not in Compliance
77	Develop foot pursuit policy	In Compliance	Not in Compliance

VIII. MANAGEMENT AND SUPERVISION

A. RISK MANAGEMENT DATABASE

As part of the Use of Force Consent Judgment DPD has agreed to implement a risk management system composed of a comprehensive database for recording a range of officers' activities, a detailed plan for capturing the data, a review protocol which describes how the data base will be used and a report protocol which elaborates the reports that the risk management system will produce, some at regular intervals. DPD agreed to utilize an interim database until the main system was completely functioning.

As DPD made progress in this area it sought and received consent from DOJ to develop its own risk management system based in the work on their interim system which was known as IMAS or the Interim Management Awareness System. MAS or DPD's Management Awareness System grew out of the interim system.

Under the previous Monitor, DPD produced the required policy documents for MAS, provided training for all supervisors at the rank of Sergeant and above, and engaged in the process of "rolling out" the system Department wide. A summary of the previous compliance findings is provided below.

In January 2009 and again in May 2009, a subject matter expert from DOJ visited DPD to assess the progress being made on MAS. In June of 2009, he produced a highly critical report in which he concluded MAS suffered problems in three core areas; inadequate administrative commitment, poorly articulated technical objectives, and inadequate technological infrastructure. The report concluded by indicating that a number of pathways existed for moving forward. These choices ranged from "firefighting" until things work will enough, to developing a new system "from scratch." Based on his review of the entire development process the DOJ examiner was, however, pessimistic that under any intermediate course of action DPD was likely "to

recover and move on to success." He reported that contracting out "for a new build" was the only option that showed some potential for success, even though that too was limited in his view.

Discussions with DPD staff who had worked on MAS indicate that they were surprised and dismayed by the findings of the review. It is useful to note that in August of 2008, DPD expanded administrative expertise in Information Technology to oversee MAS and other technology related issues. The administration is thus fully informed on the status of current issues regarding MAS and is in the process of formulating a plan of action and has asked for the Monitor's assistance. In the interim there have been several improvements and revisions of portions of MAS. On November 13th 2009, DOJ did present a letter to DPD asking that it be consulted before DPD would on abandon MAS in favor of some other early warning system product.

The Consent Judgment in this Area

The development and implementation of the risk management data base is covered in paragraphs 78 through 90 of the Use of Force Consent Judgment. Of these 13 paragraphs, the previous Monitor had found DPD in compliance on 4 paragraphs (82-85) and on portions of a 5th (a,b,d and e). The previous Monitor had also discontinued monitoring several paragraphs or portions of paragraphs. Those include paragraph 89 and 88c and f.

The paragraphs on which DPD was seen as in compliance deal with policy, the Data Input Plan, the Report Protocol, Review Protocol, planning structure, and the development schedule. The paragraphs set aside for no longer monitoring deal with the schedule and the use of an interim database.

Previous Assessments

The previous Monitor's finding of compliance all address policy requirements rather than implementation. Verbal approval of the Data Entry Plan, Review Protocol and Report Protocol by the Department of Justice is noted. Written approval is necessary and should be sought by DPD. The requirements involving meeting stated schedules that have now been missed were no longer being reviewed by the Monitor. That seems appropriate but also requires documentation and approvals. DPD has been tracking its compliance with all requirements relating to MAS (U79-90) through an internal audit process.

The last report the previous Monitor noted that paragraphs 79-81 and 88g (the implementation requirements) were last reviewed for the quarter ending February 28, 2009. These paragraphs deal with implementation and the continuing development status of the Risk Management System. Review of these in the quarter ending August 31, 2009 was intended but did not occur. At the time of the February review the Monitor noted that department wide implementation of MAS was "proceeding smoothly." As noted above, that conclusion was contradicted by the DOJ expert after his review of the system in January and June 2009. The continued status of DPD on these paragraphs as out of compliance is therefore appropriate.

CJ Requirement U78

The DPD shall devise a comprehensive risk management plan, including:

a. *a risk management database (discussed in paragraphs 79-90);*

b. *a performance evaluation system (discussed in paragraph 91);*

c. *an auditing protocol (discussed in paragraphs 92-99);*

d. *regular and periodic review of all DPD policies; and*

e. *regular meetings of DPD management to share information and evaluate patterns of conduct by DPD that potentially increase the DPD's liability.*

Comments: This paragraph provides a summary of requirements detailed in paragraphs 79-99. Each of its components is evaluated separately in the material which follows. Policy requirements in the area are incorporated into the documents which are mandated as part of the risk management plan. The data entry plan, report protocol and review protocol were reviewed by the previous Monitor and judged to be sufficient. Implementation of these requirements, however, has not yet been achieved.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U79

The DPD shall enhance and expand its risk management system to include a new computerized relational database for maintaining, integrating and retrieving data necessary for supervision and management of the DPD. Priority shall be given to the DPD obtaining an established program and database. The DPD shall ensure that the risk management database it designs or acquires is adequate to evaluate the performance of DPD officers across all ranks, units and shifts; to manage risk and liability; and to promote civil rights and best police practices. The DPD shall regularly use this data for such review and monitoring.

Comments: As noted above DPD obtained agreement from DOJ to develop their own risk management system based on work on its interim system. As described in required documentation, when fully operational the planned system is consistent with the requirements of this paragraph. Implementation problems, however, have raised questions about whether DPD will continue on its current course or will consider starting to work on a different system. With this issue unresolved, the status of Phase 1 compliance in the area is still recognized but will need to be revisited in the future. Phase 2 compliance requires full implementation which has not yet been achieved.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U80

The new risk management database shall collect and record the following information:

a. *all use of force reports and use of force investigations;*

b. *all canine deployments;*

c. *all canine apprehensions;*

d. *all canine bites;*

e. *all canisters of chemical spray issued to officers;*

f. *all injured prisoner reports and injured prisoner investigations;*

g. *all instances in which force is used and a subject is charged with "resisting arrest," "assault on a police officer," "disorderly conduct" or "interfering with a city employee;"*

h. *all firearm discharge reports and firearm discharge investigations;*

i. *all incidents in which an officer draws a firearm and acquires a target;*

j. *all complaints and complaint investigations, entered at the time the complaint is filed and updated to record the finding;*

k. *all preliminary investigations and investigations of alleged criminal conduct;*

l. *all criminal proceedings initiated, as well as all civil or administrative claims filed with, and all civil lawsuits served upon, the City, or its officers, or agents, resulting from DPD operations or the actions of DPD personnel, entered at the time proceedings are initiated and updated to record disposition;*

m. *all vehicle and foot pursuits and traffic collisions;*

n. *all reports regarding arrests without probable cause or where the individual was discharged from custody without formal charges being sought;*

o. *all reports regarding investigatory stops and/or frisks unsupported by reasonable suspicion;*

p. *all reports regarding interviews, interrogations or conveyances in violation of DPD policy;*

q. *the time between arrest and arraignment for all arrests;*

r. *all reports regarding a violation of DPD prompt judicial review policy;*

s. *all reports regarding a violation of DPD hold policy;*

t. *all restrictions on phone calls or visitors imposed by officers;*

u. *all instances in which the DPD is informed by a prosecuting authority that a declination to prosecute any crime was based, in whole or in part, upon concerns about the credibility of a DPD officer or that a motion to suppress evidence was granted on the grounds of a constitutional violation by a DPD officer;*

v. *all disciplinary action taken against officers;*

w. all non-disciplinary corrective action required of officers, excluding administrative counseling records;

x. all awards and commendations received by officers;

y. the assignment, rank, and training history of officers; and

z. firearms qualification information of officers.

Comments: The information requirements noted in this paragraph are included in the documentation developed for the Management Awareness System (MAS) and are part of the computerized system in its present form. This is sufficient for meeting policy related requirements. The system is limited by the fact that some data must be entered manually rather than read directly from other data sources and implementation has been problematic. DPD has thus not yet achieved Phase 2 compliance.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U81

The new risk management database shall include, for each incident, appropriate identifying information for each involved officer (including name, pension number, badge number, shift and supervisor) and civilian (including race, ethnicity or national origin, sex, and age).

Comments: Required identifying information is included in the documentation developed for the Management Awareness System (MAS) and is part of the computerized system in its present form. This is sufficient for meeting policy related requirements although these issues will be revisited should a decision be made to develop an alternative Risk Management Data Base. Implementation problems indicate that DPD has not yet achieved Phase 2 compliance.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U82

The DPD shall prepare, for the review and approval of the DOJ, a Data Input Plan for including appropriate fields and values of new and historical data into the risk management database and addressing data storage. The Data Input Plan shall:

a. detail the specific fields of information to be included and the means for inputting such data (direct entry or otherwise);

b. specify the unit responsible for inputting data, the deadlines for inputting the data in a timely, accurate, and complete manner;

c. *specify the historical time periods for which information is to be input and the deadlines for inputting the data in an accurate and timely fashion; and*

d. *requires that the data be maintained in a secure and confidential manner.*

Comments: The previous Monitor noted that the Data Input Plan has received verbal acceptance from DOJ. The plan has thus been accepted as meeting policy requirements although written documentation of acceptance should be sought. It should also be noted that Phase 1 compliance should be considered tentative until a final decision about whether an alternative to MAS will be considered. Implementation problems preclude Phase 2 compliance at this time.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U83

The DPD shall prepare, for the review and approval of the DOJ, a Report Protocol for the risk management database that details the types of routine reports the DPD shall generate and pattern identifications the DPD shall conduct. The Report Protocol shall:

a. *require the automated system to analyze the data according to the following criteria:*

   i) *number of incidents for each data category by individual officer and by all officers in a unit;*

   ii) *average level of activity for each data category by individual officer and by all officers in a unit; and*

   iii) *identification of patterns of activity for each data category by individual officer and by all officers in a unit;*

b. *establish thresholds for the numbers and types of incidents requiring a review by an officer's supervisor of whether the officer or group of officers is engaging in at-risk behavior (in addition to the regular reviews required by paragraph 84); and*

c. *require the database to generate reports on a monthly basis describing the data and data analysis and identifying individual and unit patterns.*

Comments: On this requirement DPD compliance is similar to that in paragraph 82 which deals with the Data Input Plan. The previous Monitor noted that the Report Protocol has received verbal acceptance from DOJ. The document was regarded as meeting policy requirements although written documentation of acceptance should be sought. It should also be noted that Phase 1 compliance should be considered tentative until a final decision about whether an alternative to MAS will be considered. Implementation problems preclude Phase 2 compliance at this time.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U84

The DPD shall prepare, for the review and approval of the DOJ, a Review Protocol for using the risk management database that addresses data analysis, supervisory assessment, supervisory intervention, documentation and auditing. The Review Protocol shall require:

a. *that when an officer or group of officers pass a threshold established in the Report Protocol the officer's(s') supervisor shall review all information in the risk management database regarding the officer(s), together with other relevant information;*

b. *the reviewing supervisor to document whether he or she took non-disciplinary corrective action or recommended disciplinary action, the basis for this decision, and what corrective action was taken, if any;*

c. *supervisors to review, on a regular basis but not less than quarterly, database reports, together with other relevant information, to evaluate individual officer and unit activity for at-risk behavior;*

d. *precinct and unit commanders to review, on a regular basis but not less than quarterly, database reports, together with other relevant information, to evaluate individual supervisor's assessment and analysis of information in the risk management database and the corrective action taken by supervisors;*

e. *appropriate DPD supervisors to review and evaluate, on a regular basis but not less than quarterly, police performance citywide, using all relevant information from the risk management database and other relevant information and to evaluate and make appropriate comparisons regarding the performance of all DPD units in order to identify any significant patterns or series of incidents;*

f. *commanders and supervisors conducting such periodic reviews to take non-disciplinary corrective action when appropriate for individual officers, supervisors or units and document any such action in writing;*

g. *that the information in the database be accessible to commanders, supervisors and the BPC;*

h. *that the information in the database is considered when evaluating a DPD employee for transfer or promotion;*

i. *commanders and supervisors to promptly review records of all officers recently transferred to their sections and units;*

j. *commanders and supervisors to be evaluated on their ability to use the risk management database to enhance effectiveness and reduce risk;*

k. *that a designated DPD unit be responsible for managing and administering the database, including conducting quarterly audits of the system to ensure action is taken according to the process described above; and*

l. *that aggregated information from the risk management database be shared on a regular and periodic basis with training and policy planning staff.*

Comments: The Review Protocol is the third major document required by the Consent Judgment in this area and its current status is similar to the Data Input Plan and Report Protocol. Written documentation of acceptance by DOJ should be sought. Policy requirements for this paragraph are met by the existing Review Protocol but will need to be revisited should a new risk management data base be secured. Implementation requirements have not yet been met.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U85

The DPD shall seek to ensure that the risk management database is created as expeditiously as possible. As part of this effort, the DPD, in consultation with the DOJ, shall organize the risk management database into modules in developing the Data Input Plan, the Report Protocol, the Review Protocol and the Request for Proposals and in negotiating with contractors, such that difficulties with one aspect of the risk management database do not delay implementation of other modules.

Comments: As noted above DPD has moved forward on each of the three required policy documents. The Department has also taken critical steps toward implementation although these are not complete and were viewed as not sufficiently successful in a review by a DOJ subject matter expert. The Monitor recognizes the efforts made as consistent with the policy requirements for Phase 1 compliance and also appreciates the implementation difficulties which prevent recognition of compliance in Phase 2.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U86

Where information about a single incident is entered into the risk management database from more than one document (e.g., from a complaint form and a use of force report), the risk management database shall use a common control number or other equally effective means to link the information from different sources so that the user can cross-reference the information and perform analyses.

Comments: The Management Awareness System which has been developed as the risk management database by DPD does not use a common control number for linking reports associated with a common incident. Instead the system links reports by using multiple data points including dates and times. The sufficiency of this method will be considered through the planned test of the system on the Monitor's next visit. Currently data are insufficient to conclude that Phase 1 or Phase 2 compliance requirements have been met.

Compliance Status

Phase 1: Not in Compliance

Phase 2: Not in Compliance

CJ Requirement U87

The City shall maintain all personally identifiable information about an officer included in the risk management database during the officer's employment with the DPD and for at least five years after separation. Information necessary for aggregate statistical analysis shall be maintained indefinitely in the risk management database.

Comments: The information requirements noted in this paragraph are included in the documentation developed for the Management Awareness System (MAS) including the Data Input Plan. This was accepted by the previous Monitor as sufficient for meeting policy related requirements. DPD is thus continued in that status. Implementation issues currently prohibit achievement of Phase 2 compliance.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U88

The new risk management database shall be developed and implemented according to the following schedule:

a. *Within 90 days of the effective date of this Agreement, the DPD shall submit the Data Input Plan to the DOJ for review and approval. The DPD shall share drafts of this document with the DOJ to allow the DOJ to become familiar with the document as it is developed and to provide informal comments. The DPD and the DOJ shall together seek to ensure that the Data Input Plan receives final approval within 30 days after it is presented for review and approval.*

b. *By September 30, 2003, the DPD shall submit the Report Protocol and a Request for Proposals to the DOJ for review and approval. The DPD shall share drafts of these documents with the DOJ to allow the DOJ to become familiar with the documents as developed and to provide informal comments. The DPD and the DOJ shall together seek to ensure that the Report Protocol and the Request for Proposals receive final approval within 30 days after they are presented for review and approval.*

c. *By October 31, 2003, the DPD shall issue the Request for Proposals.*

d. *By March 30, 2004, the DPD shall submit the Review Protocol to the DOJ for review and approval. The DPD shall share drafts of this document with the DOJ and the Monitor (a position described in Section X) to allow the DOJ and the Monitor to become familiar with the document as it develops and to provide informal comments on it. The DPD and*

the DOJ shall together seek to ensure that the protocol receives final approval within 30 days after it is presented for review and approval.

e. *By May 31, 2004, the DPD shall select the contractor to create the risk management database.*

f. *By June 30, 2005, the City shall have ready for testing a beta version of the risk management database consisting of: i) server hardware and operating systems installed, configured and integrated with the City and DPD's existing automated systems; ii) necessary database software installed and configured; iii) data structures created, including interfaces to source data; and iv) the information system completed, including historic data. The DOJ and the Monitor shall have the opportunity to participate in testing the beta version using new and historical data and test data created specifically for purposes of checking the risk management database.*

g. *The risk management database shall be operational and fully implemented by December 31, 2005.*

Comments: DPD did not meet the time frames and dates specified in the original Consent Agreement. In an order issued July 22, 2008 the US District Court extended dates for the full implementation of the risk management database until August 11, 2008 and included requirements related to 1) adequate staffing, 2) required planning documents, 3) provision of a sampling of necessary reports of data entered, and 4) a listing of scheduled training.

DPD did not meet the new deadline for implementation. Revised deadlines do not currently exist. In response to this concern, however, DPD has added administrative staff to oversee MAS, has made technical advances on the storage and retrieval of data, and has trained supervisors on the system. It should be noted, however, that despite these considerations a subject matter expert DOJ found significant problems with the system in his January and June 2009 reviews.

Since all established deadlines have expired and since significant problems have been documented with regard to MAS and finally, since new deadlines are not operational, DPD is regarded as not in Phase 1 or Phase 2 compliance with this paragraph.

Compliance Status

Phase 1: Not in Compliance

Phase 2: Not in Compliance

CJ Requirement U89

Prior to implementation of the new risk management database, the DPD shall develop an interim system to identify patterns of conduct by DPD officers or groups of officers. The interim system shall require periodic reviews of relevant information, but no less than monthly, and evaluations of whether an officer or group of officers is engaging in at-risk behavior. This interim system shall collect and analyze the following information: citizen complaint reports and investigations; use of force investigations; shootings; vehicle chases; injured prisoner investigations; traffic collisions; canisters of chemical spray issued to officers; firearms qualifications; training;

prompt judicial review; disciplinary action; arrest without probable cause; all reports regarding investigatory stops and/or frisks unsupported by reasonable suspicion; and all reports regarding interviews, interrogations or conveyances in violation of DPD policy in a format that facilitates entry into the final risk management database, to the fullest extent possible.

Comments: The Management Awareness System (MAS) was originally developed to serve as an interim system that would be in compliance with this requirement. DPD sought and received permission of the Court to continue the development of the system so that it could serve as the final version of the required risk management system. Although review of the system has identified significant concerns, it continues to function in a manner consistent with the originally envisioned interim system. That is, needed documentation exists, data are being entered and stored in the system, and reports are being generated and provided to supervisors and administrators as required. Despite identified problems then, the system can be said to be meeting the expectations of the interim system established in this paragraph. DPD is thus in Phase 1 and Phase 2 compliance with this requirement.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U90

Following the initial implementation of the risk management database, and as experience and the availability of new technology may warrant, the DPD may propose to subtract or modify data tables and fields, modify the list of documents scanned or electronically attached, and subtract or modify standardized reports and queries. The DPD shall submit all such proposals for review and approval by the DOJ before implementation.

Comments: This paragraph describes the requirement for revision of the risk management system following its initial implementation. Documentation of the system in the Review Protocol includes descriptions of the process of use of the system and its updating and revision, thus meeting the requirements of Phase 1 compliance. Since initial implementation is underway but not complete, DPD is not in a position to achieve Phase 2 compliance at this time.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

B. PERFORMANCE EVALUATION SYSTEM

CJ Requirement U91

DPD shall ensure that performance evaluations for all DPD employees occur at least annually and include, but are not limited to, consideration of the following:

a. civil rights integrity;

b. *adherence to law, including performing duties in a manner consistent with the requirements of the Fourth and Fifth Amendments to the Constitution and the Civil Rights laws of the United States; and*

c. *supervisor's performance in identifying and addressing at-risk behavior in subordinates, including their supervision and review of use of force, arrests, care of prisoners, prisoner processing, and performance bearing upon honesty and integrity.*[85]

Comments: The previous monitor determined the DPD was not in compliance with this CJ paragraph noting a number of issues in 25 of the 94 evaluations assessed resulting in a compliance rate of 26.6%.[86]

We reviewed DPD Directive 401.1, Performance Evaluation Ratings, effective July 1, 2008; performance rating forms for the various ranks; and performance rating forms for non-sworn personnel. These documents are compliant with the requirement of this CJ paragraph. The directive requires yearly ratings for those holding the rank of inspector and commander, and twice each year for other ranks. The rating periods are established as May 1 through October 31 and November 1 through April 30. It also establishes completion dates of November and May respectively. We conducted no further assessment for this report, but will be conducting a comprehensive review of the performance evaluation process during the next reporting period.

Compliance Status

Phase 1: In Compliance

Phase 2: Deferred

C. OVERSIGHT

CJ Requirement U92

The DPD shall develop a protocol for conducting audits to be used by each officer or supervisor charged with conducting audits. The protocol shall establish a regular and fixed schedule to ensure that such audits occur with sufficient frequency and cover all DPD units and commands.

Comments: The previous monitor determined the DPD in compliance with the requirements of this paragraph, noting the required audits were scheduled with sufficient frequency. The protocol contains acceptable standards for conducting and reviewing such audits in accordance with generally accepted government auditing standards.

We reviewed the Audit Protocol dated August 31, 2009, developed by the DPD and found that it fully addresses requirement U92. It establishes a schedule, describes the audit teams, specifies the roles and responsibilities of the various team members, and it describes the various audits

[85] The Court issued an order on October 4, 2004 adopting a proposed modification by the parties making these requirements applicable to DPD employees below the rank of Deputy Chief.

[86] Report of the Independent Monitor for the Detroit Police Department, Quarter ending February 28, 2009, Issued April 20, 2009 (Report # 22).

that are to be conducted and the reports that will be produced. It sets forth a comprehensive audit plan.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U93

The DPD shall issue a report to the Chief of Police on the result of each audit and examine whether there is consistency throughout the DPD. The DPD shall also provide the reports to each precinct or specialized unit commander. The commander of each precinct and specialized unit shall review all audit reports regarding employees under their command and, if appropriate, shall take non-disciplinary corrective action or disciplinary action.

Comments: The previous monitor found that although the results of the audits do reach the Chief of Police and each precinct or specialized unit commander, there is a requirement for the commanders to take action to address the audit findings specific to employees under their commands. All seven DPD audits identified findings that required follow-up; the DPD did not submit any documentation related to disciplinary or non-disciplinary action taken in connection with these audits.

We found that the Audit Protocol addresses this requirement. It specifically requires reporting to the chief of police and to commanders. The DPD is in Phase 1 Compliance with U93.

When the DPD determined that its audit recommendations were not being acted upon systematically by various commanders it concluded that the problem may have been that its audits were targeted at the Department as a whole. It changed audit processes to focus on a single command. OCR expects that clearer command accountability will generate a better response to its recommendations and findings.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U94

The DPD shall conduct regularly scheduled quarterly audits, covering all DPD units and commands that investigate uses of force, prisoner injuries, and allegations of misconduct. The audits shall include reviewing a sample of command, IAD, and Homicide Section investigations; evaluating whether the actions of the officer and the subject were captured correctly in the investigative report; and evaluating the preservation and analysis of the evidence and the appropriateness of the investigator's conclusions.

Comments: The previous Monitor last evaluated subparagraph U94 in its quarterly report ending February 28, 2009. At that time the Monitor had not yet completed its evaluation of this audit or the DPD's compliance with subparagraph U94.

The Audit Protocol, as reported by DPD to have been amended, requires annual audits to be conducted with appropriate reporting dates; the DPD is in Phase 1 Compliance with U94. Audits are being conducted but findings and recommendations have not been systematically acted upon. It is acknowledged, however that DPD is conducting the audits consistent with the provisions of this requirement.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U95

The DPD shall conduct regularly scheduled quarterly audits covering all precincts and specialized units that review a sample of findings of probable cause, stop and frisk reports and witness identification and questioning documentation. The audits shall include evaluating the scope, duration, content, and voluntariness, if appropriate, of the police interaction. The audits shall include a comparison of the number of arrests to requests for warrants and a comparison of the number of arrests for which warrants were sought to judicial findings of probable cause.

Comments: The previous monitor last assessed DPD's compliance with the subparagraph of U95 that addresses arrests during the quarter ending May 31, 2009 and found the DPD in compliance with that subparagraph. Since the previous monitor had determined the Department to be in less than full compliance with other provisions of this requirement, it remained Not in Compliance.

We found that the Audit protocol addresses much of U95 but fails to specifically direct a comparison of arrests to requests for warrants and a comparison of the number of arrests for which warrants were sought to judicial findings of probable cause.

Compliance Status

Phase 1: Not in Compliance

Phase 2: Not in Compliance

CJ Requirement U96

The DPD shall conduct regularly scheduled quarterly audits covering all precincts and specialized units that examine custodial detention practices. The audits shall include reviewing the length of detention between arrest and arraignment and the time to adjudicate holds.

Comments: The prior monitor utilized the Audit Team's audit that was submitted on February 28, 2009 to evaluate DPD's custodial detention practices. The arrest and detention data excluded from its population all non-applicable arrestees such as those released on bonds or those that had existing warrants. A random sample of arrests was selected from 12 days in August, 2008 for the review. The DPD included all of the substantive paragraphs related to this topic and they properly defined and assessed the "time between arrest and arraignment" and the time to "adjudicate holds." Based on the foregoing, the previous monitor found the DPD to be in compliance with paragraph U96.

We found that the Audit Protocol of August 31, 2009, sets forth the policy required to address U96 and that audits and reports required have been produced. The DPD continues in compliance.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U97

The Chief Investigator of OCI shall designate an individual or entity to conduct regularly scheduled quarterly audits that examine external complaints and complaint investigations. The audit shall include reviewing a sample of complaints that were resolved informally, reviewing a sample of OCI investigations of complaints, and contacting the complainants to evaluate whether the actions and views of the complainant were captured correctly in the complaint report and/or investigation. The Chief Investigator shall review all audit reports regarding officers under OCI command and, if appropriate, shall take non-disciplinary corrective action or disciplinary action.

Comments: In November of 2007, the previous monitor determined that DPD was not in compliance with this paragraph. The DPD Audit Team last conducted this audit in August 2009. Provisions, however, do not specifically address the U97 requirements that the audit review a sample of OCI investigations, and that complainants be contacted to evaluate whether their views were captured.

Compliance Status

Phase 1: Not in Compliance

Phase 2: Not in Compliance

CJ Requirement U98

The DPD shall conduct and document periodic random reviews of scout car camera videotapes for training and integrity purposes. In addition, the DPD shall require periodic random surveys of scout car video recording equipment to confirm that it is in proper working order.

Comments: Directive 303.3, in-car video camera, requires DPD supervisors to perform periodic random reviews of in-car videos and related equipment to ensure that proper procedures are being followed and that the equipment is in working order. The DPD is in Phase 1 compliance.

The severe technical difficulties encountered in the system until the changes put in place by the department have thoroughly disrupted the implementation of procedures the Department tried to put in place. As the in-car video systems become more reliable and useful, additional training for officers, supervisors and commanders will be necessary for the DPD to comply with requirement.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U99

The DPD shall ensure regular meetings with local prosecutors to identify issues in officer, shift or unit performance.

Comments: The previous monitor found the DPD in compliance with the requirements of this CJ paragraph, noting the DPD and the Wayne County Prosecutor's Office meet on a quarterly basis to discuss relevant issues.

Members of the DPD and the Wayne County Prosecutor's Office meet on a quarterly basis as required. We reviewed the minutes of the two most recent meetings, which reflect discussions related to the performance of DPD, including the dismissal of cases due to officers failing to appear for court and other applicable issues. It is apparent the DPD is compliant with this paragraph; however we suggest memorializing this requirement to assure continued compliance.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

Use of Video Cameras

CJ Requirement U100

The DPD shall repair or replace all non-functioning video cameras.

Comments: The previous monitor last examined the MVS status in February, 2009, as set forth in the April, 2009, report. At the time the in-car cameras were in such turmoil that very little was being accomplished and the DPD was determined not to be in compliance with the training and implementation requirements of the CJ.

We could find no policy directive or order that addressed this requirement.

During the past quarter, the DPD made important strides in making its non-functioning MVS equipment work properly. New expertise has been brought to the Department that has enabled it to make progress in implementing MVS.

Compliance Status

Phase 1: Not in Compliance

Phase 2: Not in Compliance

CJ Requirement U101

The DPD policy on video cameras shall be revised and augmented to require:

a. *activation of scout car video cameras at all times the officer is on patrol;*

b. *supervisors to review videotapes of all incidents involving injuries to a prisoner or an officer, uses of force, vehicle pursuits and external complaints; and*

c. *that the DPD retain and preserve videotapes for at least 90 days, or as long as necessary for incidents to be fully investigated.*

Comments: The previous monitor cited "numerous deficiencies" in connection with the requirements of the CJ paragraphs, "including a lack of adequate training for supervisors and officers, inoperable in-car video equipment, and an inability to upload and retain video recordings on a consistent basis."[87]

Directive 303.3 regarding in-car video cameras requires DPD officers to activate video cameras at all times on patrol, supervisors to conduct the reviews required by U101 and that tapes be preserved as set forth. The DPD is in Phase 1 Compliance.

The Department has made substantial progress addressing the technical problems that so severely disrupted the MVS that little use was made of the equipment. As learned in the November site visit two precincts have been equipped with functioning MVS systems, and now use as mandated by these requirements can begin. During the next on-site we will begin to audit MVS in the precincts where it has been made functional to determine if it is being used as required.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U102

The DPD policy on video cameras shall require officers to record all motor vehicle stops, consents to search a vehicle, deployments of a drug-detection canine, or vehicle searches.

Comments: Directive 303.3 requires DPD officers to activate video cameras at all times on patrol and specifically to record all motor vehicle stops, consent searches of vehicles, deployments of drug detection canines. The DPD is in Phase 1 Compliance with U102.

As we noted in other MVS requirements, the Department has successfully addressed the technical problems that so severely disrupted the MVS that little use was made of the equipment. Now that two precincts have been equipped with functioning MVS systems, use as set forth by these requirements can begin. During the next on-site we will begin to audit MVS in any additional precincts where it has been made functional to determine if it is being used as required.

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[87] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2008, Issued April 20, 2009. (Report #22)

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

E. DISCIPLINE

CJ Requirement U103

The City shall ensure that adequate resources are provided to eliminate the backlog of disciplinary cases and that all disciplinary matters are resolved as soon as reasonably possible.

The previous monitor found the DPD in compliance with this CJ paragraph during the quarter ending August 31, 2008, but following a subsequent assessment found the DPD no longer compliant. The monitor noted the lack of adherence to prescribed disciplinary process timelines and a backlog of cases as a basis of this finding. The monitor also acknowledged the assignment of additional resources to Disciplinary Administration (DA) to help resolve the problem.[88]

Comments: The DPD provided documentation of an increase in staffing of Disciplinary Administration (DA) from a total of seven to a total of eight personnel. The staff includes one lieutenant, three sergeants, three police officers and one non-sworn individual. We conducted no further assessment of the requirements of this CJ paragraph during this quarter; therefore are unable to support a finding in this report. Compliance with these requirements will be assessed during the next reporting period.

Compliance Status

Phase 1: Deferred

Phase 2: Deferred

CJ Requirement U104

The DPD shall schedule disciplinary hearings, trials, and appeals at appropriately frequent intervals, to prevent a disciplinary backlog from developing. As part of determining how often to schedule such hearings, the DPD shall establish guidelines dictating the maximum period of time that should elapse between each stage of the disciplinary process.

Comments: The previous monitor determined the DPD was not in compliance with the requirements of this CJ paragraph noting a backlog of cases and delays in the disciplinary process described in U103.[89]

The DPD provides its adopted Disciplinary Process Timelines, revised August 29, 2006 for review. These guidelines comply with the intent of this paragraph, but they appear excessive and may well be a partial cause of the disciplinary case backlog. We will conduct a comprehensive

[88] Report of the Independent Monitor for the Detroit Police Department, Quarter ending February 28, 2009, Issued April 20, 2009 (Report #22).

[89] Report of the Independent Monitor for the Detroit Police Department, Quarter ending February 28, 2009, Issued April 20, 2009 (Report #22).

assessment of the disciplinary process, including U103 and U105, during the next reporting period.

Compliance Status

Phase 1: Deferred

Phase 2: Deferred

CJ Requirement U105

The DPD shall create a disciplinary matrix that:

a. *establishes a presumptive range of discipline for each type of rule violation;*

b. *increases the presumptive discipline based on both an officer's prior violations of the same rule as well as violations of other rules;*

c. *requires that any departure from the presumptive range of discipline must be justified in writing;*

d. *provides that the DPD shall not take only non-disciplinary corrective action in cases in which the disciplinary matrix calls for the imposition of discipline; and*

e. *Provides that the DPD shall consider whether non-disciplinary corrective action also is appropriate in a case where discipline has been imposed.*

Comments: The previous monitor found the DPD in full compliance with this CJ paragraph.[90]

We reviewed DPD Directive 102.4 Discipline, effective July 1, 2008, and the DPD Discipline Matrix (DPD22a) and found the DPD compliant with the requirements of this paragraph. These documents set forth complete, understandable procedures that include a presumptive range of discipline based upon both an officer's prior violations of the same rule as well as other violations.

We conducted no further assessment of these requirements during this reporting period; therefore are deferring our Phase 2 assessment. This will be completed during the next reporting period in conjunction with our assessment of U103-104.

Compliance Status

Phase 1: In Compliance

Phase 2: Deferred

[90] Report of the Independent Monitor for the Detroit Police Department, Quarter ending February 28, 2009, Issued April 20, 2009 (Report #22)

Critical Issues

The decision on how best to proceed with the risk management system has not been made.

The fundamental question raised by the DOJ expert about whether to continue with MAS or start from scratch does not appear to have been addressed directly. Work on the system continues although there does not appear to have been a clear decision of how best to proceed. A process specifically designed to address this basic question should be undertaken. The system test described below and the discussion of the results will be one part of that process but DPD will need to develop the full process for making the decision on how best to move forward.

Even the troublesome questions that remain open do not address the concerns that will be most critical over the long term. Those questions relate to the quality of the data entered into the system and to its use. A risk management system intended to identify and provide assistance to officers experiencing work related problems will never be any better than the quality of the data on which it runs.

There are thus three key dimensions critical to the Consent Judgment. First, what is the quality of the data being entered into the system; that is, does it capture and record the events intended in the Judgment? Second, does it produce the output data needed by supervisors to assist them in managing the department? And third, do officers and supervisors utilize the system as it is intended?

With regard to the quality of data entered into MAS, the Monitor will regularly compare known incidents to those entered into MAS. We will establish expectation of the data based on independent reports of the recent events. This may come from Officer Work Sheets, Use of Force numbers distributed through communications or other information sources. We will examine the data to assure the incidents are entered into the data base and to assure that the descriptions of events match closely between the MAS entry and other original sources.

Some initial concern over whether all of the required data are being entered in MAS was raised during the first site visit. It was learned then that in the final year of manual reporting of Use of Force over 1,200 reports were filed while in the first year of electronic filing, (November 08 through Oct 09) fewer than 600 cases were entered in MAS.

The second and related data issue deals with whether data are distributed by MAS in a way that is complete, accurate and useful for supervisors. To assess this, the monitor will regularly examine reports produced by MAS to see that they reflect the activities and events entered into the system, whether they accurately identify officers passing preset thresholds and whether the relevant reports reach appropriate supervisors.

Finally the Monitor will examine data on supervisors' use of MAS. This will include random reviews of supervisors "dashboards" to determine if supervisory reviews occur in a timely fashion. Reviews of Monthly Intervention Status reports will be used to assess whether required PEERS meetings are held and documented appropriately.

The fundamental questions raised by the DOJ subject matter expert regarding MAS have yet to be addressed. The administration has overseen some improvements in the system but its future remains unclear. However, the urgency of the situation is recognized. The Risk Management System is central to the Consent Judgment and if clear progress is not made on MAS soon, DPD

will not only continue to fall significantly behind in this area but progress will be slowed on other data related elements of the judgment.

To assist DPD in its decision regarding the appropriate direction for the agreed upon requirement for a risk management system, the Monitor is proposing a comprehensive test of MAS on the Team's next visit. While the specifics of such a test are still being planned and will be shared with DPD as they are determined, a test would include the following:

a. A review of administrative structure and whether the location of MAS and the resources dedicated to it are sufficient to meet the requirements of the Consent Judgment.

b. A test of data entry in which incidents reflecting the required data elements and known to have occurred are searched for in the data base. Among the incidents would be a random selection of uses of force, allegations of use of force, vehicle and foot pursuits, stop and frisk reports and other events requiring data entry under the Consent Judgments. Sources of data sampling will include but not be limited to officer activity logs.

c. A test of data outputs by examining a sample of Officer Activity Reports from MAS.

d. A test of data outputs to see that supervisors are being notified when events occur which require their review, and MAS Threshold notification reports.

e. A test of data outputs by examining required summary reports such as the Monthly Intervention Status Report and Unit Performance Reports.

f. A review of a sample of supervisors "dashboards" to determine required reviews are occurring in a timely fashion.

g. A review of data outputs and processes by examining a sample of Monthly Intervention Status reports and related documentation.

A comprehensive test of MAS based on the points above, and an informed discussion of MAS involving DPD and the Monitor should assist DPD is determining the course on which it moves forward.

In-car video success

The previous monitor devoted considerable attention to the challenges to the Department's successful implementation of an effective in-car video system. The previous monitor reported that DPD has "struggled" to achieve compliance with the video implementation requirements. In fact the previous monitoring team conducted six inspections of "operational" in-car video systems and in the October 15, 2008 report the video system was pronounced "…in its present state, is useless." In May, 2009 an expert in MVS technology visited Detroit and conducted an examination of the DPD in-car video system. The expert found many difficulties in the MVS systems deployed in DPD vehicles and concluded that the problems led to "a complete failure of the scout car video system infrastructure within the DPD." He noted that senior department executives, IT management and integrators, road supervisors and patrol officers agreed that "no confidence exists with the current DPD video infrastructure." He argued that the "current technology cannot be salvaged and integrated into any future workable solution" and recommended that DPD issue a Request for Proposal (RFP) for a single system with an experienced vendor. Recently, there was also negative news coverage in the *Detroit Free* Press. An article appeared in October, 2009, that alleged that the Department had spent over $18

million on a MVS that was so ineffective they should "tear it out at the roots in order to start from scratch…" The DPD began working to generate an RFP to acquire a new MVS system.

In August, 2009, as the DPD was confronting some of the worst news about its MVS system, the department added technological expertise to its administration through the hiring process. The head of the DPD Technical Service Bureau oversees all communications, dispatch, crime analysis, the message center and IT services.

With this addition, the administration has moved quickly to address the difficulties with the MVS. Two precincts (#10 and #12) were selected to serve as pilots for a revised MVS. The two precincts were relatively typical for the city and, importantly, were located nearby the technology center. DPD has now examined the technical difficulties confronted in the two precincts and quickly concluded that they way the systems had been set up made it impossible for the equipment to function properly. Briefly, the systems had been set to record full video (30 frames/second) 24 hours a day. When the cars returned to the precinct for a shift change, theoretically the data was to be uploaded automatically through a wireless system that communicated with the patrol cars as they sat for about one hour in the precinct parking lot. The system broke down because such a large amount of data (over 600 MBs per hour) was being generated that it simply could not be uploaded in the short time the cars sat in the parking lot before they were operational again.

In order to reduce the video storage to a manageable size, the cameras were adjusted to record a single frame per second and set to return to full video (30 frames/second) when the emergency lights were activated. These techniques lowered the data storage requirements dramatically and uploading during shift changes became possible. Time was then spent on repairing the individual systems to ensure that each was recording and uploading as required. The two pilot precincts are now estimated to be producing and successfully uploading about 85% of the video that is to be collected.

Training is needed for In-car Video

Our visit to a precinct revealed that the difficulties experienced in the past with MVS have left many officers lacking confidence in the system. We found that senior officers and supervisors were unfamiliar with the capabilities of the newly revised system. For example, we interviewed senior officers who were unaware that video could be accessed through the intranet. DPD has made dramatic improvements in the technology and now must re-educate its members in use of the data that is now available.

Little progress in performance evaluations

With regard to performance evaluation the Detroit Police Department has not made progress with their performance evaluations reviews. There should be a concerted effort from all levels of command down to the first line of supervision to ensure that employee evaluations comply with the three issues detailed in CJ U91. There remains to be serious problem with the lack of content and accountability in the current manner in which supervisors complete the evaluation form.

The backlog of disciplinary cases raises many issues

In the area focusing on discipline, the backlog of disciplinary cases raises many issues ranging directly from the time of investigation until a case has gone through the entire process. One of the identified obstructions causing the delay relates to the time Disciplinary Administration receives the case to the time of the drafting of the charging sheets. The timeliness and fairness to the accused employee is of concern and those can cause anxiety for all employees who are similarly situated.

Next Steps

(Risk Management) On the Second Quarterly Site Visit, the Monitor will continue to assess compliance on all requirements relating to the risk management system. Working with DPD we will also conduct the test of MAS that is described above and engage in extensive discussion of the results of the test with key DPD staff. In particular our analysis will include review of the following data:

1. A review of work sheets to identify incidents, actions and events that should be documented in MAS.
2. A review corresponding MAS entries.
3. A review of a sample of Supervisory Dashboards.
4. A review of a sample of reports produced as output from MAS

(Performance Evaluation) In order to address the question of supervisors accurately describing the performance of the personnel under their supervision, we will examine the training program specific to paragraph U91 and attempt to determine if the training is inadequate or the supervisor's chain of command is failing to assess the role of the first line supervisor.

(In Car Video) We will check to see if appropriate policies addressing these requirements have been promulgated. Only one of the three MVS requirements was determined to not be in compliance but it was our understanding that all MVS policy directives were being rewritten.

We will obtain a list of traffic stops, pursuits, canine deployments and searches conducted by the cars in precincts 10 and 12 which have been part of the pilot project to make the MVS workable. We will select a sample of the events and check to determine if video exists for them; >94% compliance will be sought.

During the January, 2010 on-site visit an evaluation of the Performance Evaluation System will be reviewed to ensure compliance with U91. We will meet with the Deputy Chief of the Civil Rights Integrity Bureau (CRIB) to address any outstanding issues with regard to the existing policy.

The Monitor will discuss with the Deputy Chief of CRIB the issues addressed in U103-U105 that directly affect the disciplinary process, including the backlog of disciplinary cases (hearings, trials, and appeals at frequent intervals), guidelines establishing timeframes for the disciplinary process, and the development of a matrix designed to establish a presumptive range of discipline for each type of violation.

(Discipline) If the DPD is to address the backlog of disciplinary cases the resources must be in place to address the problem. When the resources are in place the process must be reviewed and either modified or streamlined to ensure that all disciplinary cases are resolved as reasonably as possible. We will meet with OCI personnel and review the current process for efficiencies.

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
78	Devise Risk Management Plan	In Compliance	Not in Compliance
79	Improve risk management system	In Compliance	Not in Compliance
80	Database requirements (a-z)	In Compliance	Not in Compliance
81	Data base include officer information	In Compliance	Not in Compliance
82	Data Input Plan (a—d)	In Compliance	Not in Compliance
83	Report protocol for database(a-c)	In Compliance	Not in Compliance
84	Review protocol for database (a-l)	Not in Compliance	Not in Compliance
85	Use modules to assure work progress	In Compliance	Not in Compliance
86	Common control number required	In Compliance	Not in Compliance
87	Data retention	In Compliance	Not in Compliance
88	Database schedule (expired)	Not in Compliance	Not in Compliance
89	Interim database (rescinded)	In Compliance	In Compliance
90	DOJ approval required for changes	In Compliance	Not in Compliance
91	Annual Officer Review Criteria specified	In Compliance	Deferred
92	Protocol for conducting audits	In Compliance	In Compliance
93	Audit results to Chief and commanders	In Compliance	Not in Compliance
94	Quarterly audits-use of force	In Compliance	In Compliance
95	Quarterly audits-probable cause etc	Not in Compliance	Not in Compliance
96	Quarterly audits-detention practices	In Compliance	In Compliance
97	Quarterly audits-external complaints	Not in Compliance	Not in Compliance
98	Random reviews of in-car camera videos	In Compliance	Not in Compliance
99	Regular meeting with local prosecutors	In Compliance	In Compliance
100	Replace/repair video cameras	Not in Compliance	Not in Compliance
101	Revision of video camera policy	In Compliance	Not in Compliance
102	Record all vehicle stops, searches etc	In Compliance	Not in Compliance
103	Elimination of disciplinary case backlog	Deferred	Deferred
104	Scheduling of disciplinary cases	Deferred	Deferred
105	Disciplinary matrix of responses/sanctions	In Compliance	Deferred

IX. TRAINING

We visited the Detroit Police Training Center and interviewed the Deputy Chief recently appointed to oversee departmental training, the current Commander of Training, the previous Commander responsible for in-service training and a lieutenant assigned to Training. We also reviewed a variety of memoranda and policy material and the seven lesson plans used in recruit and in-service training.

DPD Training was reorganized two weeks before our visit. In November, 2009, two divisions that previously had separate responsibility for recruit and restoration[91] training and in-service

[91] Restoration training is the refresher training afforded to an officer returning to service who was previously trained but had a lapse in service.

training were merged and placed under the command of a single officer with the rank of Commander.

A. OVERSIGHT AND DEVELOPMENT

CJ Requirement U106

The DPD shall coordinate and review all use of force and arrest and detention training to ensure quality, consistency and compliance with applicable law and DPD policy. The DPD shall conduct regular subsequent reviews, at least semi-annually, and produce a report of such reviews to the Monitor and the DOJ.

Comments: The previous monitor found that U106 was not yet in compliance[92] and noted that the DPD's Curriculum Design and Development Team (CDDT) submitted a Semi-Annual Report required by U106 on October 15, 2008. According to the previous monitor the report "purported" to cover paragraph U106. The previous monitor identified numerous deficiencies and observed that the document was incomplete.

We found that the use of force policy, dated summer 2009, as recorded in the DPD Manual, Section 304.2 - 6.1 General, states that "All members shall be trained by qualified instructors in any authorized lethal or less lethal weapon they carry." It does not, however, direct that use of force, arrest and detention training be delivered, nor does it fix the responsibility for conducting the training. Furthermore, it does not direct that semi-annual reviews of use of force training be conducted and that reports be produced. Since there is no policy that addresses the requirements of U106, the DPD is not in Phase 1compliance.

Although absent appropriate policy, the DPD took substantial steps toward compliance. Use of force classes were audited by training managers and a report entitled, *Training Oversight and Development Report, Summer 2009,* which addresses U106, was produced. It contains the evaluation of use of force, arrest and detention training and covers all elements of the requirement.

U106 requires reviews and reports be produced at least semi-annually. Lacking adequate policy and having conducted only one review/report, the DPD is not in Phase 2 compliance.

Compliance Status

Phase 1: Not in Compliance

Phase 2: Not in Compliance

[92] Report of the Independent Monitor for the Detroit Police Department, Report for the Quarter Ending May 31, 2009, issued July 16, 2009. (Report #23)

CJ Requirement U107

The DPD, consistent with Michigan law and the Michigan Law Enforcement Officers Training Council standards, shall:

a. ensure the quality of all use of force and arrest and detention training;

b. develop use of force and arrest and detention training curricula;

c. select and train DPD officer trainers;

d. develop, implement, approve and oversee all training and curricula;

e. establish procedures for evaluating all training curricula and procedures; and

f. conduct regular needs assessments to ensure that training governing use of force and arrest and detention are responsive to the knowledge, skills and abilities of the officers being trained.

Comments: The previous monitor reported in the 23rd quarterly report that the DPD was not in compliance with this paragraph.

No specific policy directive or order requires compliance with U107.

During our visits to the Training Bureau, we held interviews with the director and staff and conducted reviews of records. We found the DPD to be in conformity with the Michigan Law Enforcement Council standards and Michigan law. With regard to subparagraphs a-f, we found as follows:

a. The DPD provided a document entitled: "Training Oversight and Development Report, summer 2009." The report outlined training consistent with the provisions contained in the CJ. Included in the report were instructor evaluations made based on classroom observations. Each instructor was rated at least above average. We were provided a brief resume of each instructor but no further assessment of their course expertise, nor a process for further development (i.e., a mentor instructor, additional training or education, etc.).

b. The DPD provided the appropriate lesson plans addressing this requirement. We were advised by the DPD Training executives that the Michigan Commission on Law Enforcement Standards (MCOLES) does not require in-service training for police officers in Michigan. We confirmed this through contact with the Commission. The in-service training program that has been implemented was designed to cover every single requirement of the Consent Judgments.

c. While we were not provided with a formal selection process for the Training Bureaus instructional staff, the Risk Management and Training Command officials acknowledge the importance of staffing the Training Bureau with highly capable personnel who will provide sound, authentic instruction. The process in place operates in conformity with established bargaining contracts, where sergeants and lieutenants who desire to be trainers are selected based on seniority and screened in or out due to select disciplinary issues, not based on expertise or demonstrated competencies. The non-ranking member candidates for trainer positions have a more defined process. Yet , the process for this component could be more distinctly formulated as well, with better articulated criteria

publicized throughout the DPD to help members make early, more informed career path choices to create a high quality pool of potential trainers from which to select.

d/e. The DPD has promulgated policy,[93] curricula and lesson plans which illustrate that these provisions are being met. An evaluation report[94] on the nature and quality of training was made available for our review.

f. The DPD has taken initial steps to conduct a training needs assessment for the identified areas but has had difficulty developing an appropriate measuring tool. The DPD did not provide an actual assessment report nor an identified process to achieve this purpose for our review. We offered advice on steps the Department may wish to pursue to assist their understanding of the assessment process and to develop a protocol to facilitate training needs assessment.

Compliance Status

Phase 1: Not in compliance

Phase 2: Not in compliance

CJ Requirement U108

The DPD shall create and maintain individual training records for all officers, documenting the date and topic of all pre-service and in-service training completed for all training conducted on or after the effective date of this agreement.

Comments: In the 23rd Quarterly Report, the previous monitor found the DPD not in compliance with this requirement.

We found no policy directive or order requiring compliance with Requirement U108.

In our review of this requirement we found no real progress to fully implement a contemporary employee training record system. Presently the department files training data by subject taught and not by member. While a laborious search of records will likely indicate an employee's attendance and training participation, this is not a system which will ensure accountability for effective and timely training of each member on the required material. The Training Bureau found the MITN System (MCOLES Information and Tracking System) difficult to use and has begun developing an Access-based program to track training.

Compliance Status

Phase 1: Not in compliance

Phase 2: Not in compliance

CJ Requirement U109

The DPD shall ensure that only mandated objectives and approved lesson plans are taught by instructors and that instructors engage students in meaningful dialogue regarding particular

[93] See Organization and Management Directive 101.4-2, 3.

[94] See Training Oversight and Development Report, Summer 2009

scenarios, preferably taken from actual incidents involving DPD officers, with the goal of educating students regarding the legal and tactical issues raised by the scenarios.

Comments: In the most recent quarterly report by the previous monitor, the DPD was found not in compliance with this requirement.

We found no policy directive or order requiring compliance with Requirement U109.

The DPD provided a training directive and lesson plans[95] which have received approval internally and by the previous monitor and DOJ. These plans properly direct and instruct on the relevant provisions of the CJ. The DPD also created a bi-annual report assessing the quality of the instruction. Our review of the lesson plans and curricula documents show they are sufficiently crafted to convey the requirements of the CJ. Nevertheless we have not been shown documentation of independent approval and local scenarios have not been developed. When use of force classes were audited by training managers (see U106), managers observed that the instructors remained within their lesson plans and that they engaged in a meaningful dialog with officers. Feedback was provided to the instructors. While the DPD has made substantial progress on this requirement, absent Phase 1 compliance, and documentation of approval and development of scenarios derived from local incidents, compliance is not achieved.

Compliance Status

Phase 1: Not in compliance

Phase 2: Not in compliance

CJ Requirement U110

The DPD shall meet with the City Law Department on a quarterly basis concerning the conclusion of civil lawsuits alleging officer misconduct, information gleaned from this process shall be distributed to DPD risk management and training staff.

Comments: The DPD was found in compliance with this requirement by the previous monitor.

The DPD held its most recent quarterly meeting with the law department in November 2009. They offered for our review a report of the meeting agenda, minutes and a copy of the resultant publication[96] which was distributed to the required recipients and the department generally. Additionally, detailed notes from meetings held on July 30, 2008 and October 23, 2008 were provided.

Compliance Status

Phase 1: In compliance

Phase 2: In compliance

[95] See Training Oversight and Development Report, Summer 2009 .

[96] See U110 Meeting Circular, Volume 4, Issue 3

CJ Requirement U111

The City and the DPD shall distribute and explain this Agreement to all DPD and all relevant City employees The City and the DPD shall provide initial training on this Agreement to all City and DPD employees whose job responsibilities are effected by this Agreement within 120 days of each provision's implementation. Thereafter, the DPD shall provide training on the policies contained in this Agreement during in-service training.

Comments: The DPD was found not in compliance by the previous monitor for the quarter ending May 31, 2009.

The DPD produced a variety of policy directives and lesson plans which specifically cover the content requirements of this provision. However, there is no general policy directive which sets standards and duration of training and compels each member to attend, noting the consequence of failure to do so. The DPD did not provide for our review any documentation that the 120-day required initial distribution, explanation and training of its members and relevant city employees following the implementation of each provision had occurred. Verifiable employee records regarding in-service training were not made available to substantiate that on-going instructions for greater than 94% of its members had been achieved.

Compliance Status

Phase 1: Not in compliance

Phase 2: Not in compliance

B. USE OF FORCE TRAINING

CJ Requirement U112

The DPD shall provide all DPD recruits, officers, and supervisors with annual training on use of force. Such training shall include and address the following topics:

a. *The DPD's use of force continuum; proper use of force; decision making; and the DPD's use of force reporting requirements;*

b. *The Fourth Amendment and other constitutional requirements, including recent legal developments;*

c. *Examples of scenarios faced by DPD officers and interactive exercises that illustrate proper use of force decision making, including the use of deadly force;*

d. *The circumstances in which officers may draw, display, or point a firearm, emphasizing:*

    i) *Officers should not draw their firearm unless they reasonably believe there is a threat of serious bodily harm to the officer or another person;*

    ii) *The danger of engaging or pursuing a suspect with a firearm drawn; and*

    iii) *That officers are generally not justified in drawing their firearm when pursuing a subject suspected of committing only a misdemeanor;*

e. *The proper use of all intermediate force weapons;*

f. Threat assessment, alternative and de-escalation techniques that allow officers to effect arrests without using force and instruction that disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements, calling in specialized units or even letting a subject temporarily evade arrest may be the appropriate response to a situation, even when the use of force would be legally justified;

g. Interacting with people with mental illnesses, including instruction by mental health practitioners and an emphasis on de-escalation strategies;

h. factors to consider in initiating or continuing a pursuit;

i. The proper duration of a burst of chemical spray, the distance from which it should be applied, and emphasize that officers shall aim chemical spray only at the target's face and upper torso, and consideration of the safety of civilians in the vicinity before engaging in police action.

Comments: The previous monitor found that the DPD was not in compliance with all of the requirements of this provision.

We found no policy directive or order requiring compliance with Requirement U109.

We met with the Deputy Chief of Police, who Commands the Risk Management Bureau, which organizationally supervises the Training Bureau, the Training Bureau Commander, the former training commander and a training lieutenant to discuss the DPD training concept in depth. Our focus was on the training process to implement CJ training requirements. The DPD produced a variety of documents to include training policy directives, curricula, lesson plans, special orders and teletypes among other materials purported to address the requirements of U112. Our review and analysis of the proffered material shows the course content requirements of U112 and all of its subparagraphs have been met for all recruits. Appropriate training and instruction for some tenured members has been presented, however, compliance had not yet been fully met for career members. As of November 17, 2009, 1,022 members, about one third of the department's sworn membership had attended this year's in-service training. Moreover, in the absence of documentation of course content approval by an independent review as contained in U109 Phase 1 compliance would not have been met.

Compliance Status

Phase 1: Not in compliance

Phase 2: Not in compliance

C. FIREARMS TRAINING

CJ Requirement U113

The DPD shall develop a protocol regarding firearms training that:

a. Ensures that all officers and supervisors complete the bi-annual firearms training and qualification;

b. *Incorporates professional night training, stress training (i.e., training in using a firearm after undergoing physical exertion) and proper use of force decision making training in the bi-annual in-service training program, with the goal of adequately preparing officers for real life situations;*

c. *Ensures that firearm instructors critically observe students and provide corrective instruction regarding deficient firearm techniques and failure to utilize safe gun handling procedures at all times; and*

d. *Incorporates evaluation criteria to determine satisfactory completion of recruit and in-service firearms training, including:*

   i) *Maintains finger off trigger unless justified and ready to fire;*

   ii) *Maintains proper hold of firearm and proper stance; and*

   iii) *Uses proper use of force decision making.*

Comments: The previous monitor stated in the last assessment report on this provision that the DPD's Firearms and Tactical Training and Qualification Plan had been approved, but had not completed an evaluation of the DPD's implementation of the firearms training protocol.

During our visit to the Training Bureau we reviewed the training plan and direction[97] for training implementation. Though the DPD has made an effort to train all of its members, it has not done so with more than 94% of its members during the past training year. Our review of available documentation shows that the DPD has promulgated policy consistent with the requirements of this provision and meets Phase 1 compliance but not yet completed implementation.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in compliance

D. ARREST AND POLICE-CITIZEN INTERACTION TRAINING

CJ Requirement U114

The DPD shall provide all DPD recruits, officers and supervisors with annual training on arrests and other police-citizen interaction. Such training shall include and address the following topics:

a. *The DPD arrest, investigatory stop and frisk and witness identification and questioning policies;*

b. *The Fourth Amendment and other constitutional requirements, including:*

   i) *Advising officers that the "possibility" that an individual committed a crime does not rise to the level of probable cause;*

[97] See teletype 09-02385

ii) Advising officers that the duration and scope of the police-citizen interaction determines whether an arrest occurred, not the officer's subjective, intent or belief that he or she affected an arrest; and

iii) Advising officers that every detention is a seizure, every seizure requires reasonable suspicion or probable cause and there is no legally authorized seizure apart from a "Terry stop" and an arrest; and

c. Examples of scenarios faced by DPD officers and interactive exercises that illustrate proper police-community interactions, including scenarios which distinguish an investigatory stop from an arrest by the scope and duration of the police interaction; between probable cause, reasonable suspicion and mere speculation; and voluntary consent from mere acquiescence to police authority.

Comments: The previous monitoring team found the DPD had begun using the approved Law of Search and Seizure Lesson Plan during her assessment of this provision on November 25, 2008. They noted minor deficiencies in instructional delivery and gave feedback in a correctional critique. She also noted that less than 94% of the members had received the training, thus compliance had not been met.

During our visit to the Training Bureau we were presented training directives and lesson plans on law of arrest, search and seizure, the citizen complaint process, investigatory processes and procedures and detention. In the absence of a policy on mandatory training attendance, we were provided a copy of an administrative teletype[98] distributed to the department requiring attendance to the annual in-service which began on July 6, 2009 and including a training protocol. We had access to a register of attendees which indicates approximately one third of the DPD membership had received the training through the time of our visit for this training year.

Compliance Status

Phase 1: Not in compliance

Phase 2: Not in compliance

E. CUSTODIAL DETENTION TRAINING

CJ Requirement U115

The DPD shall provide all DPD recruits, officers and supervisors with annual training on custodial detention. Such training shall include DPD policies regarding arrest, arraignment, holds, restrictions, material witness and detention records.

Comments: In the most recent assessment of this provision the previous monitor found the DPD not in compliance due primarily to insufficient attendance to exceed 94%.

We found that the DPD had developed appropriate policies and lesson plans to comply with this provision and had developed a protocol to train all recruits, confinement officers, investigators and supervisors. No protocol had been developed to instruct non-recruit officers on all aspects of

[98] See teletype 09-02385

this provision. Additionally, less than 94% of those identified to attend this training had done so for this training year during our assessment.

Compliance Status

Phase 1: In compliance

Phase 2: Not in compliance

CJ Requirement U116

The DPD shall advise officers that the DPD arraignment policy shall not be delayed because of the assignment of the investigation to a specialized unit, the arrest charge(s), the availability of an investigator, the gather of additional evidence or obtaining a confession.

Comments: The previous monitor reported the development of curricula to properly instruct on this provision, but due to insufficient attendance the DPD had failed to achieve compliance.

Our review shows that the DPD has developed appropriate subject matter directives and instruction plans to meet the requirements of this provision, but has not developed a specific policy on member training obligations and relies on non-permanent instruments such as "teletypes" to facilitate this fundamental concept. Nevertheless, available records indicate the DPD is meeting its training obligation and should train greater than 94% by the completion of the training year. While measurable progress has been made, compliance has not yet been achieved at this point of our assessment of this provision.

Compliance Status

Phase 1: Not in compliance

Phase 2: Not in compliance

CJ Requirement U117

The DPD shall advise officers that whether an individual is a material witness and whether that material witness should be committed to custody is a judicial determination.

Comments: The previous monitor last accessed U117 for compliance in the quarter ending on February 28, 2009 and determined that the DPD had begun it new in-service training program. As previously noted, the DPD's then named Office of Training and Professional Development began its in-service training program on August 4, 2008. The program is designed to train all DPD Officers over the course of a year and the training year at that time was only partially completed. Accordingly, the previous monitor found that the Department had not yet trained greater than 94% of its members required to attend this training, which it noted "is a requirement for achieving compliance."

We found the DPD to be in Phase 1 Compliance with U117. The Detroit Police Department Manual, Directive 202.1, dated July 1, 2008, provides guidelines and procedures for members in making lawful arrests, the detention of material witnesses, to provide supervisory review of arrests for probable cause, and to provide for prompt judicial review of arrests. The Material Witness Policy is set forth in 202.1, Section 4.4, which clearly states that "only a court has the

authority to decide whether an individual is a material witness, and whether that material witness should be committed to jail pending his or her testimony." The policy continues that a material witness can only be taken into custody "upon an order from the court where the criminal matter is pending."

The DPD has conducted in-service training and detention officer training that addresses the requirements of U117. We reviewed the lesson plans for In-service and Detention training and found that they were comprehensive in covering training relating to material witnesses. During the past fiscal year (July 1, 2008 - June 30, 2009) in-service training was afforded to 2,400 (86.7 %) of the 2,767 sworn officers on duty and available for training. The Department made good progress in delivering training but has not yet reached the >94% level required to be found in compliance.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

E. SUPERVISORY TRAINING

CJ Requirement U118

The DPD shall provide supervisors with training in the appropriate evaluation of written reports, including what constitutes a fact based description, the identification of conclusory language not supported by specific facts and catch phrases, or language that so regularly appears in reports that its inclusion requires further explanation by the reporting officer.

Comments: The previous monitoring team last checked compliance with this requirement in the quarter ending on February 28, 2009. They found that while the Department had made progress by implementing an in-service training program that would address Requirement U118, it had not yet trained greater than 94% of its officers.

We determined that there has been no specific policy directive or order that addressed this requirement.

The lesson plan for *Supervisory Leadership & Accountability* contains a section, *E. Supervisory Evaluation of Written Reports (U-118)*, which directs the instructor to address each of the requirements of U118. The lesson plan is not, however, a policy directive. During the past year, DPD trained 602 (82%) of its 734 supervisors who were available to be trained.

Having no specific policy directive that requires supervisors be provided with training in the appropriate evaluation of reports as outlined in U118, the DPD is not in Phase 1 Compliance.

The DPD lesson plan comports with this requirement and once it is found to be in Phase 1 Compliance, Phase 2 Compliance will be determined by how many of its supervisors actually receive the required training during the next fiscal year.

Compliance Status

Phase 1: Not in Compliance

Phase 2: Not in Compliance

CJ Requirement U119

DPD supervisors shall receive leadership and command accountability training and learn techniques designed to promote proper police practices. This training shall be provided to all DPD supervisors within 30 days of assuming supervisory responsibilities and shall be made part of annual in-service training.

Comments: The previous monitoring team last checked compliance with this requirement in the quarter ending on February 28, 2009. As noted in Requirement U118 they found that while it had made progress, the Department had not achieved the >94% required due to the number of officers who had attended the in-service training program.

We found that there is no written policy directive which orders compliance with this requirement. Accordingly, the DPD is not in Phase 1 Compliance with this requirement.

During the past year, the DPD trained 82% of its supervisors. As in other training requirements, we found that lesson plans had been created for training supervisors that addressed this requirement (see *Supervisory Leadership & Accountability,* dated 8/27/2007) and, if the Department trains more than 94% of its officers using the lesson plans we reviewed, it will be found in compliance.

Compliance Status

Phase 1: Not in Compliance

Phase 2: Not in Compliance

CJ Requirement U120

The DPD shall provide training on risk assessment and risk management to all DPD supervisors, including the operation of the risk management database.

Comments: In the report for the quarter ending in April, 2009, the previous monitor found that the DPD was not in compliance with U120 since it had not trained more than 94% of its supervisors.

We were unable to find policy directives or orders that addressed U120.

The lesson plan for Supervisory Leadership and Accountability adequately addresses this requirement. As noted above, the DPD has not yet reached >94% level in training its supervisors. It is not, therefore, in compliance with this requirement.

Compliance Status

Phase 1: Not in Compliance

Phase 2: Not in Compliance

F. INVESTIGATOR TRAINING

CJ Requirement U121

The DPD shall provide training on appropriate burdens of proof, interview techniques and the factors to consider when evaluating officer, complainant or witness credibility to all officers who conduct investigations to ensure that their recommendations regarding dispositions are unbiased, uniform and legally appropriate.

Comments: The previous monitor, as reported in its April 20, 2009 report, found that DPD addressed this requirement in its *Supervisory Leadership and Accountability Lesson Plan* and in its *OCI/IA/FI Investigatory Lesson Plan*, which was taught to personnel in those units on November 6 and November 12, 2008. The DPD was not in compliance with U121 because it had not yet trained >94% of its officers who conduct investigations.

Specific policy directives or orders were not found that address this requirement.

The Department did not train >94% of its supervisors and in the past year and is currently in the middle of its training year. It is not in compliance with this requirement.

Compliance Status

Phase 1: Not in Compliance

Phase 2: Not in Compliance

CJ Requirement U122

The DPD shall provide all supervisors charged with accepting external complaints with appropriate training on handling external complaints that emphasizes interpersonal skills. The DPD shall provide training on the DPD external complaint process, including the role of OCI and IAD in the process, to all new recruits and as part of annual in-service training.

Comments: The previous monitoring team last assessed this requirement in its April 20, 2009, report. While they commented favorably on the fact that the DPD had instituted an in-service training program, the Department was found to be not in compliance with this requirement inasmuch as it had not trained >94% of its supervisors.

Specific policy directives or orders were not found that address this requirement.

The Department did not train >94% of its supervisors in the past year and is currently in the middle of its training year. It is not in compliance with this requirement.

Compliance Status

Phase 1: Not in Compliance

Phase 2: Not in Compliance

G. FIELD TRAINING

CJ Requirement U123

The DPD shall develop, subject to DOJ approval, a protocol to enhance the FTO program within 120 days of the effective date of this Agreement. The protocol shall address the criteria and method for selecting and removing the FTOs and for training and evaluating FTOs and trainees.

Comments: The previous monitor last assessed the FTO Program in her report dated April 20, 2009. The previous monitor attended several days of the DPD's FTO 40-hour certification course and determined that time management was one of the "major problems" for the course. The report discussed long breaks, limited instructional time, no agenda provided to the students and that there were aspects of the training that were not included in the lesson plan.

We found that the Department did develop and implement a protocol to enhance the FTO Program. The *Standard Operating Procedures Manual Field Training Program* reflects the DPD FTO Program which was approved by the DOJ. The procedures are designed to enhance the FTO Program and address the criteria and method for selecting, removing, training and evaluating FTOs. The DPD is in Phase 1 compliance.

Furthermore, following the April, 2009, report of the previous monitor, the Training Bureau responded to the criticism. The then Commander of the In-Service Training Bureau personally met with the officer handling the FTO training and explained each point of criticism in an effort to avoid repetition of the same problems. In addition the previous monitor instructed the training staff on FTO instruction techniques. Subsequently, a revised FTO course was presented in October, 2009. We will evaluate the modified FTO training at our earliest opportunity.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

Critical Issues

Lack of policy directives for training

We found that with some exceptions the DPD does not have policy directives (e.g., general orders, standard operating procedures or special orders) that address the training requirements of the Consent Judgment. In spite of not having policy directives in a number of areas, however, DPD considered the Consent Judgments to have the force of policy and endeavored to follow their mandates. The Department is, therefore, progressing toward compliance in spite of not having specific policy directives.

It is critical in implementing a change that will be sustained to have DPD policy directives that require the specific actions demanded by the CJs. If the department relies on the Consent Judgments as its policy directives, then when the judgments expire, it has no enduring policy or directives requiring these actions to be continued. Accordingly, the DPD was found not in

compliance with Phase 1 for many CJ training requirements. The Department acknowledged its need for policy directives and has begun rectifying the problem by writing new policy orders.

In-service training is not comprehensive

Several of the requirements relating to training are to be fulfilled through the delivery of in-service training. Until the Department reaches the >94% level of officers and supervisors trained at its in-service training sessions, these requirements will not be fulfilled.

The DPD implemented an in-service training program in August, 2008, which saw its first year (FY 2009) completed on June 30, 2009. During that period the Department trained 2,400 (87%) of its 2,767 available[99] officers. Several of the CJ requirements relating to training are dependent upon providing training to all officers at in-service training. The Department will not be able to comply with these requirements until it reaches the >94% level of officers trained. We found that a good start has been achieved. During its first 15 weeks in 2008 the DPD trained 850 of its officers; during the same period in 2009, it trained 1,022.

In addition, DPD stated that during FY 2009 they trained 2,460 officers (89%) in PR-24, 2,429 (88%) in Laws of Search and Seizure, and 602 of 734 supervisors (82%) in Supervisory & Leadership training.

Next Steps

In January, 2010, when we next visit Detroit to conduct an on-site review we will examine the policy directives that have been created for each of the CJ requirements relating to training. Where appropriate policies that address the training requirements have been created and promulgated, the DPD will be determined to be in Phase 1 Compliance.

We will then review each training requirement to determine if the DPD is in actual compliance with it. Wherever possible and practicable, we will measure compliance looking for >94%.

In order to conduct assessments of several of the requirements relating to training we will need lists of all officers, supervisors and detention personnel who are required to be trained in several subjects including use of force, arrests and detention, and management (see requirements U106, U114, U115, U116, U117, U118, U119, U120, U121, U122).

We will review:

- The list of officers selected to serve as trainers and the documentation, re: their selection and training as trainers
- Any training record system that exists and any needs assessment that has been conducted
- A sample of officers who have attended in-service training to determine if the training is documented in training records
- Documentation of development of scenarios derived from local incidents used in instruction

[99] "Available" officers reflect the number of sworn officers on the rolls minus the numbers who are unavailable for training due to extended leave (e.g., military, medical, and administrative leave).

- Documentation of meetings with the City Law Department
- Documentation that the City and the DPD distributed, explained and trained the CJs to all DPD and all relevant City employees
- We will determine a count of officers and supervisors who have attended in-service for FY 2010 as of 12/31/2009 which we will compare to the number that had attended as of 12/31/2008.
- We will select a number of officers, supervisors and, if appropriate, detention personnel who are required to be trained in several subjects (see requirements U114, U115, U116, U117, U118, U119, U120, U121, U122) and we will review their training records to determine if they, in fact, received the training set forth in these requirements.
- We will obtain a list of all supervisors and a count of supervisors who have completed supervisor training during FY 2010 as of 12/31/2009, which we will compare that number with the number that attended supervisory training during FY 2008 as of 12/31/2008.
- We will need a list of all supervisors promoted during the past quarter and the dates they received the training required by the CJ.
- We will need a list of all officers who conduct investigations. A sample will be selected and compared to the lists of officers who have actually received the training required by U121. >94% compliance will be sought.
- We will review the documentation of FTO selection and training and, if available, will monitor an FTO training class.

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
106	Review all UOF, arrest, detention training	Not in Compliance	Not in Compliance
107	DPD will meet State training standards	Not in Compliance	Not in Compliance
108	Maintain individual training records	Not in Compliance	Not in Compliance
109	Train from approved objectives and plans	Not in Compliance	Not in Compliance
110	Quarterly meetings with Law Dept.	In Compliance	In Compliance
111	Distribute/explain this agreement to empl.	Not in Compliance	Not in Compliance
112	Annual UOF training required	Not in Compliance	Not in Compliance
113	Develop firearms training protocol	In Compliance	Not in Compliance
114	Annual arrest, citizen interaction training	Not in Compliance	Not in Compliance
115	Annual training on custodial detention	In Compliance	Not in Compliance
116	Advise Arraignment policy not be delayed	Not in Compliance	Not in Compliance
117	Advise custody of witness is Judicial dec.	In Compliance	Not in Compliance
118	Train supervisor in eval of written reports	Not in Compliance	Not in Compliance
119	Supervisors receive leadership/acc training	Not in Compliance	Not in Compliance
120	Supervisors trained in risk management	Not in Compliance	Not in Compliance
121	Train on burdens of proof, int. techniques	Not in Compliance	Not in Compliance
122	Supervisors trained on external complaints	Not in Compliance	Not in Compliance
123	Develop protocol re FTO program	In Compliance	Not in Compliance

SECTION THREE: COMPLIANCE ASSESSMENTS - THE CONDITIONS OF CONFINEMENT CONSENT JUDGMENT

The monitoring team conducted its first on site familiarization tour of the Detroit Police Department's holding cells in the Northeastern, Northwestern, Eastern, Western and Southwestern districts, as well as those in the Detroit Reception Hospital. Because of time limitations, it was not possible to inspect the operation of each facility, nor was it possible to determine compliance with each Consent Judgment requirement through first hand observation. Team members did review four months of logs and forms (June-September, 2009) that were provided by the Department. Key members of the Office of Civil Rights staff accompanied the monitoring team on the tour of facilities. In addition, they made arrangements for, and participated in, a special meeting of the Holding Cell Compliance Committee.

III. FIRE SAFETY POLICIES

CJ Requirement C14

The DPD shall ensure that all holding cells, and buildings that contain them, achieve and maintain compliance with the Life Safety Code within one year of the effective date of this Agreement. The City shall ensure that the Detroit Fire Marshal conducts regular and periodic inspections to evaluate whether the conditions in DPD holding cells, and buildings that contain them, are in compliance with the Life Safety Code.

Comments: The previous monitor found the DPD to be in compliance with regard to both policy and implementation.[100]

The policy regarding fire safety is reflected in the Fire Safety Program (FSP), which is incorporated into the Comprehensive Emergency Preparedness Plan (CEPP). That document was reviewed and approved by the Detroit Fire Marshal on June 5, 2009. However, no documentation was provided to confirm that the Fire Marshal actually inspected the holding cells and the buildings that contain them.

Based on the creation of the FSP and CEPP, the Department has achieved compliance with regard to policy. Nonetheless, the lack of documentation regarding regular and periodic inspections by the Fire Marshal significantly calls into question any current level of sustained compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending Compliance

[100] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, Issued July 16, 2009. (Report #23)

CJ Requirement C15

The DPD shall develop and implement a comprehensive fire detection, suppression and evacuation program for the holding cells, and buildings that contain them, in accordance with the requirements of the Life Safety Code and in consultation with the Detroit Fire Department.

Comments: The previous monitor determined that the Department was in compliance with regard to policy, but since it had not fully implemented the Fire Safety Plan (FSP), it was not in compliance with regard to implementation.[101]

The DPD has developed a FSP that is in accordance with the Life Safety Code. This was done in consultation with the Detroit Fire Department. It is reviewed annually by the Detroit Fire Marshal (a component of the Fire Department).

In order to test implementation of the policy, the monitoring team examined the Fire Extinguisher Inspection Reports (DPD 716) from June-September, 2009, and Fire Drill Documentation Logs (DPD 703) for the previous 12 months.

- Fire Extinguisher Inspection Reports (DPD 716). There were no reports on file for the Western District. The Southwestern District conducted all required inspections; however, every extinguisher was noted as "expired" for the months of June and July. The Eastern District had no reports for July, while the Northeastern District noted that 14 of 16 extinguishers were "expired" in July.
- Fire Drill Documentation Logs (DPD 703). A total of six drills were required during the previous year. This standard was met in each district except the Northeastern, where Platoons 1 and 2 accomplished half of the required drills while Platoon 3 did none. This resulted in a compliance rate of 86.7%.
- It should be noted that the monitoring team observed that detention personnel did not have ready access to keys; a potentially serious issue of safety.

Based on the creation of the FSP, the DPD has achieved compliance with regard to policy. The review of Fire Extinguisher Inspection Reports and Fire Drill Logs found that the DPD has not achieved compliance with regard to practice. During the next site visit the monitoring team shall undertake a physical inspection of the tags affixed to fire extinguishers.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C16

The fire safety program shall be developed in consultation with, and receive written approval by, the Detroit Fire Department. As part of developing the fire safety program, the Detroit Fire

[101] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, Issued July 16, 2009. (Report #23)

Department shall evaluate the need for and, if necessary, the DPD shall install: fire-rated separations, smoke detection systems, smoke control systems, sprinkler systems and/or emergency exits for the holding cells and building that contain them. The fire safety program shall be submitted for review and approval of the DOJ within three months of the effective date of the Agreement.

Comments: The previous monitor found the DPD to be in compliance with regard to both policy and implementation.[102]

As an outcome of the Fire Safety Program, which was developed in consultation with, and approved by, the Detroit Fire Department, the DPD made structural changes to the district holding facilities. They included:

- Sprinkler systems
- Fire alarm systems
- Fire rated doors

This modification to the facilities was accomplished after the Fire Safety program was published. During the monitoring team's inspection of the district holding cells, the referenced sprinkler systems and fire rated doors were observed. However, there was not an opportunity to examine each area in greater detail or in conjunction with a test of the operation of the fire alarm systems. Additional documentation was not provided that reflected DOJ's approval of the Fire Safety Program.

Based on the installation of required fire safety systems in the district holding cells, the DPD is compliant with the requirements of this paragraph. The detention staff's knowledge and operational familiarity with the systems will be tested during the January on-site visit.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C17

The DPD shall implement the fire safety program within one year of the effective date of this Agreement. Thereafter, the program shall be reviewed and approved in writing by the Detroit Fire Department at least every year, or prior to any revisions to the plan.

Comments: The previous monitor found the DPD to be in compliance with regard to both policy and implementation.[103]

The DPD has implemented the Fire Safety Program as a part of the Comprehensive Emergency Preparedness Plan. It was most recently reviewed and approved by the Detroit Fire Marshal (a unit of the Detroit Fire Department) on June 5, 2009. Based on the development of the FSP and

[102] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, issued July 16, 2009. (Report #23)

[103] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, issued July 16, 2009. (Report #23)

implementation of required documentation, the DPD has achieved compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C18

The DPD shall take immediate interim fire safety measures in all buildings that contain holding cells. At a minimum, these interim measures shall:

a. *ensure that the activation of any individual smoke alarm sounds an alarm throughout the building;*

b. *ensure that prisoners in holding cells have an adequate means of reporting emergency conditions to DPD staff immediately;*

c. *ensure that automated back-up power systems exist for all buildings containing holding cells that are capable of providing immediate power for emergency lighting, exit signs, fire alarm and smoke detection systems in the event of an electrical power failure through batteries or an emergency generator; and*

d. *reduce the likely spread of smoke and fire throughout the buildings by means of stairwells, garages, hazardous rooms and exposed pipes, such as ensuring that fire doors in stairwells are closed.*

Comments: The previous monitor found the DPD to be in compliance with regard to both policy and implementation.[104] This determination was based on a review of the DPD Audit Team's most recent report.

Based on an initial inspection of each district with holding cells, it was apparent that the DPD has made structural and electronic upgrades to the facilities as specified in the CJS. The monitoring team, due to time constraints, was unable to complete a comprehensive inspection of all holding cells facility requirements. Additionally, we were unable to determine if all detention staff members are familiar with the safety measures in place and that all systems functioned as stated in the Fire Safety Plan. We nonetheless have concluded that there have been no demonstrable changes since the previous monitor determined that DPD was in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

[104] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, issued July 16, 2009. (Report #23)

CJ Requirement C19

The DPD shall ensure that fire safety equipment is routinely tested, inspected and maintained, including the sprinkler systems, fire alarm systems, manual fire extinguishers, emergency lighting and exit signs, and self-contained breathing apparatuses.

Comments: The previous monitor found that the DPD was in compliance with regard to policy, but not in compliance with regard to implementation.[105]

The Fire Safety Program states that the DPD's Office of Facilities Management shall ensure that the fire safety equipment is routinely tested, inspected and maintained in accord with the Life Safety Code, including the smoke control systems, automated back-up power systems, fire-rated separations, sprinkler systems, fire alarm systems, manual fire extinguishers, emergency lighting and exit signs.

While policy is in place, the monitoring team was not provided with documentation that reflected the routine testing of the systems and equipment.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C20

The DPD shall enforce immediately its no-smoking policy in the holding cells or provide ash trays and ensure that all holding cell areas are constructed and supplied with fire-rated materials.

Comments: The previous monitor found the DPD to be in compliance, with regard to both policy and implementation.[106]

Directive 305.4 (5.3) and the Fire Safety Plan (FSP) prohibit smoking in the district holding cells. The monitoring team's initial inspection of the facilities did not detect the odor of smoke in any of the buildings. A close examination of the cells revealed that they did not contain any combustible materials. Based on the published policy and observed condition of the holding cells, the DPD has achieved compliance with regard to policy and practice.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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[105] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, issued July 16, 2009. (Report #23)

[106] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, issued July 16, 2009. (Report #23)

CJ Requirement C21

The DPD shall insure immediately that all flammable and combustible liquids in holding cell areas and the attached and nearby DPD buildings are stored properly.

Comments: The previous monitor found the DPD to be in compliance, with regard to both policy and implementation.[107]

The Fire Safety Program sets forth guidelines for the storage of flammable materials. While the initial inspection of the facilities did not allow for an in depth examination in each district, the monitoring team did note the presence of a marked flammable materials storage cabinet in each of the respective districts with holding cells. No flammable and combustible liquids were observed inside the detention areas or in the areas attached to any DPD building. Based on the creation of the fire Safety Plan (FSP) and the condition of the facilities, the DPD has achieved compliance with regard to policy and practice.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C22

The DPD shall remove immediately all highly-combustible kane fiber ceiling tiles from buildings that contain holding cells.

Comments: The previous monitor found the DPD to be in full compliance with regard to this paragraph in 2005. Since no further action was required after the ceiling tiles were removed, reporting ceased at that time.

The DPD has closed some facilities where Kane Fiber Ceiling Tiles were in place and has removed the tiles from other facilities. An invoice dated February 12, 2004 confirms completion of the modification to the existing holding cells. The DPD has achieved compliance with the requirements of this CJS.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

[107] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, issued July 16, 2009. (Report #23)

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
14	Holding Cell Life Safety Code compliance	In Compliance	Pending Compliance
15	Fire detection, suppression & evac program	In Compliance	Not in Compliance
16	DFD consultation & evaluation	In Compliance	In Compliance
17	Implement. Fire prog., DFD yearly review	In Compliance	In Compliance
18	Immediate interim fire safety measures	In Compliance	In Compliance
19	Routine testing of fire safety equipment	In Compliance	Not in Compliance
20	Enforce no smoking in holding cells	In Compliance	In Compliance
21	Proper storage of flammable liquids	In Compliance	In Compliance
22	Remove combustible kane fiber tiles	In Compliance	In Compliance

IV. EMERGENCY PREPAREDNESS POLICIES

CJ Requirement C23

The DPD shall ensure a reasonable level of safety and security of all staff and prisoners in the event of a fire or other emergency.

Comments: The previous monitor determined that the DPD was in compliance with regard to policy, but not in compliance with regard to implementation.[108]

The DPD has published a Comprehensive Emergency Preparedness Program (CEPP) which includes an emergency response plan for each district (see CJS 24). The CEPP includes a key control system requirement (see CJS 25).

Documented fire drills were performed 86.7% of the time during the past year. Further, the existing key control system does not provide for accountability throughout each shift. Routine testing and maintenance of keys and locks is not documented (see CJS 25). Based on the creation of the CEPP, the DPD has achieved compliance with regard to policy. While significant improvements have been made in the area of safety and security, they do not yet rise to the level of Phase 2 compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending Compliance

CJ Requirement C24

The DPD shall develop a comprehensive emergency preparedness program that is approved in writing by the Detroit Fire Department. This program shall be submitted for review and approval of the DOJ within three months of the effective date of this Agreement. The DPD shall implement the programs within three months of DOJ's review and approval. Thereafter, the program shall be reviewed and approved in writing by the Detroit Fire Department at least

[108] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending August 31, 2008, issued October 15, 2008. (Report #20)

every year, or prior to any revisions to the plan. At a minimum, the emergency preparedness program shall:

a. *include an emergency response plan for each building that contains holding cells identifying staff responsibilities in the event of fire-related emergencies and other emergencies, including notification responsibilities, evacuation procedures and key control procedures (discussed below); and*

b. *require performance and documentation of fire drills for all buildings containing holding cells on all shifts every six months (documentation shall include the start and stop times of each drill, the staff members who participated in the drill, a summary of the drill, and an evaluation of the success of the drill).*

Comments: The previous monitor found that the DPD was in compliance with regard to policy by was not in compliance with regard to implementation.[109]

The DPD has published a Comprehensive Emergency Preparedness Plan (CEPP) that is reviewed and approved by the Detroit Fire Marshal (a unit of the Detroit Fire Department) on an annual basis. However, the monitoring team was unable to obtain documentation reflecting approval of the CEPP by the DOJ. The CEPP does identify staff responsibilities in the event of a fire emergency to include notification, evacuation and key control procedures. As noted in our commentary on requirement C15, fire drills were not conducted at a level greater than 94% for this reporting period. Accordingly the Department is not in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C25

The DPD shall develop and implement key control policies and procedures that will ensure that all staff are able to manually unlock all holding cell doors in the event of a fire or other emergency. At a minimum, the key control policies and procedures shall:

a. *provide for emergency identification of keys by touch; and*
b. *require routine inventory, testing and maintenance of keys and locks.*

Comments: The previous monitor found that the DPD was not in compliance with paragraph 25.[110]

Directive 305.4 (6.7) effective May 9, 2005 specifies the key control policy. However, specific documentation concerning the routine inventory, testing and maintenance of keys and locks was not provided to the monitoring team. Further, DPD does not utilize a worksheet or log to capture

[109] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending August 31, 2008, issued October 15, 2008. (Report #20)

[110] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending August 31, 2008, issued October 15, 2008. (Report #20)

data regarding such testing and maintenance. Based on the published Directive, the DPD has achieved compliance with regard to policy only.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
23	Ensure reasonable safety in emergency	In Compliance	Pending Compliance
24	Develop comp emergency prep program	In Compliance	Not in Compliance
25	Key control prog for manual unlocking	In Compliance	Not in Compliance

V. MEDICAL AND MENTAL HEALTH CARE POLICIES

CJ Requirement C26

The DPD shall ensure the appropriate identification of, and response to, prisoner's medical and/or mental health conditions.

Comments: The previous monitor last assessed the DPD to be not in compliance with paragraph C26.[111]

The review of the above policies reflects the incorporation of the requirements of paragraph 26 of the COC CJ. However, DPD is not following the requirements as outlined in the referenced policy. The policy is very general and states that the information needed to fulfill the mandate should be conducted by completing a Medical and Mental Health Form 651. The monitor's findings revealed that the medical and mental health assessment information is recorded in the Live Scan System. In the policy, procedure, and directives it does not state that the Live Scan System is being used to conduct and document medical and mental health screening of detainees. Additionally, DPD has not revised their policy to identify Live Scan System as the preferred or only method to document medical and mental health screening of detainees at intake. DPD policy 305.1 and 305.5 - 4.1 was last updated on May 9, 2005. Based on requirements of CJ paragraph 26 and the fact that the policy does not reflect the practice in the field, the DPD is not in Phase 1 compliance.

In order to attain compliance with COC CJ paragraph 26, it is necessary that paragraphs 27, 30, 31, and 32 be in substantial compliance. Our review found that Police Detention Officers, during the medical and mental health screening of prisoners did not comport with the provisions of the applicable policy. Based on the foregoing, we do not find the DPD medical and mental health screening practice to be Phase 2 compliant.

Compliance Status:

Phase 1: Not in Compliance

[111] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 29, 2009, issued April 15, 2008. (Report #18)

Phase 2: Not in Compliance

CJ Requirement C27

The DOD shall develop a comprehensive medical and mental health screening program (CMMHSP) that shall be approved in writing by qualified medical and mental health professionals. This program shall be submitted for review and approval of the DOJ within three months of the effective date of this Agreement. The DPD shall implement the program within three months of DOJ's review and approval. Thereafter, the program shall be reviewed and approved by qualified medical and mental health professionals at least every year and prior to any revisions to the programs. At a minimum, the comprehensive medical and mental health screening program shall include prisoner screening procedures and medical protocols.

Comments: The previous monitor found that the DPD was not yet in compliance with paragraph C27 because it had not fully implemented the policy required under paragraphs C28-29. [112]

Paragraph C27 requires the DPD to develop and implement a comprehensive medical and mental health screening program that must be reviewed by the DOJ and approved in writing by a qualified medical and mental health professional. The monitoring team was not provided with the documentation approved by DOJ and a qualified medical and mental health professional for the CMMHSP. Therefore, it could not be determined if an annual policy review was completed by a qualified medical and mental health care professional. Based on the required approval of documentation, the DPD is not in Phase 1 Compliance.

The review of DPD Policies 305.1; 305.5-1 through 305.5-9 effective May 9, 2005, and the forms and logs that comprise the CMMHSP revealed a number of discrepancies when compared to observed practices in the field. The Detainee Intake/Assessment (DIF) and Detainee Medical Intake Form (MIF) did not refer to the Live Scan System as the repository for medical information acquired during the booking process. It was determined that the DIF and MIF forms have been consolidated into a single form within the Live Scan System. The relevant policy requires revision in order to incorporate the use of LiveScan. Further examination is required to determine if the new processes are capturing all of the required information.

Compliance Status:

Phase 1: Pending Compliance

Phase 2: Pending Compliance

CJ Requirement C28

The prisoner screening procedure, at a minimum, shall;

a. *Enable the DPD to identify individuals with medical or mental health conditions, including infectious diseases, chronic conditions, including disabilities, ambulatory impairments, mental health conditions, and drug/alcohol withdrawal;*

[112] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 29, 2008, issued April 15, 2008. (Report #18)

b. *Identify persons who are at risk of committing suicide, persons who have been on heightened observation for suicide risk at any time during a past incarceration and persons who have any medical contraindications for the use of chemical sprays,*

c. *Require that the DPD follow a standard intake procedure for each individuals entering DPD custody;*

d. *Require that intake screening be conducted within two hours of intake and through a verbal exchange between the DPD and prisoners; and*

e. *Incorporate all health information pertaining to a prisoner acquired by the arresting or transporting officers.*

Comments: The previous monitor found the DPD in compliance with paragraphs C28. [113]
A review of DPD Policy Directive 305.1-5 effective May 9, 2005, revealed that the department is in compliance with paragraphs C28.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C29

The medical protocols, at a minimum, shall;

a. *Identify the specific actions the DPD shall take in response to the medical information acquired during prisoner screening or detention, including the need for emergency care, hospitalization, prescription medication and/or intensive monitoring; and*

b. *Require prior supervisory review and written approval, absent exigent circumstances, of all decisions made in response to acquired medical information.*

Comments: The previous monitor found the DPD in compliance with paragraphs C29.[114]

A review of DPD Policy Directive 305.1 effective May 9, 2005 revealed that the department is in Phase 1 compliance with paragraphs C29. However, C30, C31 and C32 require implementation of the specific medical protocols dictated in this paragraph for acquiring and reporting medical information during the detention screening of prisoners. DPD has not fully developed and implemented the medical protocols consistent with paragraph C29.

Compliance Status:

Phase 1: In Compliance

[113] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 29, 2008, issued April 15, 2008. (Report #18)
[114] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 29, 2008, issued April 15, 2008. (Report #18)

Phase 2: Not in Compliance

CJ Requirement C30

The DPD shall develop and implement policy regarding infectious disease control (IDC) in consultation with medical health professionals. The policy shall be reviewed and approved in writing by qualified medical health professionals at least every year after implementation and prior to any revisions to the policy. At a minimum, the policy shall;

a. Establish appropriate housing for prisoners believed to have infectious diseases; and

b. Mandate measures the DPD shall take to prevent the spread of infectious diseases, including proper handling and disposal of bio-hazardous material.

Comments: The previous monitor's last assessment of compliance with paragraph C30 found the DPD in compliance with the policy requirements of paragraph C30. However, the Monitor withheld a determination of the DPD's overall compliance with the paragraph based on the limited population identified for testing compliance with this paragraph in the *Medical and Mental Health Programs and Policies Audit*.[115]

During the November 16-20, 2009 on-site review, the DPD failed to provide the monitoring team with documentation that a qualified medical professional approved the Infectious Disease Control (IDC) Policy as required in 403.2-12.1, effective July 1, 2008, or that it has been reviewed and approved in writing by a qualified medical health professional. The required documentation is therefore still required and should be provided for the next visit.

An initial on-site inspection was conducted of all five DPD facilities containing holding cells and the Detroit Receiving Hospital. The initial findings during this reporting period are as follows:

- There were poor levels of sanitation in all of the five facilities that have holding cells as well as in the holding cell areas. The Detroit Receiving Hospital holding cells and triage unit were clean, had sinks for hand washing, and were well maintained.
- The PDOs and supervisors were generally unfamiliar with where the Personal Protective Equipment was kept (PPE).
- Materials in PPE utility kits were not organized or inventoried.
- PPE kits contained expired and dirty materials, open resuscitation kits, face masks that were not clean, anti-microbial hand wipes that were open, and in some cases, used.
- The monitoring team was not provided with the checklist for the inventory or the daily shift inspection log for the PPE kits in accordance with the policy on infection control plan.
- There was no plan in place regarding the disposal of the bio-hazardous materials. In addition, there was no staff assigned to oversee this responsibility.
- Sinks with soap and paper towels for hand washing, antibacterial hand sanitizers, and

[115] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 29, 2008, issued April 15, 2008. (Report #18)

anti-microbial hand wipes readily available for staff or detainees were not found.

- Used personal items/materials were left in cells after detainees were released.
- Body fluids from detainees were not cleaned up immediately.
- Standard precautions being practiced by staff as well as detainees were not observed.
- There were no First Aid kits found in the holding cell areas.

A written infectious disease control plan should stay current with diseases posing risk in the communities (i.e. H1N1, MRSA). The IDC policy should emphasize prevention, education, identification, surveillance, immunization (when applicable staff), treatment, follow-up, isolation (when indicated), and reporting requirements applicable to local, state, and federal agencies. Based on inadequacies in the implementation of a DPD IDC Policy, and on our onsite observations of conditions, the DPD is not in Phase 2 Compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C31

The DPD shall develop and implement a protocol for updating and exchanging prisoner health information. At a minimum, this protocol shall;

a. *Require that prisoners health information is recorded at intake and thereafter immediately readily available to all relevant medical and transporting personnel in a manner consistent with the relevant federal and state confidentiality statutes;*

b. *Require that prisoner health information is continually updated to incorporate any additional relevant information acquired during his or her detention;*

c. *Require that relevant prisoner health information is documented and communicated between consecutive shifts, such as whether a prisoner is taking medication or has a medical condition; and*

d. *Require that prisoner health information travel with prisoners who transferred to another facility.*

Comments: The previous monitor last assessment of compliance with paragraph C31 found that the DPD was not yet in compliance.[116]

The DPD Policy 305.5, effective May 9, 2005, does not outline the procedures for updating and exchanging prisoner health information (COC CJ paragraph 31). Based on the lack of such policy requirement, the DPD is not in Phase 1 Compliance.

[116] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 29, 2008, issued April 15, 2008. (Report #18)

The DPD implemented the Platoon Daily Detainee Summary Log (PDDS) (DPD 659a) at all district facilities containing holding cells. The monitoring team reviewed the log and found that the information contained in the log lacks statistical value. Additionally, the findings revealed that the staff was not fully filling out the log between shifts nor was it consistently documenting the communication of relevant detainee information or continually updating and/or incorporating additional relevant detainee health information. DPD did not provide the monitoring team with the appropriate number of logs to review. The DPD's overall compliance for the period ending September 30, 2009 is 58.9%. Based on inadequacies in the implementation of the Platoon Daily Detainee Summary Log, the DPD is not in Phase 2 Compliance.

Compliance Status:

Phase 1: Not in Compliance

Phase 2: Not in Compliance

CJ Requirement C32

The DPD shall develop a prescription medication policy in consultation with qualified medical and mental health professionals that ensures prisoners are provided prescription medication as directed. The policy shall be approved in writing by qualified medical and mental health professionals and shall be submitted for review and approval of the DOJ within three months of the effective date of this Agreement. The DPD shall implement the policy within three months of the DOJ's review and approval. Thereafter, the policy shall be reviewed and approved in writing by qualified medical and mental health professionals at least annually and prior to any revisions to the program. At a minimum, the policy shall:

a. *Indicate when the DPD shall convey prisoners taking prescription medication to the DRH or other treating hospital for evaluation;*

b. *Require the DPD distribute to prisoners only medications that have been prescribed at the DRH or other treating hospitals;*

c. *Require that the DPD distribute medications as prescribed and not rely on inmates to identify their need for medication;*

d. *Require that all prisoner medications be stored in a secure location near the holding cells and travel with prisoners that are transferred;*

e. *Require the DPD to record relevant information regarding the administration of prescription medication on an auditable form;*

f. *Require that injected medications are administered as prescribed and in a safe and hygienic manner; and*

g. *Required that unused mediations prescribed at the DRH or other treating hospitals are provided to prisoners upon their release.*

Comments: The previous monitor's last assessment of compliance with paragraph C32 found the DPD was not yet in compliance.[117]

During the monitoring team's on-site visit, the DPD was unable to provide the monitoring team with the requested documentation stating that the prescription medication policy was developed in consultation with a medical and mental health professional and that the policy has been reviewed annually by qualified medical and mental health professionals.

The policy states that any refrigerated medication shall be placed in a holding cell refrigerator. This policy should be reviewed and updated. Detainee medication that needs refrigeration should be kept in a dedicated refrigerator that can be locked. An initial inspection by the monitoring team found a prescription in a holding cell refrigerator that expired in 2003. In addition, there is not a process in place for key control where detainee medication is stored.

Based on the fact that no documentation was provided to substantiate whether the prescription medication policy was developed in consultation with, and reviewed by, a medical and mental health professional, and no process for key control could be identified, the DPD is not in compliance with this requirement.

The monitoring team requested a random sample of the Detainee Medical Treatment/Medication Disbursement Log from all five districts that house detainees but was not provided with this log for the months of June 2009 – September 2009. The DPD is not in Phase 2 Compliance.

Compliance Status:

Phase 1: Not in Compliance

Phase 2: Not in Compliance

CJ Requirement C33

The DPD shall provide appropriate clothing, such as paper gowns or suicide smocks, to all prisoners placed under suicide precautions.

Comments: The previous monitoring team conducted an unannounced on-site inspection of DPD facilities containing holding cells on June 15 and 16, 2009. Members of that monitoring team confirmed that all facilities had an adequate supply of suicide gowns available and none of the holding cells contained suicide hazards. Additional inspections were scheduled to be conducted during the quarter ending August 31, 2009, and a review of the DPD's MMHPP audit was also planned in order to assess compliance with paragraph C 33.[118]

A review of DPD Policy Directive 305.1 effective May 9, 2005, Detainee Intake Assessment, revealed that the appropriate clothing for a detainee under suicide precaution is outlined.

The initial on-site visit at each of the five districts with holding cells revealed that the detention staff was knowledgeable about their responsibilities and duties in addressing high risk detainees with mental health issues. A supply of suicide clothing was at each site.

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[117] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 29, 2008, issued April 15, 2008. (Report #18)

[118] The previous Monitor's findings were not published in an Independent Monitor's Report.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C34

The DPD shall remove or make inaccessible all suicide hazards in holding cells including exposed pipes, radiators and overhead bars. DPD does not have a policy regarding this paragraph of the COC CJ.

Comments: The previous monitoring team conducted an unannounced on-site inspection of DPD facilities containing holding cells on June 15 and 16, 2009. Members of that monitoring team confirmed that all facilities had an adequate supply of suicide gowns available and none of the holding cells contained suicide hazards. Additional inspections were scheduled to be conducted during the quarter ending August 31, 2009, and a review of the DPD's MMHPP audit was also planned in order to assess compliance with paragraph COC 34.[119]

During our November, 2009 on-site review, the monitoring team conducted an initial visit to all DPD districts/precincts that contain holding cell areas and holding cells. While the monitoring team's visit did not allow for a comprehensive assessment of all holding cells, there was no apparent evidence for us to conclude that the Department was anything but compliant with this requirement. A complete and thorough inspection of all holding cells will be undertaken during our on-site visit in January 2010.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
26	Ensure app. id and resp to med conditions	Not in Compliance	Not in Compliance
27	Dev medical and MH screening program	Pending Compliance	Pending Compliance
28	Minimal med /MH screening requirements	In Compliance	In Compliance
29	Med protocol requirements & review	In Compliance	Not in Compliance
30	Dev infectious disease policy	In Compliance	Not in Compliance
31	Dev policy re prisoner health information	Not in Compliance	Not in Compliance
32	Dev prescription medication policy	Not in Compliance	Not in Compliance
33	Appropriate clothing re suicide precaution	In Compliance	In Compliance
34	Make inaccessible all suicide hazards	In Compliance	In Compliance

[119] The previous Monitor's findings were not published in an Independent Monitor's Report.

VI. PRISONER SAFETY POLICIES

CJ Requirement C35

The DPD shall ensure a reasonable level of safety of staff and prisoners through the use of appropriate security administration procedures.

Comments: The previous monitor found the DPD to be in compliance with regard to policy and not in compliance with regard to implementation.[120]

DPD Policy Directive 305.4 effective May 9, 2005 (Holding Cell Areas) sets forth the policy regarding the safety of staff and prisoners/detainees. It is supplemented by related DPD Policy Directives 305.5 effective May 9, 2005 (Detainee Health Care), DPD Policy Directive 305.1, effective May 9, 2005 (Detainee Intake/Assessment); DPD Policy Directive 305.2, effective May 9, 2005 (Detainee Registration); DPD Policy Directive 305.3, effective May 9, 2005 (Detainee Personal Property); DPD Policy Directive 305.7, effective May 9, 2005 (Transportation of Detainees); and 305.8 effective February 9, 2006 (Detainee Food Service and Hygiene).

Based on published Policy Directives, the DPD has achieved compliance with regard to policy. Implementation has not yet been achieved due to numerous staff and inmate safety related measures that have not met the required threshold. They include:

- *Fire drill documentation Log (CJS 15)—86.7 % compliance.*
- *Fire extinguisher reports (CJS 15)—only nominal compliance. There was no documentation from an entire district.*
- *Testing of fire alarm systems (CJS 18). There was no documentation to reflect staff's familiarity with the operation of fire safety systems.*
- *Key and lock testing and maintenance (CJS 25). There was no documentation to show that keys and locks are tested and maintained in working order.*

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C36

The DPD shall develop and implement a prisoner security screening program for all buildings containing holding cells. At a minimum, the program shall:

a. establish protocols based upon objective, behavior-based criteria for identifying suspected crime partners, vulnerable, assaultive or special management prisoners who should be housed in observation cells or single-occupancy cells; and

[120] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending November 30, 2008, issued February 2, 2009. (Report #21)

b. require that security screening information is documented and communicated between consecutive shifts.

Comments: The previous monitor found DPD to be in compliance with regard to policy and not in compliance with regard to implementation.[121]

A prisoner security screening program has been formulated. As outlined in DPD Policy Directive 305.1 effective May 9, 2005, it meets the criteria of C36, however, the monitor team's review of associated logs revealed significant discrepancies. The Platoon Daily Detainee Summary (659a) was designed to ensure that screening information is communicated between consecutive shifts. Many of the records were missing or incomplete. The Eastern District did not complete Platoon Daily Detainee Summaries for the June-September, 2009, timeframe. Of those that were submitted by the other districts, the most common discrepancy was the failure of the oncoming shift to acknowledge receipt of the information, which negated the purpose of the form. Based on the published Policy Directive, the DPD has achieved compliance with regard to policy. However, DPD failed to adequately complete the Platoon Daily Detainee Summary at an acceptable compliance rate (compliance rate of 58.9% for DPD form 659a).

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C37

The DPD shall develop and implement procedures for the performance, documentation and review of routine cell checks in all holding cells to ensure safe housing. At a minimum, the procedures should:

a. require that cell checks on the general population are performed at least twice per hour and that cell checks of prisoners in observation cells and DRH holding cells are performed every 15 minutes, unless constant supervision is required; and

b. require detention officers to document relevant information regarding the performance of cell checks in an auditable log.

Comments: The previous monitor found the DPD to be in compliance with regard to policy and not in compliance with regard to implementation.[122]

Directive 305.4 (4.2, 4.3), effective May 9, 2005, specifies the duties of the Cell Block Supervisor (CBS) and Detention Officer(s) with regard to well-being checks. Supervisors are required to walk through the holding cells three times per shift to check on the well being of the detainees. The results of their inspections are to be documented in the Desk Blotter. Detention Officers are required to make similar visual checks every 30 minutes (every 15 minutes for high

[121] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending November 30, 2008, issued February 2, 2009. (Report #21)

[122] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending November 30, 2008, issued February 2, 2009. (Report #21)

risk detainees). Their observations are to be documented on the Detention Cell Check Log (DPD 659).

In practice, CBS's and Detention Officers meet the intent of Directive 305.4, however, the procedures that they uniformly follow have not been updated in the Directive. Entries for all staff are made on the 659 form but they deal only with general population detainees. Close observation cells are not included.

The monitor team's review of DPD 659 forms for the months of June-September, 2009, reflected 98.7% compliance. Very few forms had any discrepancies and the well-being checks were routinely within the 30-minute standard. This a significant achievement which is at least partially due to the time clock system that has been put in place in each district.

Based on the published Directive, the DPD has achieved compliance with regard to policy. Compliance has been achieved by the DPD with regard to general population well-being checks. This was evidenced by the 98.7% compliance rate. Since no documentation is provided on the 659 form to reflect compliance when a detainee is held in a close observation cell, we find the Department to be in Pending Compliance with regard to Phase 2.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending Compliance

CJ Requirement C38

The DPD shall record in a written policy and implement a procedure that requires detention officers to provide continual direct or on site remote observation of all observation cells while they are occupied.

Comments:

The previous monitor found the DPD to be in compliance with regard to policy, but not in compliance with regard to implementation.[123]

Directive 305.4 (4.3) effective May 9, 2005, states that 15 minute "well-being checks" should be documented on form DPD 659. In fact, the form does not have a field to capture this information. Further, 305.1 (3.8) provides for continual direct observation for detainees who are suicidal. Although we have decided to retain DPD's Phase 1 compliance, we shall be looking for the department to change policy 305.1-3.8 to reflect the requirement to provide continual direct observation of all observation cells while occupied.

Implementation has not been achieved because the Department does not have sufficient documentation to demonstrate that either direct or remote observation has been regularly conducted.

[123] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending November 30, 2008, issued February 2, 2009. (Report #21)

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
35	Assure safety thru app security and admin	In Compliance	Not in Compliance
36	Dev prisoner security screening prog	In Compliance	Not in Compliance
37	Dev/impl procedure re routine cell checks	In Compliance	Pending Compliance
38	Dev/impl policy re obs of observation cells	In Compliance	Not in Compliance

VII. ENVIRONMENTAL HEALTH AND SAFETY POLICIES

CJ Requirement C39

The DPD shall ensure that all holding cells are cleaned immediately and thereafter are maintained in a clean and sanitary manner.

Comments: The previous monitor found the DPD to be In Compliance with regard to both policy and implementation.[124]

Directive 305.4 (5), effective May 9, 2005, sets forth sanitation and cleaning standards for the district holding cells. According to the DPD staff who accompanied the Monitoring Team on the inspection of the holding cells in each district, the cells are in a greatly improved state. Nonetheless, the monitoring team's observations and assessment found that their current condition was unsatisfactory. The monitoring team noted that empty cells were littered with trash. Many toilet and sink fixtures had a crusted build up of dark residue that had been in place for weeks or months. One cell had a residue of regurgitation on the wall and floor. Many of the concrete benches had a rubber covering that is pealing, which made cleaning problematic. Based on the published Policy Directive, the DPD has achieved compliance with regard to policy, but has not done so with regard to practice as evidenced by the condition of the holding cells.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C40

The DPD shall design and implement a cleaning policy for all holding cells. The policy shall require routine cleaning and supervisory inspection of the holding cells and nearby areas.

[124] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009, issued April 20, 2009. (Report #22)

Comments: The previous monitor found the DPD to be In Compliance with regard to both policy and implementation.[125]

Directive 305.4 (5), effective May 9, 2005, specifies policy with regard to the cleaning and supervisory inspection of the holding cells and nearby areas. It requires those spaces to be maintained in a clean and sanitary condition at all times. The Cell Block Supervisors must conduct an inspection at the beginning of his/her shift and correct any noted discrepancies. Staff must clean the holding cells areas daily and document such action in the Holding Cell Cleaning Log (DPD 701). Detention officers must clean cells immediately after they are vacated.

A review of DPD 701 forms for June-September, 2009, revealed a compliance rate of 85.4%. Many shifts missed scheduled cleaning. The Western District conducted only half of the required cleaning evolutions.

Based on the published Policy Directive, the DPD has achieved compliance with regard to policy. However, DPD is completing only 85.4% of required cleaning and has not successfully implemented that policy. Of even greater concern is the actual condition of the holding cells. The monitoring team noted that the staff had come to accept the monthly power washing as an acceptable means of cleaning living areas.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C41

The DPD shall design and implement a maintenance policy for all holding cells that requires timely performance of routine maintenance and the documentation of all maintenance requests and responses in an auditable log.

Comments: The previous monitor found the DPD to be in compliance with regard to policy and not in compliance with regard to implementation.[126]

Directive 305.4 (6.6), effective May 9, 2005, specifies policy with regard to maintenance of the holding cells. The Cell Block Supervisor is responsible for conducting a weekly maintenance inspection and for documenting discrepancies in the Holding Cell Maintenance Log (DPD 702). Repair orders are submitted by e-mail to Maintenance.

A review of DPD 702 forms for June-September, 2009, reflected only a 57.3% compliance rate. Of the 36 required inspections, the Northeastern District accomplished only four, the Northwestern District submitted only eight, and the Eastern District only 19. The Western District conducted all required inspections, but seldom noted any maintenance issues. Finally, the Southwestern District actually submitted some logs that were photocopies of others, but with new signatures and Platoon designations superimposed.

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[125] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009, issued April 20, 2009. (Report #22)

[126] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009, issued April 20, 2009. (Report #22)

Based on the published Policy Directive, the DPD has achieved compliance with regard to policy. The DPD completed only 57.3% of the required inspections and has not successfully implemented that policy. Form DPD 702 is indicative of the problem. It does not provide useful information for identifying, recording, or tracking maintenance issues.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C42

The DPD shall provide adequate heating and ventilation for all buildings containing holding cells.

Comments: The previous monitor found the DPD to be in compliance with regard to both policy and implementation.[127]

Directive 305.4 (6.6), effective May 9, 2005, sets forth policy with regard to heating and ventilation (temperature ranges) within the holding cells. While this meets the criteria for policy compliance, the monitoring team was unable to determine whether or not there is implementation compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: Deferred

CJ Requirement C43

The DPD shall repair all broken or malfunctioning lighting, toilets, sinks and windows in holding cells and observation cells.

Comments: The previous monitor found the DPD to be in compliance with regard to both policy and implementation.[128]

Directive 305.4 (6.6), effective May 9, 2005, sets forth policy with regard to the repair of broken or malfunctioning lighting, toilets, sinks and windows in holding cells and observation cells. As was previously noted, DPD 702 is of little practical value and there is no maintenance/repair tracking system in place (see CJS 41). Based on the published Policy Directive, the DPD has achieved compliance with regard to policy, but has failed to put that policy into practice.

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[127] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009, issued April 20, 2009. (Report #22)

[128] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009, issued April 20, 2009. (Report #22)

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C44

The DPD shall ensure that lighting in all cell block areas is sufficient to reach 20 foot candles of illumination at desk level and in personal grooming areas.

Comments: The previous monitor found the DPD to be in compliance with regard to both policy and implementation.[129]

We conducted an inspection of the various district holding cells and found it apparent that supplemental lighting has been retrofitted at each location. Although we were unable to determine the specific level of illumination in the cell block areas; that determination was made by the previous monitor. We therefore find the DPD in continued compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C45

The DPD shall provide all prisoners with reasonable access to toilets and potable water 24 hours-a-day.

Comments: The previous monitor found the DPD to be in compliance with regard to both policy and implementation.

Directive 305.4 (7), effective May 9, 2005, states that detainees have the right to access toilets and potable drinking water 24 hours per day. The monitor team's initial inspection of the district holding cells determined that all prisoners had access to toilets and potable water. Based on the published Policy Directive and observed conditions of the physical plant in the district holding cells, the DPD has achieved compliance with regard to policy and practice.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C46

The DPD shall ensure that all Hepa-Aire purifiers comply with the Michigan Occupational Safety and Health Agency standards.

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[129] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009, issued April 20, 2009. (Report #22)

Comments: The previous monitor found the DPD to be in compliance with regard to both policy and implementation.[130]

According to DPD staff, Hepa-Aire purifiers have been removed from all district holding cells. This was confirmed during the monitor team's initial inspection of the facilities. Since the purifiers were removed, policy and practice requirements have been achieved.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
39	Clean and maintain holding cells	In Compliance	Not in Compliance
40	Dev policy re cleaning holding cells	In Compliance	Not in Compliance
41	Dev policy re maintenance of holding cells	In Compliance	Not in Compliance
42	Prove adequate heating and ventilation	In Compliance	In Compliance
43	Repair broken/malfunction cell elements	In Compliance	Not in Compliance
44	Insure sufficient cell lighting	In Compliance	In Compliance
45	Provide reasonable access to toilets, water	In Compliance	In Compliance
46	Hepa-Aire Purifiers comply with standards	In Compliance	In Compliance

VIII. POLICIES CONCERNING PERSONS WITH DISABILITIES

CJ Requirement C47

The DPD shall ensure that persons with disabilities are provided with reasonable accommodations.

Comments: The previous monitoring team conducted unannounced onsite inspections of DPD facilities containing holding cells on June 15 and 16, 2009. The Monitoring Team did not identify any detainees with disabilities at the time of the inspections, but confirmed the availability of the specific holding cell at the Northeastern District which has been fitted with a handicapped toilet and designated by the DPD for accommodating wheelchair bound detainees. The previous monitor also noted that the detention area staff was knowledgeable about the requirement to transfer wheelchair bound detainees to the Northeast District.

The DPD's Handicapped Detainee Policy 305.1 – 7.4, effective May 9, 2005, is in place and reflects a process that will ensure that persons with disabilities have reasonable accommodations. Accordingly, we determined the DPD to be in policy compliance. During our November 2009 on-site visit, we learned that the Northeastern District has two handicapped cells. Our evaluation determined that detainees with disabilities are, in fact, immediately transferred to that facility.

[130] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009, issued April 20, 2009. (Report #22)

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C48

The DPD shall develop and implement a policy concerning the detention of individuals with disabilities in consultation with qualified medical and mental health professionals. The policy shall be approved in writing by qualified medical and mental health professionals. Thereafter, the program shall be reviewed and approved in writing by qualified medical and mental health professionals at least every year and prior to any revisions to the program.

Comments: The previous monitor found that the Department's most recent MMHPP Audit had determined that DPD was non-compliant because one of four disabled detainees was not accommodated as required. As a result, the previous monitor intended to conduct additional inspections.

Documentation is in place that the DPD Policy 305.1-7.3 effective May 9, 2005 was developed in consultation with a qualified medical and mental health professional from the Detroit Department of Health and Wellness Promotion (DHWP). The policy was last reviewed and approved by DHWP on June 12, 2009 and for the mental health review by DHWP on July 17, 2009.

In our review of the DPD's policy on Handicapped Detainees, (305.1 – 7.3), we found a number of disparities between practice and policy. While DPD staff were unfamiliar with some elements of the policy, we note there were no handicapped detainees housed in the facility at the time of the visit. We, therefore, find DPD in pending compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending Compliance

¶	Requirements	Phase 1 - Policy	*Phase 2 - Implementation*
47	Reasonable accommodation for disabled	In Compliance	*In Compliance*
48	Dev/impl policy re detention of disables	In Compliance	*Pending Compliance*

IX. FOOD SERVICE POLICIES

CJ Requirement C49

The DPD shall ensure food is stored and served in a sanitary manner and in compliance with state and local health codes.

Comments: The previous monitor notes that the DPD modified Directive 305.8, effective February 2, 2006, *Detainee Food Service and Hygiene Items,* received written approval from a

qualified dietician in February, 2008. Based on the foregoing, the previous monitor found that the DPD remains in compliance with the policy requirements but is not yet in compliance with the implementation requirements of paragraphs COC 49.[131]

Documentation is in place that the DPD Policy 305.4-9 effective May 9, 2005 is followed to ensure that detainee meals are stored properly and served in a sanitary manner per state and local health codes. DPD policy 305.4-9 was developed in consultation with a dietician and sanitation specialists from the Detroit Department of Health and Wellness Promotion (DHWP). The policy was last reviewed and signed by DHWP on February 4, 2009.

During the initial on-site inspection, the monitoring team found that the refrigerators at the five holding cell area sites were adequate to ensure safe storage of food products. Furthermore, in observing food distribution to detainees at one of the precincts, the PDO's practice demonstrated that the meal services delivery was distributed in compliance with the DPD policy and requirement 49.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C50

The DPD shall develop and implement a food service policy that shall be approved in writing by a qualified sanitarian. At a minimum, the food service policy shall:

a. *Require that the meal plan is initially approved in writing by a qualified dietician and , hereafter, is reviewed and approved in writing by a qualified dietician at least every year, or prior to any revisions to the program;*
b. *Require that all food is stored and handled in a sanitary manner;*
c. *Ensure that all prisoners are provided with an alternative meal if they are unable to eat the standard meal for religious or dietary reasons; and*
d. *Ensure that food service is provided to all prisoners who are held over six hours.*

Comments: The previous monitor notes that the DPD modified Directive 305.8, effective February 2, 2006, *Detainee Food Service and Hygiene Items*, and received written approval from a qualified dietician in February, 2008. Based on the foregoing, the previous monitor found that the DPD remains in compliance with the policy requirements but is not yet in compliance with the implementation requirements of paragraphs C50.[132]

Documentation is in place that the DPD's Policy 305.4-9, effective May 9, 2005, was developed in consultation with a registered dietician and sanitation specialists from the Detroit Department of Health and Wellness Promotion (DHWP). The policy was last reviewed and signed by DHWP on February 4, 2009.

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[131] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 29, 2008, issued April 15, 2008. (Report #18)

[132] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 29, 2008, issued April 15, 2008. (Report #18)

A review of the Detainee Meal and Hygiene Items Log for the June-September 2009 period determined that the staff did not meet the required threshold for the distribution of meal service within six hours of an arrest. It was also learned that there were daily logs missing for the time period covered by our evaluation. Logs did not have dates, signatures and badge numbers. In addition, because the logs were not completed sufficiently and showed that meals were not distributed for several shifts, an accurate percentage of compliance could not be calculated.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
49	Ensure sanitary food storage and service	In Compliance	In Compliance
50	Dev/impl sanitary food service policy	In Compliance	Not in Compliance

X. PERSONAL HYGIENE POLICIES

CJ Requirement C51

The DPD shall ensure that personal hygiene items should include; soap, toothbrushes, toothpaste, toilet paper, a comb, deodorant, and feminine hygiene products. The DPD shall implement this provision within one month of effective date of this Agreement.

Comments: The previous monitor's last assessment of compliance with this paragraph found the DPD in compliance with policy requirements but not yet in compliance with implementation requirements.[133]

A review of the Detainee Meal and Hygiene Items Log for the June-September 2009 period found the log to be incomplete. Further, the log did not reflect whether or not hygiene kits or hygiene items were being provided to detainees upon request. Due to the inadequacy of the log, there was insufficient documentation to calculate an accurate compliance percentage.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
51	Make available personal hygiene items	In Compliance	Not in Compliance

[133] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009, issued April 20, 2009. (Report #22)

XI. USE OF FORCE AND RESTRAINTS POLICIES

CJ Requirement C52

The DPD shall require that any use of force on prisoners in holding cells complies with the DPD's use of force policies and procedures.

Comments: The previous monitor found the DPD to be in compliance with regard to policy and in partial compliance with regard to implementation.[134]

Directive 305.4 (6.2), effective May 9, 2005, states that any use of force in the holding cell areas shall be in accordance with the DPD's use of force policy and procedure, specifically Directive 304.2 (Use of Force). Our review found no use of force cases occurred in holding cells for the period of June-September, 2009.

Compliance Status:

Phase 1: In Compliance

Phase 2: Deferred

CJ Requirement C53

The DPD shall revise and augment its policies regarding prisoners to require that:

a. *officers utilize appropriate precautions when interacting with a prisoner who has previously demonstrated he or she is recalcitrant or resistant, including: summoning additional officers; summoning a supervisor; and using appropriate restraints;*

b. *absent exigent circumstances, officers notify a supervisor before using force on a prisoner who is confined to a cell; and*

c. *the supervisor assess the need to use force on a prisoner who is confined to a cell, direct any such use of force and ensure the incident is videotaped.*

Comments: For the quarter ending February, 2009, the previous monitor found the DPD to be in compliance with regard to policy and not in compliance with regard to implementation.[135]

Directive 305.4 (6.2, 6.3), effective May 9, 2005, sets forth use of force criteria and procedure as specified in the three sub-paragraphs of CJ53.

Detention officers utilized appropriate precautions when interacting with prisoners. During the period June 1 through September 30, 2009 there were no reported uses of force on prisoners who were confined to a cell.

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[134] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009, issued April 20, 2009. (Report #22)

[135] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009, issued April 20, 2009. (Report #22)

The holding cells are equipped with videotaping/digital recording equipment that is linked to the extensive camera system that monitors hallways and common areas as well as most, but not all cells. During the monitoring team's initial inspection of the district holding cells, the detention staff stated that they were not equipped with hand held video cameras to record a planned use of force in a cell. The staff explained that such incidents happened so infrequently that the procurement and maintenance of hand held video equipment was not warranted.

Based on the published Policy Directive, the DPD has achieved compliance with regard to policy. Implementation of this policy has yet to produce an identifiable use of video equipment to record a use of force on a prisoner confined to a holding cell.

Compliance Status:

Phase 1: In Compliance

Phase 2: Deferred

CJ Requirement C54

The DPD shall not handcuff prisoners to benches for longer periods of time than are necessary.

Comments: The previous monitor found the DPD to be In Compliance for both policy and implementation.

Directive 305.4 (6.1), effective May 9, 2005, states that detainees will not be handcuffed to benches or fixed objects longer than is necessary (no longer than three hours). No records or logs were made available to us to assist in determining whether or not this standard is followed by staff. The monitoring team noted that no detainees were handcuffed to fixed objects during the initial inspection of holding cells. The team did observe handcuffs locked onto, and hanging from, rails and fixed objects in each facility. They were located in areas where detainees were being either processed or booked.

Based on the published Directive, the DPD has achieved compliance with regard to policy; however information is not presently available to determine compliance with regard to implementation.

Compliance Status:

Phase 1: In Compliance

Phase 2: Deferred

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
52	Uses of force to comply with DPD policy	In Compliance	Deferred
53	Revise policy re use of force with prisoners	In Compliance	Not in Compliance
54	Not hdcuff to benches longer than needed	In Compliance	In Compliance

XII. INCIDENT DOCUMENTATION, INVESTIGATION AND REVIEW

CJ Requirement C55

The DPD shall require that all uses of force, injuries to prisoners and in-custody deaths occurring in the DPD holding cells are investigated in compliance with the DPD's general incident investigation policies.

Comments: The previous monitor found the DPD to be in compliance with regard to policy and not in compliance with regard to implementation.[136]

DPD Policy Directive 305.4 (6.6) effective May 9, 2005, states that all uses of force, injuries to detainees and in-custody deaths occurring in holding cells shall be investigated in compliance with the general incident investigating policies. For the period June-September, 2009, only two use of force reports associated with detainees and the holding cells were submitted for review. They both occurred at the Eastern District. While the investigative reports contained a number of discrepancies, they were completed following general incident investigative policies. Based on the published Directive and submitted documentation, the DPD has achieved compliance with regard to policy, but has not done so with regard to practice (see C57). That paragraph identified several deficiencies including:

- *Reports not submitted within 30 days.*
- *No supervisory review beyond the level of lieutenant.*
- *Reports not submitted to IAD.*
- *No video recordings.*

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C56

The DPD shall require that all uses of force occurring in the DPD holding cells are reported and investigated in compliance with the DPD's use of force investigation policies.

Comments: The previous monitor found the DPD to be in compliance with regard to policy and not in compliance with regard to implementation.[137]

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[136] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending November 30, 2008, issued February 2, 2009. (Report #21)

[137] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending November 30, 2008, issued February 2, 2009. (Report #21)

DPD Policy Directive 305.4 (6.2), effective May 9, 2005, states that all uses of force occurring in holding cells shall be reported and investigated in compliance with the DPD's use of force investigation policies. Based on the published Directive, the DPD has achieved compliance with regard to policy, but there was insufficient information for this period to make a conclusive determination regarding implementation.

Compliance Status:

Phase 1: In Compliance

Phase 2: Deferred

CJ Requirement C57

The DPD shall require that all injuries to prisoners occurring in DPD holding cells are reported and investigated in compliance with the DPD's prisoner injury investigation policies.

Comments: The previous monitor found the DPD to be in compliance with regard to policy and not in compliance with regard to implementation.

DPD Policy Directive 305.4 (6.2), effective May 9, 2005, states that all injuries to detainees occurring in holding cells shall be reported and investigated in compliance with the DPD's detainee injury investigation policies.

For the reporting period June-September, 2009, the monitoring team was provided with documentation on two use of force cases. Both occurred in the Eastern District. In each case, minor injuries were noted and the detainees were transported to the Detroit Receiving Hospital for treatment. While the investigative reports were detailed and, for the most part, followed required practice, the following discrepancies were noted:

- Failure to submit within 30 days. Both reports were two months overdue.
- No supervisory review beyond the lieutenant level. One report was addressed to the District Commanding Officer, but there was no indication that it ever reached that level.
- No indication of IAD notification or reports being sent to them.
- Photographs were either missing or not taken.
- No video recordings of the incidents due to missing or non-functioning cameras. One report indicated that the camera in the processing area was removed in 2008, due to a wiring problem.

Given the discrepancies noted in the investigation of these incidents, DPD is not in compliance with the implementation phase of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
55	Inv of force etc comply w incident policy	In Compliance	Not in Compliance
56	Force invs comply w DPD UofF inv policy	In Compliance	Not in Compliance
57	Report and inv all prisoner injuries	In Compliance	Not in Compliance

XIII. EXTERNAL COMPLAINTS

CJ Requirement C58

The DPD shall ensure that it accepts and processes all external complaints regarding incidents occurring in holding cells consistent with the DPD's external complaint policies.

Comments: The previous monitor found the DPD to be In Compliance with regard to both policy and implementation.[138]

DPD Policy Directive 305.4 (6.2), effective May 9, 2005, states that all external complaints regarding incidents occurring in the holding cells shall be accepted and processed consistent with the DPD's external complaint policies (see Directive 102.6—Citizen Complaints). During the period June1 through September 30, 2009, one citizen complaint was received alleging police misconduct in the holding cell area of the Eastern District. This complaint was processed pursuant to the policy.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C59

The DPD shall ensure that all external complaints it receives regarding incidents occurring in holding cells are investigated and reviewed consistent with the DPD's policies concerning external complaint investigations and review.

Comments: The previous monitor found DPD to be in compliance with regard to policy and not in compliance with regard to implementation.[139]

Directive 305.4 (6.2), effective May 9, 2005, states that all external complaints regarding incidents occurring in the holding cells shall be investigated and reviewed consistent with the DPD's external complaint policies (see Directive 102.6—Citizen Complaints).

During the reporting period June 1 through September 30, 2009, one citizen's external complaint was received alleging police misconduct. The case was reviewed and investigated consistent with established DPD policy concerning external complaints.

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[138] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending November 30, 2008, issued February 2, 2009. (Report #21)

[139] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending November 30, 2008, issued February 2, 2009. (Report #21)

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
58	Accept and process all ext complaints	In Compliance	In Compliance
59	Investigate ext complaints per DPD policy	In Compliance	In Compliance

XIV. GENERAL POLICIES

CJ Requirement C60

In developing, revising, and augmenting the policies discussed in this Agreement, the DPD shall ensure that all terms are clearly defined.

Comments: The previous monitor found the DPD to be in compliance with regard to both policy and implementation.[140]

DPD Policy Directive 404.1, effective July 1, 2008 (Definitions), explains, in a clearly defined manner, frequently used terms that members of the DPD may encounter. These terms are incorporated into Policy Directives and other official documents.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C61

The DPD shall continue to make available proposed policy revisions to the community, for review, comment and education. Such policy revisions shall also be published on the DPD's website to allow comments to be provided directly to the DPD.

Comments: The previous monitor found the DPD to be in compliance with regard to both policy and implementation.[141]

Directive 101.1 effective July 1, 2008 (Written Directive system) sets forth the procedure for developing, publishing, distributing and updating policy and procedure within the DPD. It does not make provision for public input on proposed policy revisions. A review of the DPD website

[140] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending November 30, 2008, issued February 2, 2009. (Report #21)

[141] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending November 30, 2008, issued February 2, 2009. (Report #21)

revealed that a system/format is in place for public input on proposed/updated policies. Though no public input was noted, the Department is in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
60	Clearly define all terms in policies	In Compliance	In Compliance
61	Policy changes available to community	In Compliance	In Compliance

XV. MANAGEMENT AND SUPERVISION

CJ Requirement C62

The DPD shall routinely evaluate the operation of the holding cells to minimize harm to staff and prisoners.

Comments: The previous monitor's last assessment of compliance with paragraph C62 found that the DPD had made significant progress towards compliance but was not yet in compliance.[142]

The monitoring team determined that the policy for this requirement is 305.4, which became effective on May 9, 2005. This policy is sufficient to meet Phase 1 standards. We recognize that form DPD715 is to be used to evaluate the operation of the holding cells. Phase 2 Compliance is identified as pending since compliance cannot be fully assessed without a review of findings from DPD715 assessments.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending Compliance

CJ Requirement C63

The DPD shall operate the holding cells in compliance with DPD's comprehensive risk management plan including implementation of:

a. the risk management database;

b. the performance evaluation system;

c. the auditing protocol;

[142] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009, issued April 20, 2009. (Report #22)

d. *regular and periodic review of all DPD policies; and regular meetings of the DPD management to share information and evaluate patterns of conduct by DPD that potentially increase the DPD's liability.*

Comments: DPD did not provide the monitoring team with a comprehensive risk management plan for holding cell compliance. The Management Awareness System is not considered functional at this time.

The DPD has in place an Audit Protocol Document. Audits are conducted with the standards articulated in the DPD 2008-2009 Audit Protocol issued in August, 2008, and with the Generally Accepted Government Auditing Standards (GAGAS)

The monitoring team conducted a review of the DPD's Police Manual on Policies, which was written as a result of the COC CJ paragraphs 14-72. There is a need for additional work in this area. For example, in the Policy 305.1-7.4 on Mental Health High Risk and/or Suicidal Detainees, there is no reference to appropriate clothing for detainees who are at risk for suicide. This information is instead referenced under Policy 305.1 Detainee Intake/Assessment. In addition, guidelines on medical and mental health screening of detainees appear in separate policies. A portion of the information appears under Policy 305.1-2, Detainee Intake/Assessment. The other portion appears in Policy 305.5. Neither policy reflects what is being practiced in the field to conduct the screenings/assessments. Our findings revealed that the field is using the Live Scan System for screening in place of the forms stated in the policies. The monitoring team was not provided with documentation that the policies have been updated on an annual basis. The majority of the policies reviewed were last updated between 2005 and 2006.

Compliance Status:

Phase 1: Not in Compliance

Phase 2: Not in Compliance

CJ Requirement C64

The DPD policy on video cameras shall be revised and augmented to require:

a. *the installation and continuous operations of video cameras in all processing areas of the DPD holding cells within one year of the effective date of this Agreement;*

b. *supervisors to review videotapes of all incidents involving injuries to a prisoners or an officer, uses of force and external complaints;*

c. *that the DPD retain and preserve videotapes for at least 90 days, or as long as necessary for incidents to be fully investigated; and*

d. *that the DPD conduct and document periodic random reviews of prisoners processing area camera videotapes for training and integrity purposes and conduct periodic random surveys of prisoners processing area video recording equipment to confirm that it is in proper working order.*

Comments: The previous monitor's last assessment of compliance with paragraph C64 found the DPD in compliance with policy requirements but not yet in compliance with implementation requirements.[143]

During the initial inspections of holding cells, the monitoring team observed the operation of video cameras in all processing areas. However, the DPD did not provide the monitoring team with documentation to confirm that video cameras are in continuous operation in all holding cell areas. Further, the monitoring team was not presented with anything to substantiate that detention supervisors are reviewing the videotapes of incidents involving injuries to a prisoner, an officer, a use of force event, or an external complaint. In addition, DPD did not provide documentation of periodic equipment checks on the system to assure that the video equipment is in proper working order.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C65

The DPD shall conduct regularly scheduled quarterly audits, covering all DPD units and commands that investigate uses of force, injuries to prisoners and allegations of misconduct in holding cells, including:

a. reviewing a sample of command, IAD, and Homicide Section investigations;

b. evaluating whether the actions of the officer and the subject were captured correctly in the investigative report;

c. evaluating the preservation and analysis of the evidence;

d. examining whether there is consistency in use of force and injured prisoner investigations throughout the DPD;

e. evaluating the appropriateness of the investigator's conclusions; and

f. Issuing a written report regarding the findings of the audit.[144]

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[143] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009, issued April 20, 2009. (Report #22)

[144] Amended to reflect the below stipulated language contained in the Court Order of April 15, 2009:

> The audits required by paragraphs 65 to 71 in this Agreement shall be submitted on a semiannual basis with the first and second semiannual periods ending on January 31 and August 31, 2004. Subsequent semiannual periods shall end on January 31, 2005, and every six months thereafter. Each of these audits may be conducted on an annual rather than a semiannual basis when the Monitor concludes that the most recently submitted audit for the same topic is compliant, and the remaining requirements of this paragraph have been met for the prior audit of that topic. The DPD shall issue all audit reports to the Chief of Police and also provide copies to each precinct or specialized unit commander. The commander of each precinct and specialized unit shall review all audit reports regarding employees under their command and, if appropriate, shall take nondisciplinary corrective action or disciplinary action.

Comments: The previous monitor's last assessment of compliance with paragraph C65 found the DPD was not yet in compliance with paragraph 65.[145]

The DPD developed an Audit Protocol in accordance with the requirements of U92. The Protocol, effective August 31, 2008, establishes an audit schedule; describes the audit terms; specifies the roles and responsibilities of audit team members; describes the various audits, including the one required by this paragraph; and describes the reports that are to be conducted and produced.[146] The Audit Team is located within the DPD Office of Civil Rights.

The OCR Audit Team conducted the required Combined Uses of Force Investigations audit for the period ending July 31, 2009. Our review finds it to be a comprehensive, robust document in which several deficiencies are identified. Accordingly, we find the DPD in full compliance with applicable requirements.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C66

The DPD shall create a Holding Cell Compliance Committee that is responsible for assuring compliance with requirements of this Agreement. The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate compliance with fire detection, suppression and evacuation program, including:

a. testing a sample of smoke detectors and sprinklers;

b. testing the back-up power systems;

c. reviewing a sample of fire equipment testing and maintenance records; and

d. issuing a written report regarding the findings of the audit.

Comments: The previous monitor determined the DPD was in full compliance with the requirements of this paragraph.[147]

The DPD has established an active Holding Cell Compliance Committee that collaborates with the OCR Audit Team for the purpose of conducting the audits required by this paragraph. The Audit Protocol, effective August 31, 2008, establishes the procedures governing the conduct of these audits.[148]

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[145] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, issued July 16, 2009. (Report #23)

[146] The Audit Protocol, effective August 31, 2008 governs the audits discussed in this report; however a revised Audit Protocol, effective August 31, 2009 will govern the conduct of future audits.

[147] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, issued July 16, 2009. (Report #23)

[148] The Audit Protocol, effective August 31, 2008 governs the audits discussed in this report; however a revised Audit Protocol, effective August 31, 2009 will govern the conduct of future audits.

The HCCC and the OCR Audit Team conducted the Fire Safety Practices and Policies audit for the period ending July 31, 2009. Our review finds it also to be a comprehensive, robust document covering C14-21. Accordingly, we find the DPD in full compliance with applicable requirements.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C67

The Holding Cell Compliance Committee shall conduct regularly scheduled audits in all buildings containing holdings cells to evaluate emergency preparedness, including;

a. *reviewing a sample of key and fire equipment maintenance and inventory records;*

b. *interviewing selected detention officers about their participation in fire drills and on their responsibilities under emergency preparedness program and testing their ability to identify keys necessary to unlock all holding cell doors; and*

c. *issuing a written report regarding the findings of the audit.*

Comments: The previous monitor found that the DPD was in partial compliance with the requirements of this paragraph, noting two performance related deficiencies. It also noted the lack of clear reporting, which detracted from the quality of the audit.[149]

The DPD has established an active Holding Cell Compliance Committee that collaborates with the OCR Audit Team for the purpose of conducting the audits required by this paragraph. The Audit Protocol, effective August 31, 2008, establishes the procedures governing the conduct of these audits.[150]

The HCCC and the OCR Audit Team conducted the Comprehensive Emergency Preparedness Program audit for the period ending July 31, 2009. We recognize the Audit Team and the HCCC have done a significant amount of work during the course of the consent judgments. We have had the opportunity to see the various audits and have found them to be comprehensive, robust documents that address the requirements articulated in the judgments.

We are aware that previously, these audits were used to determine compliance. As part of the protocol for our first site visit, and as an underlying principle of the methodology we have used for the duration of this process, we endeavored to independently examine for ourselves the policies and practices of the DPD in order to make our own determinations relevant to compliance. Accordingly, with the exception of those instances in which audit requirements are clearly in compliance, or not in compliance, such as the case with the requirements of this paragraph, we shall be deferring compliance determinations until our next site visit.

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[149] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, issued July 16, 2009. (Report #23)

[150] The Audit Protocol, effective August 31, 2008 governs the audits discussed in this report; however a revised Audit Protocol, effective August 31, 2009 will govern the conduct of future audits.

Compliance Status:

Phase 1: In Compliance

Phase 2: Deferred

CJ Requirement C68

The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate the medical/mental health programs and policies, including:

a. *reviewing a sampling of hospitals referral forms in comparison to prisoner intake forms to evaluate the accuracy of the intake screening and whether appropriate action was taken;*

b. *observing intake screening interviews to assess thoroughness;*

c. *reviewing a sampling of the prescription medication log to ensure that medications were administered as prescribed and that their distribution was accurately recorded; and*

d. *issuing a written report regarding the finding of the audit.*

Comments: The previous monitor found that the DPD was not yet in compliance with the requirements of this paragraph noting three substantial performance-related issues related to the Audit Team's testing approach and material performance-related deficiencies related to the audit efficiency, population identification and other issues.[151]

The DPD has established an active Holding Cell Compliance Committee that collaborates with the OCR Audit Team for the purpose of conducting the audits required by this paragraph. The Audit Protocol, effective August 31, 2008, establishes the procedures governing the conduct of these audits.[152]

The HCCC and the OCR Audit Team conducted audit on Medical and Mental Health Programs and Policies for the period ending July 31, 2009. Our review finds the audit to be a detailed document in which a number of deficiencies are noted. In consideration of the fact that the identification of deficiencies is one of the purposes of the audit process, we find these results positive. Accordingly, we find the DPD in compliance with the requirements of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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[151] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, issued July 16, 2009. (Report #23)

[152] The Audit Protocol, effective August 31, 2008 governs the audits discussed in this report; however a revised Audit Protocol, effective August 31, 2009 will govern the conduct of future audits.

CJ Requirement C69

The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate detainee safety programs and policies, including;

a. *reviewing a sampling of security screening records, including written supervisory approvals, to ensure that prisoners are being properly screened and housed;*

b. *reviewing a sampling of the cell checks logs to ensure that checks are being accurately and regularly performed and that cell checks logs are receiving supervisory review and written approval; and*

c. *issuing a written report regarding the findings of the audit.*

Comments: The previous monitor found the DPD in partial compliance with the requirements of this paragraph noting three material performance-related deficiencies and administrative errors.[153]

The DPD has established an active Holding Cell Compliance Committee that collaborates with the OCR Audit Team for the purpose of conducting the audits required by this paragraph. The Audit Protocol, effective August 31, 2008, establishes the procedures governing the conduct of these audits.[154]

The HCCC and the OCR Audit Team conducted audits on Detainee Safety Program and Policies for the period ending July 31, 2009. Our review finds it also to be a detailed document in which a number of deficiencies are noted. In consideration of the fact that the identification of deficiencies is one of the purposes of the audit process, we find these results positive. Accordingly, we find the DPD in compliance with the requirements of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C70

The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate the environmental health and safety programs, including:

a. *inspecting holding cells and surrounding areas to ensure that they are clean and clear of debris and that the lighting, sinks, and toilets are operable;*

b. *reviewing a sampling of cleanings and maintenance logs to ensure they are properly*

[153] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, issued July 16, 2009. (Report #23)

[154] The Audit Protocol, effective August 31, 2008 governs the audits discussed in this report; however a revised Audit Protocol, effective August 31, 2009 will govern the conduct of future audits.

maintained and reflected the scheduled performance of the requisite cleaning and maintenance tasks;

c. *reviewing the systems in place for assuring that all prisoners have reasonable access to potable water and toilets 24 hours a day;*

d. *observing whether holding cells are free of any potential suicide hazards; and*

e. *issuing a written report regarding the findings of the audit.*

Comments: The previous monitor found the DPD in compliance with policy requirements. [155]

The DPD has established an active Holding Cell Compliance Committee that collaborates with the OCR Audit Team for the purpose of conducting the audits required by this paragraph. The Audit Protocol, effective August 31, 2008, establishes the procedures governing the conduct of these audits.[156]

We recognize the DPD Audit Team and the HCCC have done a significant amount of work during the course of the consent judgments. We have had the opportunity to see the audits and have found them to be comprehensive, robust documents that address the requirements articulated in the judgment(s).

We are aware that previously, these audits were used to determine compliance. As part of the protocol for our first site visit, and as an underlying principle of the methodology we have used for the duration of this process, we endeavored to independently examine for ourselves the policies and practices of the DPD in order to make our own determinations relevant to compliance. Accordingly, with the exception of those instances in which audit requirements are clearly in compliance, or not in compliance, such as the case with the requirements of this paragraph, we shall be deferring compliance determinations until our next site. Although we received several completed audits, the Environmental Health and Safety Program audit was not included; therefore we are deferring our compliance determination.

Compliance Status:

Phase 1: In Compliance

Phase 2: Deferred

CJ Requirement C71

The Holding cell Compliance Committee shall conduct regularly scheduled quarterly audits of all building containing holding cells to evaluate the food service program, including:

a. *reviewing a sample of food service documentation to evaluate whether prisoners who are held over six hours receive regular and adequate meals;*

b. *assuring that food is handled in a sanitary manner; and*

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[155] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009, issued April 20, 2009. (Report #22)

[156] The Audit Protocol, effective August 31, 2008 governs the audits discussed in this report; however a revised Audit Protocol, effective August 31, 2009 will govern the conduct of future audits.

c. issuing a written report regarding the findings of the audit.

Comments: The previous monitor found the DPD was not in compliance with the requirements of this paragraph noting two performance-related deficiencies, flaws in the mathematical calculations of compliance and other issues.

The DPD has established an active Holding Cell Compliance Committee that collaborates with the OCR Audit Team for the purpose of conducting the audits required by this paragraph. The Audit Protocol, effective August 31, 2008, establishes the procedures governing the conduct of these audits.[157]

We recognize the DPD Audit Team and the HCCC have done a significant amount of work during the course of the consent judgments. We have had the opportunity to see the audits and have found them to be comprehensive, robust documents that address the requirements articulated in the judgment(s).

We are aware that previously, these audits were used to determine compliance. As part of the protocol for our first site visit, and as an underlying principle of the methodology we have used for the duration of this process, we endeavored to independently examine for ourselves the policies and practices of the DPD in order to make our own determinations relevant to compliance. Accordingly, with the exception of those instances in which audit requirements are clearly in compliance, or not in compliance, such as the case with the requirements of this paragraph, we shall be deferring compliance determinations until our next site visit. Although we received several completed audits, the Food Service audit was not included; therefore we are deferring our compliance determination.

Compliance Status:

Phase 1: In Compliance

Phase 2: Deferred

CJ Requirement C72

The DPD shall issue all audit reports to the Chief of Police and also provide copies to each precinct or specialized unit commander. The commander of each precinct and specialized unit shall review all audit reports regarding employees under their command and, if appropriate, shall take non-disciplinary corrective action or disciplinary action.[158]

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[157] The Audit Protocol, effective August 31, 2008 governs the audits discussed in this report; however a revised Audit Protocol, effective August 31, 2009 will govern the conduct of future audits.

[158] Amended to reflect the below stipulated language contained in the Court Order of April 15, 2009:
The audits required by paragraphs 65 to 71 in this Agreement shall be submitted on a semiannual basis with the first and second semiannual periods ending on January 31 and August 31, 2004. Subsequent semiannual periods shall end on January 31, 2005, and every six months thereafter. Each of these audits may be conducted on an annual rather than a semiannual basis when the Monitor concludes that the most recently submitted audit for the same topic is compliant, and the remaining requirements of this paragraph have been met for the prior audit of that topic. The DPD shall issue all audit reports to the Chief of Police and also provide copies to each precinct or specialized unit commander. The commander of each precinct and specialized unit shall review all audit reports regarding employees under their command and, if appropriate, shall take nondisciplinary corrective action or disciplinary action.

Comments: The previous monitor determined the DPD was not yet in compliance with this paragraph noting significant tracking the required actions and inconsistent information within the system.[159]

The DPD developed an Audit Protocol in accordance with the requirements of U92. The Protocol, effective August 31, 2008, establishes an audit schedule; describes the audit terms; specifies the roles and responsibilities of audit team members; describes the various audits, including the one required by this paragraph; and describes the reports that are to be conducted and produced.[160] Audits are conducted consistent with Generally Accepted Government Auditing Standards (GAGAS).

The Audit Protocol requires the reporting of the various audit results to the Chief of Police and the various specified commanders. It also requires that commanders take appropriate disciplinary or non-disciplinary action.

We are advised that the OCR provides the required written reports to the Chief and specified commanders, but based upon our review of various reports and field observations, we are not satisfied they receive appropriate attention. This has been an ongoing issue for the OCR. An OCR review of the audit process, and this issue in particular, concluded the problem may have been that the audits were targeted at the department as a whole, rather than a particular command. The process has been changed to focus on single commands, which is expected to result in clearer command accountability and increased responsiveness to issues identified through the audit process.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
62	Eval cell operation to minimize harm risks	In Compliance	Pending Compliance
63	Operate cells to comply with DPD risk plan	Not in Compliance	Not in Compliance
64	Augment policy re video cameras	In Compliance	Not in Compliance
65	Quar audit of units investigating cell issues	In Compliance	In Compliance
66	Create Holding Cell Compliance Comm	In Compliance	In Compliance
67	HCCC does quar audits of emergency prep	In Compliance	Deferred
68	HCCC does quar audits of Med/MH progs	In Compliance	In Compliance
69	HCCC does quar audits of safety progs	In Compliance	In Compliance
70	HCCC does quar audits of env health progs	In Compliance	Deferred
71	HCCC does quar audits of food service pr	In Compliance	Deferred
72	All audit reports to Chief and Commanders	In Compliance	Not in Compliance

[159] Report of the Independent Monitor for the Detroit Police Department, Quarter Ending May 31, 2009, issued July 16, 2009. (Report #23)

[160] The Audit Protocol, effective August 31, 2008 governs the audits discussed in this report; however a revised Audit Protocol, effective August 31, 2009 will govern the conduct of future audits.

XVI. TRAINING

CJ Requirement C73

The DPD shall provide comprehensive pre-service and in-service training to all detention officers.

Comments: The previous monitoring team found in its last review of this provision that the DPD had not achieved compliance. The report stated that after several iterations of the Detention Officer Training Lesson Plan, the previous monitor gave approval to the document on July 22, 2008. However, the DPD had not begun implementation of training from the approved document at the time of her review and was determined not to be in compliance.

Our review reveals that while appropriate directives and lesson plans exist, the DPD does not have a policy requiring training. We were informed that such a policy document is currently under development. In addition to the specific training provided to the detention officers on the proper and safe custodial care of detainees, these officers receive the full range of training consistent with the CJ mandated training for all members of the Department. We were advised that all detention officers have been trained on the requirements of this provision, but given the challenge the department is having with its record management system we have not verified the training as of this report.

Compliance status:

Phase 1: Not in compliance

Phase 2: Not in compliance

CJ Requirement C74

The DPD shall create and maintain individual training records for all detention officers, documenting the date and topic of all pre-service and in-service training, completed for all training completed on or after the effective date of this agreement.

Comments: The previous monitor reported in July, 2009 that DPD was not in compliance with this requirement. The previous monitor reported that while the DPD was entering individual members' records into the MITN system, the deficiencies of this process did not support a finding of compliance with this requirement.

The monitoring team met with the Department's training director who acknowledged that the process to develop an individual training records system has been difficult for the DPD. While slow progress has been made entering individual detention officer training records into the MITN system, and while other automated data files are being created, the DPD has not yet complied with this provision.

Compliance status:

Phase 1: Not in compliance

Phase 2: Not in compliance

CJ Requirement C75

The DPD shall provide all detention officers, supervisors of detention officer and members of the Holding Cell Compliance Committee with annual training in emergency preparedness. Such training shall include drills and substantive training in the following topics:

a. *Emergency response plans and notification responsibilities;*
b. *Fire drills and use of fire extinguishers and other fire suppression equipment;*
c. *Key control drills and key control policies and procedures; and*
d. *Responding to emergency situations, including scenarios detention officers likely will experience.*

Comments: The previous monitor last assessed compliance with requirements C75 during the quarter ending on August 31, 2008. In the report for that period, the previous monitor found that the department had not achieved compliance with this provision and indicated that the DPD had not submitted necessary documentation which would indicate the training and drills were occurring as required by this provision.

While it is apparent that training and drills pursuant to these requirements are on-going, we have not yet been able to confirm this through training records. Nevertheless a policy to require training participation is now being developed. It is vital that the DPD bring its record keeping into compliance to substantiate that this requirement is being met.

Compliance status:

Phase 1: Not in compliance

Phase 2: Not in compliance

CJ Requirement C76

The DPD shall provide all detention officers, supervisors and members of the Holding Cell Compliance Committee with annual training in the medical/mental health screening programs and policies. Such training shall include and address the following topics:

a. *prisoner intake procedures and medical and mental health protocols, including protocols for transferring or housing prisoners with infectious diseases, disabilities and/or requiring increased monitoring;*
b. *recording, updating and transferring prisoner health information and medications*
c. *the prescription medication policy, including instructions on the storage, recording and administration of medications; and*

d. examples of scenarios faced by detention officers illustrating proper intake screening and action in response to information regarding medical and mental health conditions.

Comments: In August, 2008, when the previous monitor last assessed compliance with C76, C77 and C78 it was reported the DPD was not in compliance with these requirements. The previous monitor observed that the lesson plan for Detention Officer Training had been submitted "numerous" times for approval. In July, 2008, the lesson plan was approved and DPD began utilizing it to conduct training of personnel engaged in detention activities.

The monitoring team, during our November 2009 site visit was unable to find any documentation supporting the existence of a specific policy relevant to the prescribed training enumerated in this requirement.

Compliance status:

Phase 1: Not in compliance

Phase 2: Not in compliance

CJ Requirement C77

The DPD shall provide all detention officers, supervisors and members of the Holding Cell Compliance Committee with annual training in detainee safety programs and policies. Such training shall include and address the following topics:

a. the security screening program, including protocols for identifying and promptly and properly housing suspected crime partners, vulnerable, assaultive or special management prisoners;

b. protocols for performing, documenting and obtaining supervisory review of holding cell checks;

c. protocols concerning prisoners in observation cells, including protocols for direct and continual supervision, for spotting potential suicide hazards and providing appropriate clothing; and

d. examples of scenarios faced by detention officers illustrating appropriate security screening, segregation and monitoring techniques.

Comments: The monitoring team, during our November 2009 site visit was unable to find any documentation supporting the existence of a specific policy relevant to the prescribed training enumerated in this requirement.

Compliance status:

Phase 1: Not in compliance

Phase 2: Not in compliance

CJ Requirement C78

The DPD shall provide all detention officers, supervisors and members of the Holding Cell Compliance Committee with annual training in environmental health and safety and hygiene. Such training shall include and address the following topics:

a. cell block cleaning and maintenance protocols; and

b. sanitary food preparation and delivery protocols.

Comments: The monitoring team, during our November, 2009 site visit was unable to find any documentation supporting the existence of a specific policy relevant to the prescribed training enumerated in this requirement.

Compliance status:

Phase 1: Not in compliance

Phase 2: Not in compliance

Critical Issues

Some procedures and policies that relate to the safety and health of inmates are inadequate or unavailable.

Assessment for Phase 1 compliance has revealed that some procedures and policies are incomplete while others were unavailable for review. With regard to completeness, for example, the Infectious Disease Control (IDC) policy did not reflect concerns with current known illnesses' risks, including risks associated with H1N1 and MRSA. There was also no evidence that the policy has been approved by a qualified medical professional as required.

We were not provided with polices addressing updating and exchange of prisoner health information. Implementation problems in that area were also identified including concerns with maintaining the security and privacy of health records. This policy must be clarified to avoid possible violations of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule. The visit also raised concerns over documentation in several areas including well-being documentation for detainees held in close observation and fire safety.

In other cases some procedures do not follow from the relevant policies. DPD Policy on Medical and Mental Health Screenings describes the intake process. An examination determined that DPD uses the Live Scan System instead of using the forms designed for that purpose as stated in policy.

These problems may be associated with ongoing need for policy revision and updating. It appears that the majority of the DPD COC policies have not been updated since 2005-2006. As a result, any actual changes to policy or practice have not been appropriately memorialized. The review of existing policies for consistency with the requirements of the Consent Judgment will be an ongoing focus of the Monitoring team.

Some Practices do not follow policy

For some areas where appropriate policies are in place, the monitoring team noted that practice sometimes did not reflect the policy requirements. For example, the key control system does not provide for ready access to keys by on-duty staff in the event of an emergency. Likewise, appropriate documentation does not in and of itself assure that sanitation is maintained at an acceptable level throughout the holding cell facilities.

In such cases, although the needed documentation may be present, it does not necessarily support operational requirements. The correspondence between policy and operations will continue to be reviewed by the Monitor.

Next Steps

For the next visit, the Monitor will continue to assess compliance with all requirements of the Conditions of Confinement Consent Judgment as they relate to policy and practice. We will focus our attention on those issues that affect the health and safety of detainees. Our examination will include a review of material relevant to the issues noted above. This will include a thorough review of policies, including those not available on the last visit.

During the next site visit we will discuss updating policies and procedures that will assure adherence to requirements of the Judgment. We will advise the DPD regarding the necessity to organize, update, and consolidate policies, where needed. Additionally we will, if asked, provide technical assistance to the department in planning and conducting in-service training for the appropriate staff on updated policies and procedures.

With regard to specific issues, we plan to meet with the DPD's qualified medical professional and the District and Precinct Commanders to determine the obstacles preventing compliance with policy or implementation of an Infectious Disease Control plan. Similarly, we will examine issues involving HIPPA regulations as they apply to DPD. We will also review the Live Scan System for its adherence to the Judgment as a means to collect and store detainee assessment information. Finally, we will conduct an assessment of implementation regarding policy in key areas such as dealing with mental health and high risk detainees.

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
73	Pre-service training for detention officers	Not in Compliance	Not in Compliance
74	Maintain individual training records	Not in Compliance	Not in Compliance
75	Annual training for supervisors, HCCC	Not in Compliance	Not in Compliance
76	Annual training on MED/MH screening	Not in Compliance	Not in Compliance
77	Annual training on detainee safety	Not in Compliance	Not in Compliance
78	Annual training on env health, safety, hyg	Not in Compliance	Not in Compliance

APPENDIX A: Acronyms

The following is a listing of acronyms frequently used in the Quarterly Reports.

ACRONYM	DEFINITION
AT	Audit Team
BOPC	Board of Police Commissioners
CBS	Cell Block Supervisor
CCR	Citizen Complaint Report
CEPP	Comprehensive Emergency Preparedness Program
CFD	Critical Firearm Discharge
CI	Chief Investigator
City	City of Detroit
CLBR	Command Level Board of Review
CLFRT	Command Level Force Review Team
CO	Commanding Officer
COC CJ	Conditions of Confinement Consent Judgment
DFD	Detroit Fire Department
DOJ	Department of Justice
DPD	Detroit Police Department
EPP	Emergency Prepardness Program
FI	Force Investigation (interchangeable with FIS
FIS	Force Investigation Selection
FSP	Fire Safety Program
FSPP	Fire Safety Practices and Policies
GAS	Government Auditing Standards

HCCC	Holding Cell Compliance Committee
IA	Internal Affairs
IAD	Internal Affairs Division
IMAS	Interim Management Awareness System
JIST	Joint Incident Shooting Team
MAS	Management Awareness System
MCOLES	Michigan Commission on Law Enforcement Standards
MITN	MCCOLES Information and Tracking System
OCI	Office of the Chief Investigator
OCR	Office of Civil Rights
OIC	Officer in Charge
PDO	Police Detention Officer
PFC	Policy Focus Committee
RFP	Request for Proposals
SOP	Standard Operating Procedure(s)
TA	Technical Assistance
UOF CJ	Use of Force and Arrest and Witness Detention Consent Judgment
UOF	Use(s) of Force
USAO	United States Attorney's Office