

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.

_____ /

SIXTH QUARTERLY REPORT OF THE NEW INDEPENDENT MONITOR FOR THE
DETROIT POLICE DEPARTMENT ISSUED APRIL 15, 2011

Sixth Quarterly Report
Independent Monitor
for the
Detroit Police Department



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Independent Monitor

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April 15, 2011



**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Table of Contents

SECTION ONE: INTRODUCTION	7
EXECUTIVE SUMMARY	7
SECTION TWO: COMPLIANCE ASSESSMENTS - THE USE OF FORCE AND ARREST AND WITNESS DETENTION CONSENT JUDGMENT	13
III. USE OF FORCE POLICY	13
A. General Use of Force Policy.....	14
CJ Requirement U14	14
CJ Requirement U15	15
CJ Requirement U16	17
CJ Requirement U17	18
CJ Requirement U18	19
CJ Requirement U19	20
CJ Requirement U20	21
CJ Requirement U21	21
B. Use of Firearms Policy	22
CJ Requirement U22	22
CJ Requirement U23	23
C. Intermediate Force Device Policy.....	24
CJ Requirement U24	24
D. Chemical Spray Policy.....	25
CJ Requirement U25	25
CJ Requirement U26	27
IV. INCIDENT DOCUMENTATION, INVESTIGATION, AND REVIEW.....	29
A. General Investigations of Police Action.....	29
CJ Requirement U27	29
CJ Requirement U28	32
CJ Requirement U29	35
CJ Requirement U30	38
CJ Requirement U31	41
CJ Requirement U32	42
CJ Requirement U33	47
B. Use of Force and Prisoner Injury Investigations	50
CJ Requirement U34	50
CJ Requirement U35	52
CJ Requirement U36	53
CJ Requirement U37	55
CJ Requirement U38	56
CJ Requirement U39	57
CJ Requirement U40	58
CJ Requirement U41	59
V. ARREST AND DETENTION POLICIES AND PRACTICES.....	62
A. Arrest Policies	62
CJ Requirement U42	62
CJ Requirement U43	63

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

B. Investigatory Stop Policies	64
CJ Requirement U44	64
CJ Requirement U45	65
C. Witness Identification and Questioning Policies	67
CJ Requirement U46	67
CJ Requirement U47	68
CJ Requirement U48	69
D. Prompt Judicial Review Policies	70
CJ Requirement U49	70
CJ Requirement U50	71
CJ Requirement U51	72
E. Hold Policies	73
CJ Requirement U52	73
CJ Requirement U53	74
F. RESTRICTION POLICIES	75
CJ Requirement U54	75
CJ Requirement U55	75
G. Material Witness Policies	76
CJ Requirement U56	76
CJ Requirement U57	77
H. Documentation of Custodial Detention	77
CJ Requirement U58	77
I. Command Notification	78
CJ Requirement U59	78
CJ Requirement U60	80
VI. EXTERNAL COMPLAINTS	83
CJ Requirement U61	84
CJ Requirement U62	85
CJ Requirement U63	86
A. Intake and Tracking	87
CJ Requirement U64	87
CJ Requirement U65	88
CJ Requirement U66	88
B. External Complaint Investigations	89
CJ Requirement U67	89
CJ Requirement U68	91
CJ Requirement U69	92
VII. GENERAL POLICIES	95
CJ Requirement U70	95
CJ Requirement U71	96
CJ Requirement U72	97
CJ Requirement U73	98
CJ Requirement U74	99
CJ Requirement U75	100
CJ Requirement U76	101
CJ Requirement U77	102
VIII. MANAGEMENT AND SUPERVISION	104
A. Risk Management Database	104
CJ Requirement U78	105
CJ Requirement U79	106
CJ Requirement U80	106
CJ Requirement U81	108

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

CJ Requirement U82	109
CJ Requirement U83	110
CJ Requirement U84	111
CJ Requirement U85	113
CJ Requirement U86	113
CJ Requirement U87	114
CJ Requirement U88	115
CJ Requirement U89	116
CJ Requirement U90	117
B. Performance Evaluation System	118
CJ Requirement U91	118
C. Oversight	119
CJ Requirement U92	119
CJ Requirement U93	120
CJ Requirement U94	121
CJ Requirement U95	121
CJ Requirement U96	122
CJ Requirement U97	123
CJ Requirement U98	124
CJ Requirement U99	124
D. Use of Video Cameras	125
CJ Requirement U100	125
CJ Requirement U101	126
CJ Requirement U102	127
E. Discipline	128
CJ Requirement U103	128
CJ Requirement U104	129
CJ Requirement U105	130
IX. TRAINING	133
A. OVERSIGHT AND DEVELOPMENT	133
CJ Requirement U106	133
CJ Requirement U107	134
CJ Requirement U108	136
CJ Requirement U109	137
CJ Requirement U110	137
CJ Requirement U111	138
B. USE OF FORCE TRAINING	138
CJ Requirement U112	138
C. FIREARMS TRAINING	140
CJ Requirement U113	140
D. ARREST AND POLICE-CITIZEN INTERACTION TRAINING	141
CJ Requirement U114	141
E. CUSTODIAL DETENTION TRAINING	143
CJ Requirement U115	143

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

CJ Requirement U116	144
CJ Requirement U117	144
F. SUPERVISORY TRAINING	145
CJ Requirement U118	145
CJ Requirement U119	146
CJ Requirement U120	146
G. INVESTIGATOR TRAINING	147
CJ Requirement U121	147
CJ Requirement U122	147
H. FIELD TRAINING	148
CJ Requirement U123	148
SECTION THREE: COMPLIANCE ASSESSMENTS - THE CONDITIONS OF CONFINEMENT CONSENT JUDGMENT	151
III. FIRE SAFETY POLICIES	153
CJ Requirement C14	153
CJ Requirement C15	154
CJ Requirement C16	155
CJ Requirement C17	156
CJ Requirement C18	157
CJ Requirement C19	157
CJ Requirement C20	158
CJ Requirement C21	159
CJ Requirement C22	160
IV. EMERGENCY PREPAREDNESS POLICIES	161
CJ Requirement C23	161
CJ Requirement C24	161
CJ Requirement C25	163
V. MEDICAL AND MENTAL HEALTH CARE POLICIES	164
CJ Requirement C26	164
CJ Requirement C27	165
CJ Requirement C28	166
CJ Requirement C29	169
CJ Requirement C30	170
CJ Requirement C31	171
CJ Requirement C32	173
CJ Requirement C33	175
CJ Requirement C34	176
CJ Requirement C36	177
CJ Requirement C37	179
CJ Requirement C38	180
VII. ENVIRONMENTAL HEALTH AND SAFETY POLICIES	181
CJ Requirement C39	181
CJ Requirement C40	183

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

CJ Requirement C41	183
CJ Requirement C42	185
CJ Requirement C43	185
CJ Requirement C44	186
CJ Requirement C45	186
CJ Requirement C46	187
VIII. POLICIES CONCERNING PERSONS WITH DISABILITIES	188
CJ Requirement C47	188
CJ Requirement C48	188
IX. FOOD SERVICE POLICIES.....	189
CJ Requirement C49	189
CJ Requirement C50	190
X. PERSONAL HYGIENE POLICIES.....	191
CJ Requirement C51	191
CJ Requirement C52	192
CJ Requirement C53	193
CJ Requirement C54	194
XII. INCIDENT DOCUMENTATION, INVESTIGATION AND REVIEW.....	195
CJ Requirement C55	195
CJ Requirement C56	196
CJ Requirement C57	196
XIII. EXTERNAL COMPLAINTS	197
CJ Requirement C58	197
CJ Requirement C59	198
XIV. GENERAL POLICIES.....	199
CJ Requirement C60	199
CJ Requirement C61	200
XV. MANAGEMENT AND SUPERVISION	201
CJ Requirement C62	201
CJ Requirement C63	201
CJ Requirement C64	203
CJ Requirement C65	204
CJ Requirement C66	205
CJ Requirement C67	206
CJ Requirement C68	207
CJ Requirement C69	208
CJ Requirement C70	209
CJ Requirement C71	211
CJ Requirement C72	211
XVI. TRAINING	214
CJ Requirement C73	214
CJ Requirement C74	215
CJ Requirement C75	215
CJ Requirement C76	216
CJ Requirement C77	217
CJ Requirement C78	218
APPENDIX A: HISTORY AND METHODS	220
APPENDIX B: ACRONYMS.....	223

SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT

April 15, 2011

APPENDIX C: MONITORING TEAM.....	226
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APPENDIX D: DETROIT POLICE DEPARTMENT MANAGEMENT DASHBOARD DATA.....	228
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**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

SECTION ONE: INTRODUCTION

This is the sixth quarterly report of the Monitoring Team in the case of United States of America v. City of Detroit (Case no. 03-72258). The report is based on our site visit of January 24, through January 28, 2011, and our subsequent analyses of relevant data. As with our previous reports, we assess compliance with all 175 of the requirements of the combined Use of Force (110 requirements) and Conditions of Confinement (65 requirements) Consent Judgments.

Based on our review of the Use of Force requirements, the Department is in Phase 1 (policy) compliance with 109 (99%) of the 110 requirements. This is an *increase* by one requirement from the last reporting period. We found the Department in Phase 1 and Phase 2 compliance (full compliance) with 75 (68%) of the 110 Use of Force requirements, an *increase* of eight requirements. The specific changes are presented in a chart below.

Based on our review of the Conditions of Confinement requirements, the Department is in Phase 1 compliance with all 65 (100%) of the requirements, as it was in the last two reporting periods. We found the Department in Phase 1 and Phase 2 compliance (full compliance) with 38 (58%) of the 65 requirements.

Overall, for this report, the Detroit Police Department is in Phase 1 compliance with 173 (99%) of the 175 monitored requirements; an *increase* of two from the last report. The Department is in full compliance (that is, both Phase 1 and Phase 2 compliance) with 113 (65%) of the 175 monitored requirements of the applicable paragraphs of both Consent Judgments, an increase of seven requirements, and up from 61% during the fifth reporting period. We also found the Department to be in pending Phase 2 compliance with 11 requirements. Five findings are deferred for this reporting period.

Executive Summary

This is our sixth quarterly report in the case of United States of America v. City of Detroit (Case no. 03-72258). The report is based on our site visit, which took place from January 24, through January 28, 2011, and our subsequent analyses of relevant data. Consistent with the practice we established in our first review, we continue to consider the totality of the requirements of both active Consent Judgments. This includes 110 requirements in the Use of Force Judgment, and an additional 65 requirements in the Conditions of Confinement Judgment. In this executive summary, I will review the levels of compliance found for the reporting period, and highlight what the Monitoring Team believes are some of the more significant findings, trends, patterns, and concerns that arose as a result of our evaluation.

During our sixth quarterly site visit, we continued our processes of review, including data collection and analysis, and interviews with key members of the Detroit Police Department. We appreciate the assistance of personnel throughout the Department as we work to complete our mission. We are especially grateful to the DPD Civil Rights Integrity Bureau (CRIB) for its

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

diligence as our requests grow in volume and complexity, and as we spend increasing time conducting onsite observations and inspections in the field.

The majority of this document is dedicated to the reporting of the assessment of compliance with the requirements of the Consent Judgments. Based on our review of the Use of Force requirements, the Department is in Phase 1 compliance with a total of 109 (99%) of the 110 requirements. This is an increase of two requirements found in compliance since the last reporting period. We found the Department in Phase 1 and Phase 2 compliance (full compliance) with 75 (68%) of the 110 Use of Force requirements, an increase of eight requirements since the last reporting period. Nine additional Use of Force requirements are reported as pending compliance, and two are deferred. Pending Compliance is reported when compliance has not been achieved but substantial progress toward compliance has been made. Deferred is reported when a lack of data or incomplete data temporarily preclude a full analysis.

Based on our review of the Conditions of Confinement requirements, the Department is in Phase 1 compliance with all (100%) of the 65 requirements, as it was in the fifth reporting period. We found the Department in Phase 1 and Phase 2 compliance (full compliance) with 38 (58%) of the 65 requirements. The current figures are presented in the table below.

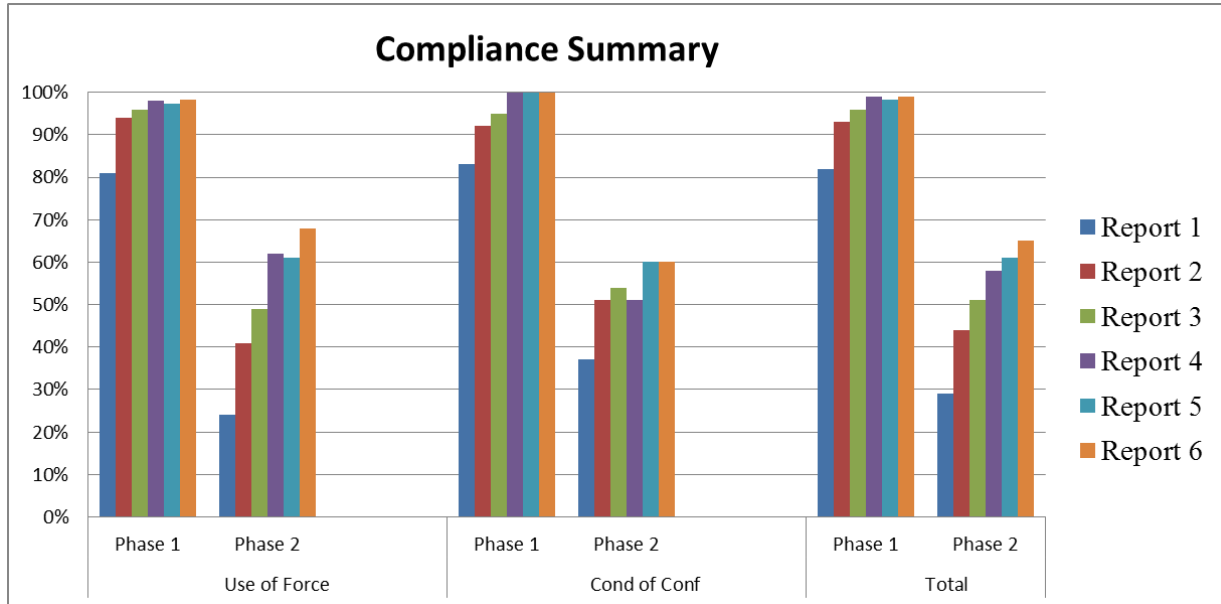
	Sixth Quarterly Report Summary					
	Use of Force		Cond of Conf		Total	
	Phase 1	Phase 2	Phase 1	Phase 2	Phase 1	Phase 2
Paragraph Numbers	14-123		14-78			
Number of Requirements	110	110	65	65	175	175
Pending Compliance	1	9	0	1	1	10
Not in Compliance	1	24	0	23	1	47
Deferred	0	2	0	3	0	5
In Compliance	109	75	65	38	174	113
Percent in Compliance	99%	68%	100%	58%	99%	65%

Overall, the DPD is in Phase 1 compliance with 174 (99%) of the 175 monitored requirements. This is an increase by two requirements from the previous reporting period. We found the Department to be in full compliance (that is, both Phase 1 and Phase 2 compliance) with 113 (65%) of the 175 monitored requirements of the applicable paragraphs of both Consent Judgments, up from 61% during the fifth reporting period. We also found the Department to be in pending Phase 2 compliance with an additional 11 requirements, or 6% of the total. Five compliance assessments (3%) are deferred. These changes across specific requirements are presented in a table below.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

The chart below illustrates the levels of compliance achieved on both Judgments and across all six reporting periods.



As the chart above shows, we continue to report increases in the total level of full compliance as we have for each of the previous visits following our initial report. For this, our sixth report, we have an increase of one requirement in Phase 1 compliance for the Use of Force paragraphs and the previously noted increase at the Phase 2 level.

These overall charts may benefit from a more detailed discussion. As seen below, in all, 19 requirements advanced in the desirable direction toward Phase 2 compliance and one towards Phase 1 compliance. Four requirements showed movement away from compliance.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Changes in Compliance Findings from the 5th to the 6th Quarterly Reports				
¶	Use of Force	Report 5	Report 6	Change
		Phase 1		
86	Common control number required	Not in Compliance	In Compliance	up
	Use fo Force	Phase 2		
18	Approval of policy	Not in Compliance	Deferred	up
25	Chemical spray policy	Not in Compliance	In Compliance	up
27	Revise investigative policies	Not in Compliance	In Compliance	up
37	Joint Incident Shooting Team	In Compliance	Not in Compliance	down
44	Revise investigatory stop-and-frisk policy	Not in Compliance	Deferred	up
48	Document content, etc. of interviews, etc.	Not In Compliance	In Compliance	up
53	Documentation of all holds	Not in Compliance	In Compliance	up
69	Required finding categories specified	Pending Compliance	In Compliance	up
71	Proposed policy changes open to comm.	Pending Compliance	In Compliance	up
73	Adequate officer/supervisor ratio	Not in Compliance	In Compliance	up
77	Develop foot pursuit policy	Pending Compliance	In Compliance	up
80	Database requirements (a-z)	Not in Compliance	Pending Compliance	up
82	Data Input Plan (a-d)	Not in Compliance	Pending Compliance	up
86	Common control number required	Not in Compliance	Pending Compliance	up
98	Random reviews of in-car camera videos	Not in Compliance	Pending Compliance	up
	Conditions of Confinement	Phase 2		
23	Ensure reasonable safety in emergency	In Compliance	Deferred	down
35	Security procedures to ensure safety	Not in Compliance	Deferred	up
36	Prisoner security screening program	In Compliance	Not in Compliance	down
37	Procedures for cell checks required	Not in Compliance	In Compliance	up
39	Clean and maintain holding cells	Pending Compliance	Not in Compliance	down
41	Holding cell maintenance policy required	Not in Compliance	Pending Compliance	up
43	Repair broken/malfunctioning cell elements	Not in Compliance	Pending Compliance	up
47	Reasonable accommodation for disabled	Not in Compliance	Deferred	up

The chart below provides the summary data illustrating the increases in compliance over the course of the six quarterly reporting periods.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Quarterly Report	Percent in Compliance					
	Use of Force		Cond of Conf		Total	
	Phase 1	Phase 2	Phase 1	Phase 2	Phase 1	Phase 2
Report 1	81%	24%	83%	37%	82%	29%
Report 2	94%	41%	92%	51%	93%	44%
Report 3	96%	49%	95%	54%	96%	51%
Report 4	98%	62%	100%	51%	99%	58%
Report 5	97%	61%	100%	60%	98%	61%
Report 6	99%	68%	100%	58%	99%	65%

The chart above summarizes improvement in compliance levels across our quarterly reports. For the last quarter we noted that one particular theme that ran through many areas of our report, as it did in our past reports, involved the exercise of appropriate supervisory roles. We anticipated returning to this issue in this reporting period. We are pleased to note some progress here, but we must also report some lingering concerns.

During our review of allegations of force referred to the DPD from the Office of the Chief Investigator (OCI) and Force Investigations routinely conducted by the Department, supervisory review was noted in the information provided. In cases where misconduct was identified, we were satisfied to note command personnel ensured appropriate corrective action was initiated. However, we are somewhat concerned about supervisors not ensuring photographs of complainant's injuries, according to Departmental policy, are being taken and failing to complete a Citizen Complaint Report (CCR) when required.

Likewise, we remain concerned about supervisory monitoring of stop-and-frisks, and the time limits required in arrests and detentions. With regard to risk management, progress is reflected in compliance levels for this period. It is clear that DPD should continue to move forward on the use of the system and particularly on the critical role of supervision in the system.

While the results of our review recognize that DPD has made some progress we consider the overall level of compliance wanting as we are in the eighth year of the Court's oversight of the Detroit Police Department.

Given what we know the level of support and commitment to be from the Mayor, Deputy Mayor and the Chief of Police, we hope there will be a renewed vigor on the part all ranks of the department to institutionalize the reforms to assure that the changes in the department are sustainable.

For this report, as with our previous five reports, we considered the compliance status of each of the requirements laid out in the Consent Judgments. We provide our assessments of compliance levels and the justifications for our findings. We also highlight issues that we consider to be critical to the continued progress of the Department, especially in areas that we believe are of substantial seriousness and importance to the DPD's efforts to achieve compliance.

Throughout our involvement in this project we have been impressed with the attitudes of the senior leadership in their movement towards compliance and reform. While there have been some signs of a plateauing, we still believe that the Department is fully capable of doing what is

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

necessary to change the culture, professionalize and modernize its internal processes and meet the mandates of the Consent Judgments.

My colleagues and I look forward to assisting in those ways that are permissible under the technical assistance provisions of the Judgments with the hope that a collaboration for the common good will bring about the changes for which all Parties in this matter are unquestionably striving.



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Monitor

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**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

**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, containing paragraphs U14 through U26, requires that the DPD review and revise its general use of force, firearms, and chemical spray policies; select an intermediate impact device and develop guidelines on its use; and provide appropriate training relating to the use of force. To determine compliance with this section's various requirements, we verify that the DPD has both developed the required policy and effectively implemented the policy, including providing any necessary and appropriate training.

The DPD has conducted the requisite reviews and revisions of policies, which have been approved by the Department of Justice. The revised policies include a force continuum that identifies lethal and less lethal force options; relate the force options to the types of conduct by the individuals justifying the various force options; and describes de-escalation, disengagement, and other appropriate tactics and responses. The revised firearms policies address qualification requirements, approved firearms and ammunition, and a prohibition on the firing at or from moving vehicles. The DPD also selected an intermediate impact device, developed guidelines on its use, and provided the required training. The chemical spray policy requires, when appropriate, verbal warning prior to the deployment of chemical spray; sets forth requirements for decontamination, medical assistance, and supervisory approval if the chemical spray is to be used against a crowd; and prohibits officers from using chemical spray on a handcuffed individual in a police vehicle or keeping a sprayed individual face-down.

To assess implementation of these policies for this and the previous reporting periods, we visited police districts, precincts, and other commands; met and discussed operational activities with command, supervisory, and training staff; observed training classes; reviewed arrest, use of force, and related police reports; and reviewed investigations of force, detainee injuries, and allegations of force. We continue to find that the DPD needs to strengthen its command staff review and oversight of the uses of force. We urge the DPD to remain vigilant in this area to improve the required reporting, meet investigation deadlines, and ensure complete and thorough use of force investigations.

Our previous reviews of use of force reports found instances where officers fired at moving vehicles due to exigent circumstances; however, neither the Consent Judgment nor existing policy provides for exigent circumstance exceptions. The DPD has provided DOJ with a proposed policy revision authorizing an exception to the firing at a moving vehicle prohibition when exigent circumstances exist during the incident. There were no instances during this reporting period where officers fired at moving vehicles.

To assess compliance with the requirements relating to the issuance and carrying of authorized weapons and ammunition, we examined the investigations of critical firearm discharges by FI. During this reporting period, we reviewed documentation of four critical firearm discharges. Two were intentional and two were accidental. In one of the two accidental discharges, the member was carrying unauthorized hollow point ammunition. The member accidentally

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

discharged the firearm in a DPD facility, and a DPD officer was struck in the leg receiving a serious, but fortunately non-fatal, injury. Our review noted no issues with the number of rounds fired for this period. One pursuit investigation was reviewed that contained two fatalities caused by the suspect vehicle crashing into a non-involved party.

The DPD selected the PR-24 collapsible baton as its impact device and has provided training on its use to 893 (32%) of its personnel during the first quarter of this Fiscal Year. There were no strikes to the head noted during this quarter. However, in one case, we noted that the PR-24 was used to strike a citizen who was in a verbal engagement with the DPD officer. The officer struck the citizen and broke his forearm with the PR-24. The use of force investigation sustained the allegation of the use of force in this instance.

We also reviewed instances of chemical spray deployments during this and previous reporting periods. The Department's reports indicate that although officers are providing appropriate warnings prior to deployment, decontamination, and subsequent medical assistance, they are not consistently doing so. In addition, officers are not consistently adhering to the time requirements on contamination or indicating how the decontamination was accomplished.

During this reporting period, there were two cases in which chemical spray was used, and in both cases, the warning was provided and decontamination took place within 20 minutes. Additionally, the officers provided information as to where and how the decontamination occurred. There were no reported instances of an officer spraying at an unruly crowd, or instances or allegations where officers placed or kept subjects in a face-down position after being sprayed.

Our detailed compliance assessment for each of the requirements in this section follows.

A. General Use of Force Policy

CJ Requirement U14

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

Policy:

We previously reviewed DPD Directive 304.2, Use of Force, effective June 27, 2005; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005; and found that they defined force consistent with the Phase 1 compliance requirements of this paragraph. During our most recent site visit, we reviewed a revised version of DPD Directive 304.2, Use of Force, effective November 2010, and found that it also defined force as in the previous iteration.¹ The revised directive defines the following actions by an officer as force: "any physical strike or instrumental contact with a person; any intentional attempted physical strike or instrumental contact that does not take effect;

¹ Rather than a true revision, this is a DPD-required annual review of the directive. There were no changes noted in the "revision."

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

or any significant physical contact that restricts the movement of a person. The term includes the discharge of firearms; the use of chemical spray, choke holds or hard hands; the taking of a subject to the ground; or the deployment of a canine. The term does not include escorting or handcuffing a person, with no or minimal resistance. Use of force is lawful if it is objectively reasonable under the circumstances and the minimum amount of force necessary to affect an arrest or protect the officer or other person is used.”

DPD is in Phase 1 compliance with this paragraph.

Comments:

To assess Phase 2 compliance with this requirement, we reviewed completed use of force investigations, met with DPD staff, and observed relevant operational activities. DPD continues to conduct biweekly Command Accountability Meetings (CAMs) with all DPD executives. These meetings focus on the findings of the Inspection Section and the corrective actions taken in response to the findings. The commanders and inspectors report on whether each identified finding was due to an employee’s failure to comply with policy and, if so, what disciplinary action has been, or is being, taken against the member.

During our most recent site visit, DPD suffered a violent attack by an armed gunman at one of its districts; consequently, the CAM was abbreviated and focused on the condition of the wounded officers, the attack, and the steps that commanders should take to harden the target at their respective commands. As previously mentioned, we reviewed, via MAS, the current list of use of force numbers generated for 2010 and found that 1,487 numbers were issued for the year. We will continue to monitor the numbers of use of force reports.

DPD remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.*

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Policy:

Our previous review of DPD Directive 304.2 Use of Force, effective June 27, 2005, Section 5.2; and DPD Training Directive 04-3, Use of Force Continuum, effective May 5, 2005; found that force was defined consistent with the Phase 1 compliance requirements of this paragraph. During our most recent site visit, we reviewed a revised version of DPD Directive 304.2, Use of Force, effective November 2010, and found that it continued to define force as in the previous iteration.² There was no revision of the training directive. We also reviewed the DPD 29th Quarter Status Report, dated December 31, 2010, which did not articulate any changes in policy or training directives relative to this requirement. The DPD remains in Phase 1 compliance with this paragraph.

Comments:

Our previous review of use of force reports found that they lacked sufficient documentation or specificity with regards to de-escalation and details of actual disengagement to make a definitive determination regarding Phase 2 compliance.³

To assess compliance during this reporting period, we reviewed reports to determine the extent to which policy requirements noted here are reflected in practice. We verified that the 159 use of force reports justified the uses of force under the policy, described the conduct of individuals against whom force was used, and described some efforts at de-escalation that the officers employed. In 94% of the 159 use of force reports (UF002) we reviewed, officers attempted to de-escalate their encounters utilizing verbal commands prior to resorting to force. However, with few exceptions, the reports lacked documentation beyond the use of verbal commands to establish the de-escalation and disengagement efforts required by subsection c. of this requirement.

In an effort to establish the level of disengagement required, and to audit the preparation of use of force reports, we also reviewed a stratified random sample of Crisnet reports involving the offenses of Disorderly Conduct, Resisting a Police Officer, Obstruction, and Assault on Police Officer. We paid particular attention to officers' efforts to de-escalate and disengage from potential use of force situations. We reviewed 318 of these cases.⁴ While we were once again encouraged to find officers making arrests in difficult situations without relying on force, the reports do not yet meet the >94% standard required in the Judgment.⁵

² Rather than a true revision, this is a DPD-required annual review of the directive. There were no changes noted in the "revision."

³ Report of the Independent Monitor, issued January 16, 2011.

⁴ This number includes 108 cases in September, 118 cases in October, and 92 cases in November.

⁵ We reviewed 318 Crisnet reports involving Disorderly Conduct, Resisting a Police Officer, Obstruction, and Assault on Police Officers. In 57 of these reports, the officers documented the use of force, and corresponding use of force reports were prepared. In 13 of the reports reviewed, force was used and corresponding use of force reports were not prepared. CRIB sent Corrective Action Notices (CANs) regarding these 13 reports to the respective commands for corrective action. In 248 (78%) of the cases, arrests of individuals were made in stressful situations with no force utilized.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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.

Policy:

We previously found that DPD Directive 304.2, Use of Force, effective June 27, 2005, Section 5.2, and Training Directive 04-3, Use of Force Continuum, effective May 5, 2005, set forth the requirements of this Consent Judgment paragraph. During our most recent site visit, we reviewed a revised version of DPD Directive 304.2, Use of Force, effective November 2010 and found that it continued to define force as in the previous iteration.⁶ There was no revision of the training directive. We also reviewed the DPD 29th Quarter Status Report, dated December 31, 2010, which did not articulate any changes in policy or training directives relative to this requirement. The DPD remains in Phase 1 compliance with this requirement.

Comments:

Use of Force Reports: Our previous reviews found DPD steadily improving in officers' use of verbal commands to encourage subjects to surrender prior to any force having to be used. In our last report, we noted the Department's improvement to the 98% level.

To assess compliance for this reporting period, we reviewed 159 use of force reports.⁷ We found that 149, or <94%, included verbal commands and an opportunity to submit to arrest prior to the use of force or a reason why the verbal command was not given. The DPD is not in compliance with this portion of this paragraph.

Force Investigations: During this reporting period, OCI began referring allegations of excessive force that could rise to criminal conduct to FI for investigation. OCI determined that incidents that could give rise to criminal charges would be more appropriately handled by the DPD since the Department has the necessary resources to handle criminal investigations involving its

⁶ Rather than a true revision, this is a DPD-required annual review of the directive. There were no changes noted in the "revision."

⁷ There were a total of 173 use of force reports (002s) prepared. This number was reduced to the 159 cited above based on the 14 no-contact canine reports included in the base for which verbal commands were not given because a subject was not encountered.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

personnel. We reviewed nine investigations referred to DPD Force Investigation by OCI, and nine internally generated force investigations routinely conducted by DPD. We found that two of the 18 total force investigations conducted by FI, did not include a verbal command or an opportunity for a subject to submit to arrest prior to the use of force. This represents an 89% compliance rate. DPD is not in compliance with this portion of this paragraph.

In total, we reviewed 177 reports, of which 166 (below 94%) included verbal commands and an opportunity to submit to arrest prior to the use of force or a reason the verbal command was not given.

The DPD remains in compliance for this reporting period, but must increase its compliance rate to >94% during the next reporting period in order to remain in compliance.⁸

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.

Policy:

We previously found that the DPD implemented DPD Directive 304.2, Use of Force, effective June 27, 2005, Section 4.3, prohibiting the use of the described holds; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005; to be in Phase 1 compliance with this paragraph. During our most recent site visit, we reviewed a revised version of DPD Directive 304.2, Use of Force, effective November 2010; and found that it continued to prohibit the use of the described holds as in the previous iteration.⁹ The DPD remains in Phase 1 compliance with this paragraph. Our review of the DPD 29th Quarter Status Report, dated December 31, 2010, found that it articulated no changes in policy or training directives relative to this requirement.

Comments:

During the last reporting period, we reviewed use of force reports and investigations and found no cases in which a choke hold may have been applied. To assess compliance for this reporting

⁸ For reporting purposes, FI investigations completed for this reporting period will be 18 total, including the nine cases referred to FI by OCI. This paragraph will be the only breakdown of the cases as indicated for this report, and for future reports will be documented as completed FI investigations only.

⁹ Rather than a true revision, this is a DPD-required annual review of the directive. There were no changes noted in the "revision."

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

period, we reviewed 173 use of force reports, 80 completed Supervisory Investigation Reports (SIRs), and 18 completed FI investigations.¹⁰ There were no reported uses of a choke hold in any of the cases we reviewed.

DPD is in Phase 2 compliance with the requirements of this Consent Judgment paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.

Policy:

We previously found DPD Directive 304.2, Use of Force, effective June 27, 2005, and approved by DOJ, April 14, 2005 in Phase 1 compliance with this paragraph. During our most recent site visit, we reviewed a revised version of DPD Directive 304.2, effective November 2010; and also found it to be in Phase 1 compliance with this paragraph.¹¹ Our review of the DPD 29th Quarter Status Report, dated December 31, 2010, found that it failed to mention the issuance of the revised copy of the policy.

Comments:

Full Phase 2 compliance with this paragraph is dependent upon the effective field implementation of the requirements contained in paragraphs U14-17 and U19. We found the DPD in Phase 2 compliance with U14, U16, U17, and U19, but not in compliance with U15; therefore Phase 2 compliance is deferred.

Compliance Status:

Phase 1: In Compliance

Phase 2: Deferred

¹⁰ Many of the command-level investigations contained multiple uses of force forms, and 11 cases were assumed by Force Investigations.

¹¹ Rather than a true revision, this is a DPD-required annual review of the directive. There were no changes noted in the "revision."

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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.

Policy:

We previously found DPD Directive 304.2, Use of Force, effective June 27, 2005, Section 4.2.4; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005; in Phase 1 compliance with this paragraph. Directive 304.2 provides that “a strike to the head of any person with an instrument constitutes a use of deadly force.” During our most recent site visit, we reviewed a revised version of DPD Directive 304.2, Use of Force, effective November 2010 and found it in Phase 1 compliance with this paragraph.¹² Our review of the DPD 29th Quarter Status Report, dated December 31, 2010, found that it articulated no changes in policy or training directives relative to this requirement.

Comments:

Use of Force Reports: Our review of 173 use of force reports found no instances of any strikes to the head.

Force Investigations: Our review of 18 completed force investigations revealed no instances where a DPD officer used an instrument to strike a subject in the head; however, one case is of concern. In this instance, the PR-24 was used to strike a citizen who was verbally engaged with an officer. No active resistance or aggression was noted. The subject received a broken forearm. Although this action does not affect compliance with the specific requirements of this CJ paragraph, it is a violation of DPD policy and therefore of concern; however, we note that the use of force investigation appropriately sustained the allegation of the use of excessive force in this instance.

The DPD is in compliance with the requirements of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¹² Rather than a true revision, this is a DPD-required annual review of the directive. There were no changes noted in the “revision.”

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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.

Policy:

DPD Directive 304.1, Firearms, effective November 2010, calls for officers who fail to qualify at firearms biannually to be relieved of their Department-issued firearms and police powers. As noted in our previous report, the removal of firearms and police powers was an essential step in obtaining compliance with U20. For years, the DPD failed to remove firearms from delinquent officers who failed to qualify. In 2010, the Department removed the firearms from delinquent officers for the first time, and obtained compliance with 99% of its officers.

DPD is in Phase 1 compliance with this paragraph.

Comments:

During most recent site visit, we found that during the first six months of Fiscal Year 2011 (July 1, through December 31, 2010), 2,651 (97%) of the 2,727 officers available to train qualified at DPD Firearms training. In addition, 107 officers were “not available” due to medical situations or military leave. Fifteen officers were placed in “no gun” status until they qualified; all 15 subsequently qualified. The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.

Policy:

DPD Directive 304.1, Firearms, effective November 2010, calls for officers who fail to qualify at firearms biannually to be relieved of their Department-issued firearms and police powers.

DPD is in Phase 1 compliance with this paragraph.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Comments:

At the conclusion of the first six months of Fiscal Year 2010 (July 1, 2009, through December 31, 2009), the DPD removed firearms and police powers from the officers who failed to qualify. For the first time, DPD exceeded >94% attendance and qualification at firearms. During the second half of FY 2010 (January 1, through June 30, 2010), only 17 officers failed to attend and qualify. Their firearms were removed until they qualified.

During this reporting period, we found that in the first six months of FY 2011 (July 1, 2010 through 12/31/2010), 97% of the 2,727 officers available to train qualified at DPD firearms training. DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

B. Use of Firearms Policy

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.

Policy:

Our previous review of DPD Directive 304.1, Firearms, Section 5.3, effective May 2, 2005; and DPD Directive 304.2, Use of Force, Section 304.2-4.4, effective June 27, 2005; found them to be consistent with the Phase 1 compliance requirements of this paragraph. This directive provides that, "Firing at, or from a moving vehicle is prohibited...Moreover, officers shall not intentionally place themselves in the path of a moving vehicle." During our most recent site visit, we reviewed a revised version of DPD Directive 304.1, Firearms, effective November 2010, and found the section addressing firing at or from a moving vehicle or intentionally placing oneself in the path of a moving vehicle continues to be in Phase 1 compliance with this paragraph.¹³ Our review of the DPD 29th Quarter Status Report, dated December 31, 2010, found that it articulated no changes in policy or training directives relative to this requirement; however, the report notes that the DPD provided DOJ with a proposed revision authorizing an exception to the firing at a moving vehicle prohibition when exigent circumstances are present.

¹³ Revised DPD Directive 304.1, Firearms, contains significant changes relative to the newly issued firearms and authority to carry previously purchased weapons as well as safety considerations and responsibilities of officers who have failed to take identified actions if confronted with law enforcement matters while unarmed.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Comments:

We previously cited an instance where an officer fired at a moving vehicle contrary to the prohibition in this CJ paragraph and the above-cited directive; however, the DPD found the shooting appropriate due to the presence of exigent circumstances. Although we agreed with the presence of exigent circumstances, we found neither this CJ paragraph nor the above-cited directive provided for an exigent circumstance exception. During the last reporting period, the DPD provided the DOJ with proposed revised language to resolve the issue and we expected resolution; however, the proposed revision remained under review by DOJ and the DPD. That continues to be the case.

Use of Force Reports: During this reporting period, we reviewed 173 use of force reports and 80 Supervisory Investigation Reports (SIRs), and found no incidents involving officers firing at or from moving vehicles.

Force Investigations: During this reporting period, we also reviewed 18 FI investigations for this requirement, and found no incidents involving officers firing at or from moving vehicles. Once again, we note our concern with instances in which officers fired at moving vehicles contrary to the prohibition in this CJ paragraph and DPD directives, but the DPD found the officers' actions appropriate due to the presence of exigent circumstances. Although we agreed that exigent circumstances were present, we noted that neither this CJ paragraph nor the DPD directive provided for an exigent circumstance exception. A resolution to this issue is under review by the DOJ and the DPD.

DPD is not in Phase 2 compliance with this paragraph.

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.

Policy:

DPD Directive 304.1, Firearms, effective May 25, 2005, issued May 2, 2005, and revised February 1, 2008; complies with the requirements of this paragraph. The DPD remains in Phase 1 compliance with this paragraph.

Comments:

During previous reporting periods, we found officers to be carrying authorized weapons and ammunition, and that the Department had implemented a procedure requiring the inspection of

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

officers' weapons and ammunition as part of its required biannual firearms training program. During firearms training, officers fire the ammunition they are carrying at the time; following that, they are issued a new supply of approved ammunition. Since 99% of the officers participated in the biannual qualifications and were issued a limited selection of authorized ammunition, we found DPD in Phase 2 compliance with the requirements of this paragraph.

During this reporting period, we observed that the DPD was again in compliance with its biannual firearms training (see U20); 97% of its officers qualified during the first six months of the year. Accordingly, we found the DPD in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In 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.

Policy:

Our previous review of DPD Directive 304.2, Use of Force, effective June 27, 2005, Section 6.3; DPD Directive 304.4, PR-24 Collapsible Batons, effective July 1, 2008; and DPD Training Directive 04-3, effective May 9, 2005; found them in Phase 1 compliance with this paragraph. During our most recent site visit, we reviewed revised versions of DPD Directive 304.2, Use of Force, Section 6.3, effective November 2010; and DPD Directive 304.4, PR-24, Collapsible Baton, effective November 2010; and find them to be in compliance with Phase 1 requirements of this paragraph.¹⁴ 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. Our review of the DPD 29th Quarter Status Report, dated December 31 2010, found that it articulated no changes in policy or training directives relative to this requirement.

¹⁴ Rather than revisions, these are actually DPD required annual reviews of the directives. There were no changes noted in these" revisions." DPD Training Directive 04-3 was not revised.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Comments:

During the last reporting period, we reviewed 123 use of force reports and found that no strikes to the head were administered when a PR-24 was utilized. During our most recent site visit, we reviewed 173 use of force reports and found that no strikes to the head were delivered when a PR-24 was utilized. At the midpoint of this Fiscal Year's training cycle, 1,359 of the members had attended PR-24 and Arrest Procedures Training (50%). DPD remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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.*

Policy:

In our previous reports, we noted that the DPD implemented DPD Directive 304.2, Use of Force, effective June 27, 2005; DPD Directive 304.3, Chemical Spray Device, effective July 2, 2008; Training Directive 04-3, effective October 31, 2009; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005; to be in compliance with the requirements of this paragraph. During our most recent site visit, we reviewed a revised version of DPD Directive 304.2, Use of Force, effective November 2010; and a revised version of DPD Directive 304.3, Chemical Spray Device, effective November 2010.¹⁵ We found support for these directives in the DPD 29th

¹⁵ The revision to DPD 304.2 is actually a DPD required annual review of the Directive. There were no changes noted in the "revision." DPD 304.3 contains a revision in Section 304.3-7.2 requiring officers to note the time the

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Quarter Status Report, dated December 2010, which states, “When the OCR has determined that a member has failed to articulate the decontamination process used in the *Use of Force/Detainee Injury Report - Auditable Form UF-002*, a Corrective Action Notice is generated and forwarded for proper disciplinary action. Additionally, the *Use of Force/Detainee Injury Investigation Guide (Revised 7/6/2010)*, which is accessible to investigating supervisors, includes a requirement that the decontamination process is documented on the *Use of Force/Detainee Injury Report - Auditable Form UF-002* and on the *SIR - Auditable Form UF-002a*.” The DPD is in Phase 1 compliance with this paragraph.

Comments:

Use of Force Reports: In our previous review of use of force reports (UF002), we noted that some of the cases reviewed contained inappropriate times when documenting time sprayed and time flushed; in some instances, the numbers 1 and 2 appeared in the respective slots; in others, the numbers 2 and 2 appeared. Many of the reports contained no information on how the decontamination was accomplished. The previous reports contained no instance in which a subject was transported face down.

To assess compliance for this reporting period, we reviewed 173 use of force reports and 80 Command Level Investigations. We found two deployments of chemical spray, with warnings or danger articulated in both of the cases. This is an improvement over the 87% registered in our last report. In both of these cases, the decontamination occurred in the allotted 20 minutes. This is a significant improvement in decontamination from the 73% we noted previously. In both cases, how the decontamination occurred was also documented. Officers noted in all cases that windows were rolled down to allow for proper ventilation during the transport of subjects. Medical assistance was not required for either of the subjects who were sprayed. There were no reported instances of an officer spraying an unruly crowd.

Force Investigations: During this reporting period, we reviewed 18 cases completed by FI, and there was one case of chemical spray being used during the arrest of a subject. In this incident, a warning was articulated, as required, but the Department did not document during the force investigation that the subject received appropriate decontamination – even during processing at a DPD facility.

We continue to emphasize that the DPD should require that the thorough documentation of where, when, and how the decontamination or flushing of the subject’s eyes was accomplished.

DPD is in Phase 2 compliance with the reporting of the use of chemical spray in the use of force investigations.

subject was sprayed and the time the subject was afforded the opportunity to flush. The Training Directive had no revisions.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.

Policy:

In our previous reports, we noted that the DPD implemented DPD Directive 304.2, Use of Force, effective June 27, 2005; DPD Directive 304.3, Chemical Spray Device, effective July 2, 2008; and Training Directive 04-3, effective October 31, 2009; in compliance with the requirements of this paragraph. During our most recent site visit, we reviewed a revised version of DPD Directive 304.2, Use of Force, effective November 2010; and a revised version of DPD Directive 304.3, Chemical Spray Device, effective November 2010.¹⁶ Our review of the DPD 29th Quarter Status Report, dated December 31, 2010 found that it articulated no changes in policy or training directives relative to this requirement.

Comments:

Use of Force Reports and Command Level Investigations: Our previous review of use of force reports (UF002) to assess implementation compliance identified no reported instances of the deployment or allegations of the deployment of chemical spray against a subject in a police vehicle. In addition, we did not identify any reported instances or allegations where officers placed or kept subjects in a face-down position after being sprayed. We noted that when sprayed individuals are transported in scout cars, officers generally indicate the lowering of windows to provide ventilation beneficial to the subject.

To assess compliance with these requirements for this reporting period, we reviewed 173 use of force reports and 80 Command Level Investigations. No chemical spray was used on a handcuffed individual in a police vehicle, nor was any subject placed in a face-down position in a police vehicle after being sprayed.

We continue to note that when sprayed individuals are transported in scout cars, officers indicate the lowering of windows to provide ventilation beneficial to the subject.

¹⁶ The revision to DPD 304.2 is actually a DPD required annual review of the Directive. There were no changes noted in the "revision." DPD 304.3 contains a revision in Section 304.3-7.2 requiring officers to note the time the subject was sprayed and the time the subject was afforded the opportunity to flush. The Training Directive had no revisions.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Force Investigations: Our review of 18 cases completed by FI revealed there were no instances of a subject being chemically sprayed while handcuffed in a police vehicle or on a subject lying face down.

The DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

- We requested and reviewed a copy of a MAS report listing all of the use of force report numbers issued from January 1, through December 31, 2010, to include the current status of the cases – closed or pending. There are 1,487 reports listed, which is consistent with the numbers we expected to find. We will continue to monitor these numbers in future site visits.
- The issue of how best to determine DPD's efforts at deescalating and disengaging with respect to use of force situations remains a perplexing issue, and one which affects DPD's compliance with several of the requirements. If the Department succeeds in deescalating, it is quite possible that an auditable form will not be prepared, as force will not be used; if the Department tries and fails, and force has to be used, the Department's efforts come into question. We have suggested that the Department improve its documentation of its strategies, but it has not been able to do so to date. We encourage DPD to consult with DOJ for advice on coming into compliance with this requirement.
- The continued documentation of how, when, and where subjects are sprayed with chemical spray, and then are decontaminated, is one which DPD must work on if the Department is to care for the subjects sprayed in the manner that Departmental policy and the Judgment requires. This is an error that can be corrected with specific attention on the part of supervisors, and some re-instruction on their part as to how officers are to document the spraying and flushing time (military time is easiest), and the fact that officers can use water from the locations in which they find themselves to flush the eyes.

Next Steps:

During the next reporting period, we will:

- Continue to monitor the numbers of use of force reports generated during the next quarter, and if discrepancies are found, discuss same with DPD.
- Continue to discuss with DPD the issue of documenting de-escalation of use of force situations in an effort to identify a quantifiable methodology of measuring the effort.
- Continue to work with DPD on the critical issues mentioned above.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

- Discuss case management issues with FI in order to address the untimeliness of force investigations and non-compliance with DPD policy mandates.

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

IV. INCIDENT DOCUMENTATION, INVESTIGATION, AND REVIEW

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.

Policy:

DPD Directive 304.2, Use of Force, effective June 27, 2005, and revised November 2010; Directive 102.4, Discipline/Misconduct Investigations, Section 102.4-6.1, effective July 1, 2008; Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005; Training Directive 04-4, Garrity Protocol, effective February 9, 2006, and revised October 24, 2009; Directive 102.4, Standards of Conduct, and 102.6 Citizens Complaints, effective July 1, 2008, and revised November 2010; Office of the Chief Investigator, Standard Operating Procedure, revised July 1, 2010; and Internal Affairs Standard Operating Procedure, revised November 20, 2009; are individually and/or collectively in compliance with the requirements of this paragraph.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

In addition, we reviewed the DPD 29th Quarter Status Report, dated September 30, 2010, which sets forth some of the corrective measures initiated by the DPD to achieve compliance with this paragraph. The DPD report notes that during this quarter, the *Use of Force Detainee Injury Investigation Guide* was revised and improved after the DPD received comments from the Monitoring Team. DPD redistributed the guide (previously titled *Use of Force/Detainee Injury – Supervisory Guide*) to its executives; and now provides it to all Supervisory, Leadership, and Accountability training course attendees. The report also indicated that all of the U27 requirements are included in the Supervisory, Leadership, and Accountability Lesson Plan. As of the midpoint of the Fiscal Year, 346 (51%) of the Department's supervisors had attended the course.

DPD is in Phase 1 compliance with this paragraph.

Comments:

We previously reported on our review of completed Supervisory Investigation Reports (SIRs) (Command-Level Investigations), FI, IAD, and OCI investigations.¹⁷ To assess DPD's Phase 2 compliance with this paragraph for this reporting period, we met with relevant staff; and assessed SIRs, as well as FI, IAD, and OCI investigations completed during this reporting period.

Command Level Investigations: During the fifth reporting period, we noted issues with the timely submission, accuracy, and completeness of reports. We recommended that the DPD conduct and document more comprehensive, thorough, and detailed Supervisory Investigation Reports (SIRs); and recommended that the Department review its accountability system and available training to determine if they are sufficient to provide DPD personnel, especially supervisory and command staff, with a thorough understanding of the requirements and responsibilities set forth in the Judgment and DPD policy. We determined that DPD had not yet achieved Phase 2 compliance with this requirement.

During this reporting period, we reviewed 173 use of force reports resulting in 80 SIRs.¹⁸ There were no instances where a SIR was closed simply because a subject or complainant was unavailable, unwilling, or unable to cooperate, including a refusal to provide medical records or proof of injury. We found that the conduct was justified in 78 (98%) of the 80 cases, an improvement from the 93% that we noted last quarter. We deemed one case to have been closed prematurely, because it lacked some witness interviews. Only 1% of the investigations were closed prematurely, an improvement over the 4% previously reported.

DPD is in Phase 2 compliance with this the command level investigations portion of this paragraph.

Office of the Chief Investigator: During our previous reviews of completed cases, we noted that while the case files generally contained sufficient facts to support a determination that justified or did not justify an officer's actions, there were several inconsistencies between investigators,

¹⁷ The term Command Level Investigations, and SIR Investigations, are used interchangeably throughout the report.

¹⁸ Many of the command-level investigations contained multiple use of force forms. Canine tracks with no contact and cases assumed by FI were removed from the numbers reported as SIRs.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

and some cases lacked the necessary information to reach a proper determination. Additionally, we noted cases that were improperly administratively closed and cases that were significantly overdue, impacting DPD's ability to reach appropriate conclusions many months after the alleged occurrence. Many administrative closures were reopened pursuant to a Court order, adding to OCI's workload.

In our last report, we noted the efforts of the recently constituted Backlog Squad. Five sergeants were added to OCI's workforce and only assigned cases not completed within the 90-day timeframe required by policy and the Consent Judgment. During our most recent site visit, we were updated on the Backlog Squad's progress. As of the end of the reporting period, 124 cases, or 31% of the open cases, have been open more than 90 days. While this represents notable progress, OCI must still devote significant resources to addressing the aging cases, and also implement systemic changes to address the issues that allowed the cases to languish in the first place. We spent an entire day with the newly appointed Chief Investigator, the Executive Secretary to the Board of Police Commissioners, and the supervising investigators discussing these issues.

To assess Phase 2 compliance with this paragraph for this reporting period, we reviewed 100 randomly sampled cases from the 467 cases that were closed in October, November, and December, 2010. With the exception of eight cases that appeared to have been closed prematurely, the investigations established sufficient facts to support a determination that justified or did not justify the actions of the officer(s) or non-sworn member of the Department.¹⁹ In one case, an investigation reassigned to the Backlog Squad after a year of inactivity, OCI unfounded the allegation because the complainant wanted to withdraw his complaint, even though there appeared to be investigative leads to pursue. In another, a rudeness complaint involving a dispatch center employee and a supervisor, there was no indication that the investigator reviewed recordings. In three other cases, there appeared to be little or no effort to locate possible witnesses or persons with knowledge of the incidents complained of.

DPD is not in Phase 2 compliance with the OCI portion of this paragraph.

Internal Affairs Division: To assess Phase 2 compliance with this paragraph, we review all of the IAD cases that are completed within each quarter. We review the cases for consistency with the procedures contained in applicable DPD directives and generally accepted law enforcement techniques – specifically relating to procedural fairness, timeliness, confidentiality, and the meticulous reporting of facts and results of an investigation.

During this reporting period, we reviewed the 30 cases that were closed by IAD in October, November, and December 2010. All of the cases were completely investigated – including those where the complainants and/or witnesses failed to respond to requests to be interviewed. We found that all cases met the requirements of this paragraph.

DPD is in Phase 2 compliance with the IAD portion of this paragraph.

Force Investigations: In our previous reports, we noted that our reviews of FI and JIST investigations – which included critical firearm discharges, pursuits, and allegations of excessive

¹⁹ If an allegation appropriately received a finding of unfounded or not sustained, justification for the conduct was not assessed since, by definition, its occurrence was either refuted or not substantiated.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

force – found these investigations sufficiently detailed to support the findings relating to the conduct of the officer(s) in each case. In addition, no investigations were closed because the subject or complainant was unavailable, unwilling, or unable to cooperate. Although we noted lack of detail or required specificity in early cases, FI has addressed these issues with strengthened supervision and in-service training.

We reviewed one case where the FI report indicated that the investigator requested, from Technical Services, video evidence from the scout car at the time of the incident. The investigation was closed, and the officer was exonerated prior to a determination that the scout car video even existed. The investigative report included a statement that once the video is received, if the recordings display misconduct, the case will be reopened and adjudicated accordingly. DPD did not follow up on the availability of the video until we brought the issue to the attention of the Department. Only then did DPD learn that a video was not available and the report was misleading to the reviewer. The Department must remain vigilant on improving investigative details and case management.

During this reporting period, we reviewed 18 FI cases, and found them to be completed satisfactorily. DPD is in Phase 2 compliance with the FI cases portion of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U28

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.*

Policy:

We previously reported on the implementation of Directive 304.2, Use of Force, effective June 27, 2005; Directive 102.4, Discipline/Misconduct Investigations, Section 102.4-6.1, effective July 1, 2008; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005. During our most recent site visit, we reviewed a revised version of DPD Directive 304.2, Use of Force, effective November

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

2010.²⁰ DPD 29th Quarter Status Report, dated December 31, 2010, references the corrective measures detailed in U27.

DPD is in Phase 1 compliance with this paragraph.

Comments:

Command Level Investigations: Our previous reviews of SIRs have consistently noted the full and complete documentation of the names and badge numbers of all involved officers. We also found general adherence to the policy that prohibits the conducting of the investigations by supervisors who authorized, witnessed, or participated in the force that was used. However, we noted that the Department was not in compliance with the requirements regarding the inclusion of the names of all officers involved or on the scene of the event, the conducting of canvasses for witnesses, the thoroughness and completeness of interviews of all witnesses, the resolution of material inconsistencies, the photographing of injuries, and the documentation of any medical care provided.

To assess compliance for this reporting period, we reviewed 80 SIRs and found the following:

- There were no instances in which the supervisor conducting the investigation authorized, witnessed, or participated in the incident, down from four incidents noted in our last report.
- Seventy-eight (98%) cases contained the names of all of the officers involved or on the scene during the incident in the report, up from the 93% noted in our last report.
- In 76 (95%) cases, the investigating supervisor conducted a canvass to identify civilian witnesses or explained why a canvass was not conducted. This represents a slight drop from our previous finding of 98%. As we previously noted, the thoroughness and completeness of interviews of all witnesses continues to be an issue for DPD. Thorough and complete interviews were conducted in 62 (78%) cases. This represents minimal improvement over the previous reporting period's numbers, reflecting the Department's continuing problems conducting thorough and complete interviews. Issues that plague the DPD in its efforts to achieve compliance in this area include: a failure to notify a supervisor from the scene when force is used, minimizing the supervisor's ability to interview witnesses at the scene; witnesses allowed to leave scenes before a supervisor arrives, and then they cannot be located; and officer and civilian witnesses simply not interviewed. All officers present at a use of force incident and who may have witnessed the incident or who are involved in an incident should be interviewed.
- Twenty-one cases contained material inconsistencies; the supervisors attempted to resolve the inconsistencies in 10 (48%) of these. Again, this showed an improvement over the 35% we found in the last reporting period, but still fell well below the 94% required for compliance. We reiterate that it is incumbent on individuals involved in the

²⁰ Rather than a true revision, this is a DPD-required annual review of the directive. There were no changes noted in the "revision." DPD Training Directive 04-7 was not revised.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

command-level review to question material inconsistencies that are not addressed by the investigator and to take the appropriate corrective actions.

- Thirty cases might have included photos taken of officer or subject injuries. The reports noted that photos were ordered in 21 (70%) cases. Again, this is an improvement over the 48% noted in our last report.
- Forty-five cases should have included documentation of medical care in the file. We found documentation for 44 (98%) – a slight reduction from the 100% we found during the last reporting period.

We commented on our review of seven different areas of Requirement U28 affecting Command Level Investigations. DPD is demonstrating progress in complying with its policies and this requirement; we encourage the Department to continue to emphasize the importance of officers contacting supervisors from scenes where they have used force, as this allows the supervisor to respond and immediately address many of the areas contained herein. Although there continues to be several areas in which DPD is well below the >94% standard, the Department is still demonstrating some progress towards compliance.

The DPD Command Level Investigations are not in Phase 2 compliance with these requirements.

Office of the Chief Investigator: We reviewed 100 randomly sampled OCI investigations. In 16 of these, involved officers were not identified by both name and badge number. In 15 cases, the involved officers were truly unknown at the outset of the investigation. Canvasses were generally deficient, as outlined in CJ requirement U32. In three cases, potential witnesses were identified, but not interviewed. In one of these cases, the potential witnesses were officers who arrived as back-up officers for an apprehension that resulted in a use of force complaint. Another case, an investigation reassigned to the Backlog Squad, involved an alleged use of force after a pursuit. Both the complainant and his co-defendant were treated at a hospital, and yet there was no reference to photographs or review of treatment documentation.

Even with the four non-compliant cases, DPD has achieved a 96% compliance rate for this reporting period, and is in pending Phase 2 compliance with these requirements.

Internal Affairs Division Investigations: We reviewed all 30 IAD cases that were completed during this reporting period. The investigations consistently included the names of all officers involved in or on the scene during an incident. IAD expended particular efforts in identifying officers when allegations of criminal misconduct were reported and the officer(s) was unknown to the complainant. IAD conducted canvasses to identify witnesses or obtain any video recordings that might be available from businesses near the location. IAD now has the capacity to access recordings from in-car video storage from the Division's desktop computers. If any related evidence has been recorded, it can be requested from the Technical Services Unit. Witnesses were interviewed or gave written statements and the investigators made an effort to resolve inconsistencies between witness statements. Investigations contained photographs of any alleged injuries and documentation of any medical care that was provided.

Force Investigations: Our previous reviews of force investigations found appropriate documentation of the name and badge number of all officers involved in or on the scene of the various incidents. The cases also contained witness interviews (recorded and written). The investigations we reviewed also contained documentation of canvasses for civilian witnesses and

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

any medical care provided; however, we found that several of the investigations contained no photographs of officer or suspect injuries.

To assess compliance for this reporting period, we reviewed 18 force investigations.²¹ The case files included complete documentation of the name and badge number of all officers involved in or on the scene of the various incidents, canvasses for civilian witnesses in all applicable cases, and any medical care that was provided. The investigations also contained witness interviews, both written and recorded; however, four investigations contained no photographs of the complainants as required by DPD policy. One investigation contained no photographs of the injured DPD officer. The compliance rate for this section is 78%. DPD is not in compliance with this portion of this paragraph.

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.*

Policy:

We previously found DPD Directive 304.2, Use of Force, effective June 27, 2005, and approved by DOJ, April 14, 2005; Training Directive 04-4, Garrity Protocol, effective February 9, 2006, and revised October 24, 2009; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005; DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008; Internal Affairs Standard Operating Procedure, revised November 20, 2009; and Office of the Chief Investigator

²¹ These investigations included three non-fatal critical firearm discharge events and one pursuit resulting in two fatalities.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Standard Operating Procedure, revised July 1, 2010; in compliance with the Phase 1 requirements of this paragraph. During our most recent site visit, we reviewed a revised version of DPD Directive 304.2, Use of Force, effective November 2010, and found it to also be in Phase 1 compliance.²² DPD 29th Quarter Status Report, dated December 31, 2010, references the corrective measures detailed in U27. DPD is in Phase 1 compliance with this paragraph.

Comments:

Command Level Investigations: Our previous reviews of command-level investigations found that timely interview of the officers involved in or witnessing use of force events ranged from a high of 84% in the fourth reporting period to a low of 55% in the third reporting period. We have also commented that, in some cases, investigating supervisors simply refer to the related Crisnet reports rather than conduct separate interviews, a practice which is contrary to sound investigative procedures.

We also discussed the requirement for the interview of subjects, noting that in most instances an effort to interview a subject at the scene or at the district is met with hostility. We continue to recommend the institution of a formalized procedure requiring follow-up contact with these individuals.²³

Our review for this report found that in 69 (86%) of the 80 cases we reviewed, timely statements were taken from officers who were involved or who witnessed the incident, an improvement over the 79% noted in our last report. We also found that the interviews of complainants and witnesses were conducted at sites and times convenient for them in 78 (98%) of the 80 cases we reviewed, an improvement over the 96% we found in the last reporting period.

The DPD Command Level Investigations are in Phase 2 compliance.

Office of the Chief Investigator: During previous reporting periods, we noted a consistent issue with untimely interviews, particularly of officers. Interviews of sworn personnel frequently take place many months after the incident complained of. Often, no reason is given for the delay other than the difficulty in scheduling the interviews.

We noted that complainant/witness and officer interviews were, with limited exceptions, properly recorded.

During this reporting period, we reviewed 100 randomly sampled investigations. One case was initiated in 2008, 13 cases were initiated in 2009, and 86 cases were initiated in 2010. Timely interviews of involved parties, particularly officers, continue to be an issue. Officer interviews were timely in only 24 cases. In many cases, the Significant Event Logs showed long periods where no activity was documented. Complainants were identified as uncooperative in 41 of the investigations. OCI investigators relied on the synopsis contained in the Citizen Complaint Report in these cases. Most of the uncooperative complainants were associated with the older

²² Rather than a true revision, this is actually a DPD-required annual review of the directive. There were no changes noted in the "revision." Training Directives 04-4 and 04-7 were not revised.

²³ This follow-up contact might consist of a telephone call, letter, or other personal contact some days after the incident.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

cases, and may have lost interest based on the nature of their complaints and the passage of time. However, investigator efforts to contact complainants were sometimes less than diligent. When complainants and witnesses were available for an interview, they were recorded, either over the phone or in person. Timeliness issues notwithstanding, when interviews were conducted, they were administered and recorded in accordance with requirements.

DPD and the City are not in Phase 2 compliance with this requirement.

Internal Affairs Division Investigations: During earlier reporting periods, we found that the DPD directive requiring timely statements from officers was inconsistently applied. Interviews of involved witness officers were often delayed with little justification other than unavailability. There were exceptions involving pending criminal proceedings against officers in some cases. However, it was apparent from the investigators' Case Supervision Sheets that efforts to set and keep appointments were disregarded by some of the officers. In many cases, officers were scheduled for furloughs after appointments had been made. Adherence to scheduled appointments improved during the previous two reporting periods; however, continued delayed interviews of officers continue to impact the quality of the interviews, and subsequently, the quality of the cases. Additionally, these delays affect compliance in CJ U36b, which requires that IAD investigations be completed within 90 days of an incident. Of the 30 cases we reviewed in this quarter, timely statements were not taken in seven cases. Interviews in one case were delayed due to criminal proceedings, and then further delayed due to problems scheduling the Garrity interview. One case was delayed due only to problems with scheduling Garrity interviews. In two cases, the witness or subject officers were off work with extended illnesses or injuries. Upon their return to work, they were both granted furloughs and were not made available to IAD to conduct the Garrity interviews. In one case, the witness officers were not available for Garrity interviews because they were granted discretionary time off, due to having been involved in a shooting. However, the Garrity interviews had been scheduled at the end of the 90-day required timeframe. Additionally, two investigations were delayed due to scheduling and operational issues between IAD and the officers' unit of assignment.

When the Internal Affairs Alert Teams, who are available or on-call 24 hours a day, respond to a complaint or allegation of criminal activity or serious misconduct by a Department member, preliminary interviews are conducted immediately and according to DPD directives.

In all of the investigations, complainants and witnesses were interviewed at times and sites convenient for them.

DPD and the City are not in Phase 2 compliance with this portion of this paragraph.

Force Investigations: In previous reporting periods, we noted that statements were generally taken at sites and times convenient for the person(s) being interviewed. Statements of non-police witnesses were generally taken in a timely manner; however, we expressed concerns that statements from witness officers were sometimes unnecessarily delayed, or that investigators instead relied on the officer's Crisnet report. We expressed particular concern following our finding that there were significant delays when taking Garrity statements due to the practice of awaiting prosecution declinations from the District Attorney. We also noted our concern with regards to the variance in practice between FI and Homicide members of the Joint Incident Shooting Team (JIST) when interviewing witnesses and taking statements. We were specifically concerned with the practice adopted by Homicide members of JIST to take written, rather than recorded, statements.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

To assess compliance with these requirements for this reporting period, we reviewed 18 closed FI cases, including one fatal and three non-fatal critical firearm discharges and one pursuit resulting in two fatalities. We continue to find much the same as described above. Statements were generally taken at sites and times convenient for the person(s) being interviewed. Statements of non-police witnesses were generally taken in a timely manner, usually within minutes or hours of the event; however, in eight cases, statements that were taken from involved and witness officers under the provisions of Garrity were unnecessarily delayed.

Delays with the Garrity interviews of the involved officers in these cases ranged from 97 to 377 days from the date of the incident; only one officer's Garrity interview was appropriately delayed due to consultation with the District Attorney. This compares with the last reporting period, when the Garrity interview delays of involved officers fell between 63 and 119 days from the date of the incident. Garrity interviews of witness officers ranged from 97 to 105 days from the date of the event. We previously noted that these delays were primarily attributable to the DPD-adopted practice of awaiting the receipt of prosecution declinations from the District Attorney; however, that was not an issue with these cases, as only one was reviewed by the DA.

FI is cognizant of our concern regarding interview delays for a host of reasons, not the least of which is credibility. As we have previously noted, officers' recollections of the facts, weeks and months after an event, particularly one involving the use of deadly force, are externally and perhaps significantly affected by news accounts and their interactions with friends, family, and colleagues, and thus, often altered. The practice of delaying interviews, for whatever reason, could mitigate the accuracy and credibility of the information provided by officers. Accordingly, the DPD is not in Phase 2 compliance with these requirements.

FI investigators take officers' statements consistent with the provisions of Garrity (U31). All such statements relating to the 18 cases reviewed for this report were appropriately recorded.

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.*

Policy:

We previously found DPD Directive 304.2, Use of Force, effective June 27, 2005, and approved by DOJ, April 14, 2005; Training Directive 04-4, Garrity Protocol, effective November 1, 2005;

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005; in compliance with Phase 1 requirements of this paragraph. During our most recent site visit, we reviewed a revised version of DPD Directive 304.2, Use of Force, effective November 2010, and find it to be in compliance with Phase 1 requirements of this paragraph.²⁴ DPD 29th Quarter Status Report, dated December 31, 2010, identifies the controlling policy and training directive and refers the reader to U27 for recommended corrective actions.

Comments:

Command-Level Investigations: The most recent CRIB Combined Audit Report contains the following comment: “Currently, within the DPD, interviews conducted during command investigations are not audio or video tape recorded. Therefore, the AT was unable to determine if leading questions were used during interviews that were conducted for the command investigations. The lack of written documentation of the interview questions or recorded statements in command investigations will prevent the DPD from obtaining compliance with U30a.”

Our reviews of command-level investigations for the first three reporting periods found little documentation of recorded interviews, written statements, or other evidence that DPD used leading questions that improperly suggested legal justifications for the actions of the officer(s). During the fourth reporting period, we found several cases in which a question-and-answer format was used to document officer interviews in the SIR, though there was no evidence that the questions that were asked were contrary to appropriate law enforcement techniques. During the fifth reporting period, we found that there were five cases where DPD asked leading questions in the question-and-answer format.

During this reporting period, we found one case where DPD asked leading questions in the question and answer format. There were no interviews via written questions contrary to appropriate law enforcement techniques.

Office of the Chief Investigator: During our October site visit, OCI staff advised us of their intent to arrange for interview and interrogation training for their investigators, exploring options within DPD and also possibly engaging an outside trainer. During our last visit, we learned that the three Supervising Investigators and the Executive Secretary to the Board of Police Commissioners received some training in this area from an outside vendor. We encouraged OCI supervisors to arrange for appropriate interview and interrogation training for their investigators, and they indicated that they were still exploring training in conjunction with IAD staff. We will follow up during the next reporting period.

We indicated in our last report that we would explore a methodology to review interviews. During our last site visit, we worked out a protocol with OCI staff, who agreed to provide

²⁴ Rather than a revision, this is actually a DPD required annual review of the directive. There were no changes noted in the “revision.” Training Directives 04-4 and 04-7 were not revised.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

recordings of interviews on CD or flash-drive for a randomly identified sample of cases each month. This will commence with the cases supplied for January 2011.

During this reporting period, we reviewed 100 randomly sampled investigations. In six of the cases we reviewed, we were able to determine the nature of the questions from written documentation and case synopses, and in one case, it appeared that leading questions were asked. In the other cases, the questions were appropriate.

The DPD and the City are not in compliance with this requirement.

Internal Affairs Division Investigations: During the first reporting period, our review of closed IAD investigations found that investigators asked leading questions in 16% of the randomly selected interviews we reviewed. In subsequent reporting periods, we found no evidence of the use of leading questions during interviews. To assess compliance with requirements for this reporting period, we reviewed all 30 investigations that were completed during this quarter, and reviewed audiotaped Garrity interviews of police officers in six investigations randomly selected from the 30 investigations, and determined that investigators appeared to ask leading questions in three of the investigations and/or failed to ask pertinent questions based on the complainants' initial statements. In one investigation, the tape revealed good interview techniques by the investigator, but the tape recording failed after three minutes. In another investigation, the interviewer appeared to not be prepared to begin the interview. We did not find any evidence in the case files that investigators conducted interviews via the use of written questions. We continue to recommend that the investigators receive training in conducting interviews for Internal Affairs investigations. DPD and the City are not in compliance with this requirement.

FI Investigations: Our previous review of FI cases for compliance with these requirements found instances where leading questions were contained in written statements. Additionally, when listening to randomly selected recorded interviews conducted by various investigators, we noted that investigators asked leading questions in 67% of the interviews. Previously, we also noted the interviews varied in thoroughness and were generally brief.

To assess compliance for this reporting period, we listened to three randomly selected recorded statements taken from police officers, and found only one totally absent of leading questions. Of particular concern was the prevalent prefacing of questions with the phrase "do you remember" or "if you remember" or "do you have any remembrance of" which prompts an answer of "no" or "I do not remember." We recognize that it is inherently difficult for interviewing investigators to refrain from asking questions that suggest answers, and we recognize the efforts of the DPD to address this issue through supervision and training. However, we emphasize the need for those efforts to continue and include a careful review and critique of all interviews in order to improve performance in this important area.

Additionally, another area of concern surfaced in one case during our review of the recorded statements. The interview involves a subject being investigated by DPD officers for possible criminal activity. The DPD officers detained the subject in a scout car in handcuffs. The subject alleges that he was assaulted by an officer and was subjected to the officer's firearm being pointed at him. During our review of the FI investigative report, it clearly states the officer unholstered his weapon under the "Involved Officer's Statement" section of the report. During the Garrity interview, the investigator specifically asked the officer if his gun was drawn during the approach to the vehicle and at any time during the incident. The officer's response to both

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

questions was “no.” There was a second citizen on the scene who was involved that was interviewed and alleged the officer pointed his handgun at the first subject. During the interview, the subject officer was not confronted with the allegations and statement made by the second subject. The FI report and review did not adequately address this conflict. Additionally, during the recorded interview by the investigator, the officer was only asked if he saw any injury to the subject. The officer’s response was once again negative. The investigator did not mention during the interview the injuries the first subject received and was verified by the immediate medical attention he sought after his release from the scene. What is even more troubling is neither one of the subjects was charged with a crime. DPD is not in Phase 2 compliance with this portion of this paragraph.

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).

Policy:

Our previous review of DPD Training Directive 04-4, Garrity Protocol, dated February 9, 2006, and revised October 24, 2009, found it in compliance with Phase 1 requirements of this 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. DPD is in Phase 1 compliance with this paragraph.

Comments:

The protocol also requires that all officers sign a Certificate of Notification of Constitutional Rights - Departmental Investigations prior to any interview. Our reviews of SIR, FI, IAD, and OCI investigations found supervisors and investigators consistently and meticulously compliant with applicable Garrity requirements. DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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;*
- c. that the fact that a subject or complainant pled guilty or was found guilty of an offense 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.*

Policy:

We previously found DPD Directive 304.2, Use of Force, effective June 27, 2005, and approved by DOJ, April 14, 2005; Training Directive 04-4, Garrity Protocol, effective November 1, 2005; Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005 in compliance with Phase 1 requirements of this paragraph. During our most recent site visit, we reviewed a revised version of DPD Directive 304.2, Use of Force, effective November 2010, and found it to be in compliance with Phase 1 requirements of this paragraph.²⁵ DPD 29th Quarter Status Report, dated December 31, 2010, identifies the controlling policy and training directive and refers the reader to U27 for recommended corrective actions.

²⁵ Rather than a revision, this is actually a DPD required annual review of the directive. There were no changes noted in the "revision." Training Directives 04-4 and 04-7 were not revised.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Comments:

Our assessment of compliance with the requirements of this paragraph included a review of applicable directives; interviews with relevant staff; and a review of closed command-level, FI, IAD, and OCI cases.²⁶

Command Level Investigations: The most recent CRIB Combined Audit Report contains the following comment: “In 13 command and 1 FI investigations which were not completed by the due date, none of the investigating supervisors requested an extension. In 19 investigations, there was no evaluation of the tactics used during the incident.” Our findings correspond to those reported in the audit.

In our previous quarterly reports, we noted that the command-level investigations we reviewed included precise descriptions of the facts and circumstances of the incidents with respect to the actions of the officers, complainants, and subjects; but that they lacked the requisite evaluations of many of the initial stops. We also noted that the investigations lacked supervisory evaluations of the officers’ initial contacts to determine whether other decisions or tactics might have negated the need for a use of force. Few of the cases we reviewed contained photographs of injuries, either to the officers or the subjects.

We found no indication that a subject’s guilty plea or guilty finding regarding an offense was used as evidence of whether a DPD officer engaged in misconduct, nor that this information was used to justify discontinuing the investigation. We noted cases wherein credibility determinations were made, and found no evidence of the discounting of a witnesses statement merely because the witness had some connection to the subject or complainants.

In addition, we noted evaluations of whether or not an officer(s) complied with DPD policy in some, but not all, cases and recommended that in this context, the Judgment requires compliance with all applicable DPD policy – not simply the use of force policy. When evaluating uses of force, there was considerable variance in thoroughness among investigators. In fewer than half of the applicable cases, investigating supervisors made efforts to evaluate the officer’s tactics. Finally, we found that considerably fewer than half of the cases we reviewed met the deadline for submission of the report.

During this reporting period, we examined 80 SIRs and found that 70 (88%) contained a precise description of the facts and circumstances of the incidents, as required by U32a, including a detailed account of the subject(s) or complainant(s) and officer(s) actions. This is a 7% increase over the previous quarter. In 76 (95%) of the cases, investigators attempted to evaluate the initial stop or seizure, an increase over the 88% noted in the fifth quarter. In 68 of the cases (85%), all relevant evidence, including circumstantial, direct and physical evidence, was reviewed. This is an increase from the 77% in the previous report, but still lower than needed for compliance. None of the 80 cases we reviewed disclosed 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.

²⁶ See U27 for all directives applicable to the requirements of this paragraph.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Seventy-eight (98%) investigations contained evidence that reasonable credibility determinations, with no automatic preference given to an officer's statement over a non-officer's statement, were made to reach conclusions regarding the investigations, an increase from the 93% reported last quarter. There was no evidence of the discounting of a witnesses statement merely because the witness had some connection to the subject or complainants.

Seventy-two (90%) investigations contained evidence of an evaluation of whether or not an officer(s) complied with DPD policy. This is a slight reduction from the 93% achieved during the previous reporting period. As we found in previous reports, the investigators commented on the relationship of the use of force as it was applied in the case they reviewed. We do not believe that compliance with DPD policy is limited to compliance with DPD use of force policy. We assert that in this context, the Judgment requires compliance with all applicable DPD policy. This requirement presents an opportunity for supervisors to evaluate the performance of their subordinates in the field as it relates to their compliance with policy, and in instances where there may be some deviation, to use the situation to re-instruct their subordinates on the prescribed method for performing the task at hand. There were several instances of use of force reports not being prepared on a timely basis, but no supervisors took the opportunity of correcting this violation through re-instruction nor were any noted as policy violations. There were also instances where officers failed to notify supervisors of their use of force from the scene, but in these cases supervisors took corrective action, to include re-instruct as well as recommending officers be sent back for additional training.

Investigators evaluated force in all of the 80 SIRs we examined. As previously noted, some of the evaluations are better than others. We had previously commented on the fact that some supervisors continued to rely on a Supreme Court statement as the basis for justification of the use of force; none were noted during this review. On the whole, most supervisors use sections of the policy as it relates to force and point out the instances of the application conforming to the policy.

There were 76 (95%) instances in which an investigating supervisor made an effort to evaluate an officer's tactics, a slight improvement over the 94% we found in the fifth reporting period. There were instances in which supervisors commented on the willingness of officers to call for reinforcements when they recognized the volatility of a situation and the appropriate use of less than lethal tools to quickly disarm a situation. There was one allegation of misconduct uncovered in the investigations we reviewed. The allegation was referred to the platoon in which the offense occurred for corrective action as they deemed appropriate.

Seventy-eight (98%) of the 80 cases we reviewed reflected a reliance on the preponderance of evidence standard to reach a determination, an increase from the 84% noted in the fifth quarterly report. In 27 of the 48 cases that required extensions, we found written documentation of the basis for extending the deadline of a report, to include corrections to reports, problems with inputting information into MAS, and witnesses being on furlough. There were 16 cases where extensions were a result of an investigator's vacation, furlough, or problems with workloads.

We found non-disciplinary/disciplinary corrective actions documented in 21 of the 33 investigations we reviewed that required corrective actions. These corrective actions ranged from re-instruction in the immediate notification of a subject's injury to a supervisor, to a negative Administrative Counseling Register (ACR) coupled with a transfer to a field assignment, to a formal re-instruct on the hazards of a one officer unit responding alone to a

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

large crowd disturbance call to negative ACRs for failing to notify a supervisor from the field when a use of force occurs.

Office of the Chief Investigator: We noted in our first five reports that OCI investigations were most often not completed within the prescribed 90-day timeframe. Requests for extensions were frequently submitted well after the case was overdue, and adequate justification of the need for the extension was rarely provided. The delay in securing timely interviews has been a recurring problem that has impacted the quality of the investigations. However, OCI investigations have generally been factual and complete, and the preponderance of evidence standard is used in reaching determinations.

During the current reporting period, we reviewed 100 randomly selected cases. The date range of the cases was 2008 to 2010, and included 33 investigations reassigned to the Backlog Squad and one investigation reopened as a result of a Court order. In all of the cases, there was a precise description of the facts and circumstances of the incident complained of. In seven cases, all relevant evidence was not considered. For example, in one case, potential witness officers were not interviewed. In another, a point of contention between an officer and a complainant was whether or not a house was uninhabitable. The investigator apparently did not go to the scene to independently verify the house conditions. In another, use of force paperwork was allegedly completed, but not reviewed and made part of the case file.

We found no evidence where a complainant's conviction or guilty plea had a bearing on the investigation. However, credibility assessments were lacking for both officers and complainants/witnesses. We found references to them in only six cases.

In all of the cases we reviewed, we noted appropriate evaluation of whether officers complied with DPD policy.²⁷ However, in two cases we noted insufficient documentation to confirm that alleged uses of force were fully investigated or evaluated. In one case, misconduct was appropriately discovered during the course of the investigation and ultimately sustained. In four cases, the preponderance of evidence standard was not used. This is based on our determination that not all potential evidence was considered, or different findings were warranted based on the documentation provided for our review.

Seventy-nine of the cases we reviewed were not completed within the prescribed 90-day time period. Written requests for extension were submitted in only 12 of these cases, frequently after the investigations were already overdue. Two of these requests mentioned furlough as a reason for the extension in contradiction of policy and this paragraph.

There were no cases in which corrective action or disciplinary action was recommended as a result of the investigation. All sustained cases were referred to the Office of the Chief of Police.

We reviewed several cases in which the canvasses were either deficient or performed so long after the alleged occurrence as to have no investigative value. We discussed the importance of timely canvasses with OCI supervisory staff during our last site visit. We also indicated that if it was clear that a canvass would be unproductive on some of the backlog cases, OCI should make a note of same rather than conduct a canvass just to fulfill the requirement. While we will still

²⁷ If an allegation appropriately received a finding of unfounded or not sustained, evaluation of policy compliance was not assessed since, by definition, its occurrence was either refuted or not substantiated.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

note that the canvass was not done, this approach will free up investigative resources that can be more appropriately deployed to other investigative tasks.

Internal Affairs Division Investigations: This paragraph of the Consent Judgment encompasses the majority of the elements of a thorough investigation. The Internal Affairs investigations have consistently reflected a high quality of investigative product. The investigative packages are well-organized, and elements of the investigation are easy to locate. During all of our reviews of the IAD investigations, we found that they were conducted in a professional manner. With few exceptions, they were thorough. IAD command staff continues to make efforts to improve after reviewers discuss concerns with them. During this review of 30 completed investigations, we found that there were precise descriptions of the incidents, reviews of all relevant evidence and appropriate credibility determinations. We found that the investigations were evaluated based on a preponderance of evidence and complainants or witnesses were not arbitrarily discounted.

We continue to have concerns regarding the extensions of investigation deadlines, and we are working with command staff to define appropriate reasons for extensions. There is written documentation in the Case Supervision Sheets when an extension is requested, but the new deadline date is frequently missed. We have recommended the development of a case-tracking system to assist the IAD in timely management of the investigations. Recently, IAD management adapted a computer program that allows the manager to view and comment on the Case Supervision Sheets for each case. Although this system does not provide a mechanism for date alerts, it allows the manager to electronically grant and document the reasons for granting extensions. We will continue to monitor this effort by the IAD.

There were no recommendations for non-disciplinary corrective action or disciplinary action in these 30 cases.

Force Investigations: Our review of completed FI cases for previous reporting periods found them in compliance with the investigative requirements of this paragraph. Case files contained a description of the event, but did not consistently evaluate the initial stop and/or seizure. For the most part, FI evaluated direct and physical evidence, but the files did not contain sufficient circumstantial evidence. There were no instances where a subject's court-related appearances had any effect on the outcome of investigations. The files contained little reference to credibility determinations. Investigations contained reviews of tactics and identified officers' unrelated conduct violations, and referrals for intervention and findings were based on a preponderance of evidence standard. In addition, any requested extensions of deadlines for reports were documented and when approved, specified a new deadline, usually within 15-30 days. There were no instances where extensions were requested due to an investigator's vacation or furlough.

To assess compliance for this reporting period, we examined 18 completed case files and noted the continued inclusion of a detailed account of the facts of the event.²⁸ Investigators evaluated the initial stop/contact in each case and evaluated direct and physical evidence, but the files continued to remain largely silent on the presence or absence of any circumstantial evidence. There were no instances where a subject's court-related appearances had any effect on the outcome of investigations. The files documented credibility determinations, but demonstrated

²⁸ These investigations included one fatal and three non-fatal critical firearm discharge events and one pursuit resulting in two fatalities.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

the need for FI to provide additional training on this issue, and we will follow-up with FI on the status of this training during the next site visit. Investigations contained reviews of tactics and identified officers' unrelated conduct violations. Findings were based on a preponderance of evidence standard, and recommended referrals for disciplinary intervention were documented.

We note that requested extensions of deadlines for reports were documented. For the most part, extensions were granted for a specified period of time, usually 15-30 days. This is a positive development; however, the practice of granting multiple extensions remains problematic and tends to circumvent the intent of this requirement. Eleven of the 18 investigations we reviewed were untimely. Four of the 11 investigations that were late no extensions were requested. The remaining seven investigations extensions were authorized ranging from four to seven requests; despite their approval, the completed work product was very late in the majority of cases.

We recognize the challenges inherent with effective case management, and recognize the continued efforts of the DPD, particularly the IAD and FI staff to address them; regardless, it is difficult to justify the approval of deadline extensions to conduct interviews, obtain videotapes relating to an event, or to locate complainants/subjects weeks or months after an incident.

In summary, although appropriate directives are in place, our analysis of command-level investigations, and those of FI, IAD, and OCI, do not support a Phase 2 compliance finding with this paragraph.

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.*

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Policy:

We previously found DPD Directive 304.2, Use of Force, effective June 27, 2005, and approved by DOJ, April 14, 2005; Training Directive 04-4, Garrity Protocol, effective November 1, 2005; Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005; in compliance with Phase 1 requirements of this paragraph. During our most recent site visit, we reviewed a revised version of DPD Directive 304.2, Use of Force, effective November 2010,²⁹ and find it to be in compliance with Phase 1 requirements of this paragraph. DPD 29th Quarter Status Report, dated December 31, 2010, identifies the controlling policy and training directive and refers the reader to U27 for recommended corrective actions.

Comments:

Our assessment of compliance with the requirements of this paragraph included a review of applicable directives; interviews with staff; and a review of closed command-level, FI, IAD, and OCI cases.³⁰

Command Level Investigations: In our previous reports, we noted the lack of sufficiently detailed reviews of the SIR by the chain of command above the investigator. We also noted that supervisors rarely identified or took corrective action regarding investigative or training deficiencies.

In the previous reporting period, we found one case in which DPD identified issues with training, policy, or procedural implications; and there was also one case in which the final reviewing authority made a referral to an appropriate DPD unit.

Our assessment for this reporting period found that in 79 (99%) of the 80 SIRs, there was a chain of command review above the investigator. The command review identified deficiencies in 15 cases which were sent back for corrections. In 13 of those cases, DPD corrected the deficiencies within seven days.

There were two cases in which DPD identified issues with training, policy, or procedural implications. In one case the supervisor conducting the investigation questioned the tactics utilized by the officers and the failure to activate lights during a pursuit. He recommended corrective action and retraining to address these shortcomings. In the other instance, the command review recommended an investigation and report, which would review the entire investigation and associated policy violations.³¹ There were three instances of corrective action and/or disciplinary action recommended when an investigator failed to conduct the investigation appropriately, ranging from individual re-instruct to precinct retraining sessions to a misconduct report.

²⁹ Rather than a revision, this is actually a DPD required annual review of the directive. There were no changes noted in the "revision." Training Directives 04-4 and 04-7 were not revised.

³⁰ See U27 for all directives applicable to the requirements of this paragraph.

³¹ An investigation and report is conducted on a Form 568 and may lead to further disciplinary actions.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

No cases were identified in which the investigation was not evaluated appropriately by the reviewing supervisor. There were no disagreements with a finding or a departure from a recommended non-disciplinary corrective action or disciplinary action. DPD has not achieved Phase 2 compliance, as there are still various areas which fall below the >94% level.

Office of the Chief Investigator: In our previous reports, we noted our inability to determine what appropriate supervisory intervention has taken place when investigations are deficient. While there has been evidence of supervisory review in most cases, when investigations are returned, specific issues and corrective measures are usually not documented. Glaring deficiencies such as chronic timeliness issues, which would warrant counseling and/or discipline, are not addressed in writing.

For the current reporting period, we reviewed a random sample of 100 closed investigations. We were not able to substantiate a review by the chain of command in only one case. This case was missing the Significant Event Log and we were otherwise unable to ascertain supervisory review. In our last report, we noted that while there was some evidence that supervising investigators reviewed and returned investigations, we had no way of knowing why they were returned and what was corrected. The Significant Event Logs were simply stamped "To Investigator – Concerns."

During this reporting period, 87 cases were returned for deficiencies. In 27 of the returned cases, the reason for the return was at least cursorily identified – a marked improvement over the last reporting period. Most of the returns, however, were to correct typographical errors rather than to point out investigative deficiencies, which should be the primary focus of the review. We noted at least eight cases that had investigative deficiencies that should have been identified by supervisors. These do not take into account the numerous investigations that were overdue – many with little or no activity for several months – and yet there was no evidence of appropriate corrective action and/or discipline for the investigators. We learned on our last visit that dozens of overdue cases were removed from investigators and assigned to the Backlog Squad. These cases were evident during our review. While this tactic is proving successful in addressing the backlog, without corresponding corrective action for delinquent investigators, it may have the unintended consequence of rewarding them for neglecting their cases. We also question the frequency and thoroughness of supervisory reviews that fail to identify and address months of inactivity on investigations that are supposed to be completed in 90 days.

We found no cases where a reviewer disagreed with the recommended findings of the investigator.

DPD is not in compliance with this requirement.

Internal Affairs Division: During our first review of IAD cases, we discovered that supervisors infrequently used Case Supervision Sheets for the intended purpose of documenting case supervision and managing the investigative efforts of subordinate personnel. Supervisors typically reviewed and commented on these sheets late in the investigative process. After discussions with the command staff, DPD changed this process, and as a result, documentation has improved considerably. In the prior reporting period and in this current period, where we reviewed all 30 completed cases, the supervisor regularly documented concerns and approvals on the Case Supervision Sheets of the individual investigators. With few exceptions, they have identified deficiencies in the investigations. In those cases, investigations have been rectified and, with the exception of one, returned in a timely manner.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

DPD is in compliance with this requirement.

Force Investigations: Our previous reviews of FI cases for compliance with these requirements noted that the case files included chain of command reviews and recommended referrals to training. The investigations also included references to supervisors' requests for additional information or investigative work. However, we noted that these references were generally found within the investigators notes or reports. Based on our discussions with FI staff, we were sufficiently satisfied that there is a detailed supervisory review of each investigation; however, we recommended that these reviews be more thoroughly documented.

To assess compliance for this reporting period, we reviewed 18 completed FI cases, and although we noted reference to chain of command reviews, and are sufficiently satisfied through interviews that supervisory reviews and evaluations are taking place, we continue to find no documentation verifying that the reviews are taking place and deficiencies are rectified consistent with the requirements of policy and this paragraph. DPD is not in Phase 2 compliance with this portion of this paragraph.

(See 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.

Policy:

In our previous reports, we reviewed Directive 304.2, Use of Force, effective June 27, 2005; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005; and found them in compliance with the requirements of this paragraph. During our most recent site visit, we reviewed a revised version of DPD Directive 304.2, Use of Force, effective November 2010, and found it to be in compliance with Phase 1 requirements of this paragraph.³²

DPD 29th Quarter Status Report, dated December 31, 2010, identifies the controlling policy and training directive associated with this requirement. It also made note of the following information:

³² Rather than a revision, this is actually a DPD required annual review of the directive. There were no changes noted in the "revision." Training Directive 04-7 was not revised.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

The Use of Force/Detainee Injury Report (UF-002) and the Use of Force/Detainee Injury Supervisory Investigation Report (UF-002A), were developed by the DPD to address the reporting requirements of these paragraphs. The auditable form (UF-002A) was posted to the DPD's Intranet on November 8, 2005. On December 5, 2005, a Department teletype, #05-05669, informing Department members of the implementation of the UF-002A.³³ As of August 11, 2008, the UF-002 and UF-002A auditable forms are currently being prepared and submitted within MAS.

During the quarter ending December 31, 2009, the DPD implemented a revised method for the electronic routing of the Use of Force/Detainee Injury/Allegation of Force Form (UF002). The form routing now requires the inputting member to select the specific supervisor that was notified regarding the use of force incident, if no supervisor is selected, the report will route to the member's span of control supervisor by default. Prior to this change, the form routed to either the supervisor who responded to the scene or to a supervisor that was working on the date of the incident. The implementation of this feature creates more accountability for the supervisor that was notified regarding the use of force incident to process the report within MAS."

The DPD remains in Phase 1 compliance with this paragraph.

Comments:

In our previous reports, we also discussed the findings of our review of auditable forms (UF002) and our review of Crisnet reports detailing arrests for assault on a police officer, disorderly conduct, and interfering with a city employee. We noted auditable forms were completed where targets were acquired, and that appropriate referral of firearm discharge events were made to FI for investigation.

During this reporting period, we reviewed 173 auditable forms (UF002), and found that 133 (77%) of the 173 forms were prepared correctly, documenting the prisoner injuries, uses of force, and allegations of uses of force. The forms include 11 cases that were referred to FI.

As an additional control, during this reporting period, we also reviewed 318 Crisnet reports that detailed arrests for assault on a police officer, disorderly conduct, and interfering with a city employee.³⁴ We were, once again, encouraged by the fact that officers are making arrests in difficult situations without relying on a use of force. The reports do not yet meet the >94% standard required in the Judgment, but DPD is making progress towards that end.³⁵

³³ The DPD Use of Force Report (UF-002) has been posted and available on the DPD's Intranet since November 19, 2003. The form is now contained in the Management Awareness System (MAS).

³⁴ This number includes 108 cases in September, 118 cases in October, and 92 cases in November 2010.

³⁵ In 57 of these reports, the officers documented the use of force, and corresponding use of force reports were prepared. In 13 of the reports reviewed, force was used and corresponding use of force reports were not prepared.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

The DPD is not yet in Phase 2 compliance with this paragraph.

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; 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 investigation³⁶*

Policy:

In our previous reports, we reviewed and found DPD Directive 304.2, Use of Force, effective June 27, 2005; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005; and found them in compliance with the requirements of this paragraph. During our most recent site visit, we reviewed a revised version of DPD Directive 304.2, Use of Force, effective November 2010, and found it to be in compliance with Phase 1 requirements of this paragraph.³⁷ DPD 29th Quarter Status Report, dated December 31, 2010, identifies the controlling policy and training directive associated with this requirement.

CRIB sent Corrective Action Notices (CANs) regarding these 13 reports to the respective commands for corrective action. In 248 (78%) of the cases, arrests of individuals were made in stressful situations with no force utilized.

³⁶ Consent Judgment amendment, September 15, 2008.

³⁷ Rather than a revision, this is actually a DPD required annual review of the directive. There were no changes noted in the "revision." Training Directive 04-7 was not revised.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

DPD is in Phase 1 compliance with this paragraph.

Comments:

In our previous reports, we assessed whether subjects were interviewed at the scene, in the cell block, or at the station; the provision of needed medical attention; the notification and response of supervisors; the proper completion of required forms and reports; and appropriate referrals to FI. We determined that, taken together, the majority of these reports did not meet the required standards.

We reviewed 80 cases for this report and found that in 63 (79%), a supervisor was notified following a use of force or prisoner injury. Supervisors responded to 61 (76%) of the 63, including four incidents in which a firearm was discharged, there was a visible injury, or there was a complaint of injury; and an additional 57 incidents on a priority basis.

Of the 80 cases investigated, there were 70 cases which document that supervisors attempted to interview the subject on the scene or at the precinct/district (88%). In 64 of these cases, the supervisor examined the subject for injuries and ensured that the subjects received the needed medical attention (80%). IAD was notified in 11 cases, and assumed responsibility for all of the cases.

We recommend that in future training sessions, DPD place greater emphasis on the need for officers to make the appropriate notifications to supervisors, and then place additional emphasis on the importance of supervisors responding to the scenes. The response to scenes is not only important with respect to interviewing subjects and evaluating them for injuries, it is also important in allowing supervisors to interview witnesses who may otherwise not be available and to conduct the canvass required by policy and the Judgment.

Our review of cases relevant to this requirement shows that, taken together, the majority of these reports did not meet these requirements. DPD is not in compliance with these requirements.

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:

- 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, and 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 90 days of the incident; and*

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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

Policy:

We previously found Directive 304.2, Use of Force, effective June 27, 2005; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005 in compliance with this paragraph. During our most recent site visit, we reviewed a revised version of DPD Directive 304.2, Use of Force, effective November 2010; and found it to be in compliance with the Phase 1 requirements of this paragraph.³⁸ DPD 29th Quarter Status Report, dated December 31, 2010, identifies the controlling policy and training directive associated with this requirement.

Comments:

Command Level Investigations: Our previous compliance reviews found that the majority of SIRs did not meet the 10-day time limit for completion of the preliminary investigation, and none included photographs of injuries to subjects or officers. Most, but not >94%, contained the required synopsis of the event. Although a majority of the reports included documentation of a canvass of the area and witness statements, those that did not provided no explanation of the reason for the failure to do so. The reports generally did not include profiles of the officers' prior uses of force and allegations of misconduct.

To assess compliance for this report, we reviewed the 80 completed UF002a command-level investigations, and found 17 (21%) preliminary investigations completed within 10 days of the event. This is an increase from the 19% we found during the fifth reporting period, but still a very poor showing. Seventy-eight (98%) contained the required synopsis of the event, equal to the percentage registered in the last report. There were no photographs of injuries in the files.

In 76 (95%) of the cases, the canvass and witness information was included in the file, an improvement over the 92% in the fourth quarter report. Officers' prior uses of force and allegations of misconduct were included in 71 (89%) of the cases, a significant improvement over the last quarter. Seventy-nine of the cases reflected first line supervisor evaluations (99%). The final command use of force investigations were completed within 30 days in 52 (65%) of the cases. Aside from the percentage reduction from the last quarter, another troubling issue is the number of cases which are taking 40 or more days to complete. This issue has been discussed with Command Staff at CRIB and they are developing strategies to address this issue.

The DPD has not achieved Phase 2 compliance with this paragraph for the command level investigations.

Force Investigations: We previously reviewed completed FI cases for compliance with these requirements. The investigations included synopses of the events and witness statements, and demonstrated in each successive report, a marked improvement in thoroughness and

³⁸ Rather than a revision, this is actually a DPD required annual review of the directive. There were no changes noted in the "revision." Training Directive 04-7 was not revised.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

documentation of canvasses for civilian witnesses. We noted that investigations lacked prior use of force, complaint, and misconduct history that could assist investigators when conducting interviews, making credibility determinations, or developing recommendations regarding training or supervisory intervention. In our most recent report, we commented on the efforts of investigators to obtain officers' prior histories/profiles for inclusion as part of the investigations, but noted that it appeared such efforts were made to satisfy the requirements of this paragraph, rather than as an investigative objective. We also noted the lack of required photographs of injuries.

To assess compliance for this reporting period, we reviewed 18 completed FI cases.³⁹ Each included a synopsis of the event and applicable witness statements; however, four files contained no photographs of injuries. We noted the inclusion of officers' prior histories/profiles in the files, which is a positive step in the investigatory process.

Four of the five cases reviewed for this report involved critical firearm discharges: one involved two fatalities; a second resulted in an injury to a DPD officer (accidental discharge); and in the remaining two, no one was injured. The fifth case involved a pursuit initiated by officers observing a vehicle travelling at a very high rate of speed after being informed by dispatch of a hit and run accident with the subject vehicle. The pursuit was of a short duration and ended when the fleeing vehicle crashed into another vehicle killing both uninvolved occupants. The driver of the fleeing vehicle was arrested and convicted of two counts of second degree murder. Our review of these cases found that while each contained investigative challenges, the basis for delaying interviews with officers or for prolonging the related investigation beyond the prescribed time limit was unclear; however, these investigations took from five to 12 months to complete which compare with a timeframe of 10 to 19 months during the previous reporting period.⁴⁰

We continue to recommend that the DPD closely evaluate case management and related issues, including staffing, to identify the means to more expeditiously complete these investigations. DPD is not in Phase 2 compliance with this portion of this paragraph.

Compliance Status:Phase 1: In CompliancePhase 2: Not in Compliance

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.

³⁹ These investigations included one fatal and three non-fatal critical firearm discharges, and one pursuit resulting in two fatalities.

⁴⁰ Consent Judgment paragraph U38 requires the completion of critical firearm investigations within 30 days of the event, except where a Garrity interview is required. In those cases, the completion may be deferred until 30 days following the declination or completion of the criminal prosecution.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Policy:

We previously reviewed DPD Joint Incident Shooting Team Standard Operating Procedures, and DPD Training Directive 04-07, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005; which provide guidelines for the Joint Shooting Team (JIST) and Force Investigations (FI), and found them in compliance with the requirements of this paragraph. DPD is in Phase 1 compliance with this paragraph.

Comments:

To assess Phase 2 compliance with this paragraph for this reporting period, we reviewed one fatal and three non-fatal critical firearm discharge investigations. JIST was notified in, and responded to, two of the four cases, which is not compliant with requirements. The DPD should ensure that the appropriate JIST notifications and responses are made and included in future investigative reports in order to avoid a change in compliance status.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not 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.*

Policy:

We previously reviewed DPD Joint Incident Shooting Team Standard Operating Procedures, and DPD Training Directive 04-07, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005; which provide guidelines for the Joint Shooting Team (JIST) and Force Investigations (FI), and found them in compliance with the requirements of this paragraph. DPD is in Phase 1 compliance with this paragraph.

Comments:

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

To assess Phase 2 compliance with this paragraph for this reporting period, we reviewed four completed critical firearm discharge investigations (one fatal and three non-fatal), and are satisfied with the investigative findings relative to the number of shots fired in each case. However, in one of the cases, the subject DPD officer that accidentally discharged his weapon was carrying unauthorized hollow point ammunition. The force investigation properly identified and documented the DPD policy violation relating to the carrying of unauthorized ammunition by the officer.

The investigations reviewed described the locations of the officers; however, only one case provided an actual diagram indicating the location of the officers. The locations of shell casings were noted. There were no other evidentiary issues of concern pertinent to the requirements of this paragraph. In another investigation, two DPD officers chased a suspect on foot into an alley between two major thoroughfares. The suspect fired one round at the officers. One DPD officer discharged his weapon at the suspect. The investigation gave an approximate distance between the officer and the suspect when the DPD officer returned fire. Since two officers were involved in the foot pursuit into an alley – with one discharging his weapon, and the other with his weapon drawn – a diagram of the officers' locations would be beneficial to the investigation.

The other two discharges were accidental. One discharge occurred in a DPD locker room and the location of the discharged weapon was described accurately. The other accidental discharge occurred in another jurisdiction, and the investigating agency did not photograph or diagram the officer's location at the time of the discharge. A diagram by the investigating agency in this instance would have been beneficial to the DPD internal investigation. However, this incident does not reflect negatively on DPD's internal investigation because the Department had no authority over the other agency's investigation.

These cases were closed in a timeframe of five to 12 months, clearly outside of the 30-day requirement. All of the cases included Garrity interviews; however, only one case had a short delay due to a DA declination, which was not an issue in the other three cases.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

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.

Policy:

We previously found that 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-

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

custody deaths, but did not establish selection criteria for Team members, and was therefore not in compliance with CJ requirements. This issue was addressed with the issuance of replacement policy, Special Order 10-11, effective January 1, 2010. This order specifies the members of the Team by rank and position who are determined by the Chief of Police to “have the qualifications to perform the executive level evaluation of the investigations of critical firearm discharges and in-custody deaths.” DPD is in Phase 1 compliance with this paragraph.

Comments:

The Team is chaired by the Commander, Internal Affairs/Force Investigations, and includes Deputy Chiefs, the Training Commander, and a specified Chief of Police designee.

During this reporting period, the CLFRT convened on three occasions to evaluate three critical firearm discharges.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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*
- d. prepare a report to the Chief of Police in compliance with the revised investigatory report and evaluation protocol.*

Policy:

DPD Special Order 09-13 (March 2, 2009), which was replaced with DPD Special Order 10-11, effective January 1, 2010, complies with the Phase 1 requirements of this paragraph.

Comments:

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Our previous review of the CLFRT process found that the DPD did not include interviews of principal investigators as part of the CLFRT process; however, the DPD has addressed this concern.

To assess compliance with requirements for this reporting period, we examined the four completed CLFRT reports – three involving critical firearm discharges and one involving a pursuit resulting in fatalities. We noted documentation of interviews with and the participation of investigating officers during the meetings. However, we also noted that the timeframe between the date of the events and the CLFRT reviews ranged from approximately six to 12 months, which is in excess of the prescribed requirements.

The CLFRT assessments continue to include a review of officers' compliance with DPD directives, but generally indicate agreement with the recommendations of FI; and in one case, sustained policy violations in regards to the inappropriate discharge that the District Attorney ruled accidental and the unauthorized carrying of ammunition by the offending officer. The Chief signed off on each report within the required 14 days.

We have previously noted the DPD's positive movement towards compliance with these and other CJ requirements; however, we once again assert that the CLFRT needs to conduct and document more probative and in-depth reviews of these serious cases. We continue to find the DPD in pending compliance with the requirements of this paragraph; however, DPD should expeditiously implement improvements to the process to avoid a future finding of non-compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending 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.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Policy:

DPD revised Directive 101.9, Special Purposes Committees, to address this Consent Judgment paragraph; the revision is pending approval. The revision clarifies a previous policy that did not completely address the requirements of U41.

DPD is in Phase 1 compliance with this paragraph.

Comments:

The CLFRT Chair prepared an annual report and critique of critical firearm discharges and in-custody deaths. We received and reviewed the 2009 report, which was prepared by Force Investigations. The report was comprehensive and included a description of investigative processes; case summaries; and various analyses of fatal and non-fatal firearm discharges, in-custody deaths, and pursuits. Of note was the downward trend in critical firearm discharges during the latest five-year period. After peaking at 59 in 2006, the DPD recorded 38 critical firearm discharges in 2009. In addition, we received and reviewed a supplementary report that included an analysis of data, including for example, injuries due to critical firearm discharges resulting from fragments or ricochet rounds, the discharging of firearms at moving vehicles and officers reaching into vehicles during traffic stops resulting in their subsequently being dragged and injured.

These reports are due by May of the year following the year under review. Accordingly, the DPD is in compliance with this paragraph.⁴¹

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

- Failure to conduct quality investigations within prescribed timelines remains a critical issue. OCI must address two components of this problem: completing investigations that are well overdue; and taking measures to ensure that the more recent cases are completed in a timely manner, lest they become part of the backlog.
- As previously noted, the most vital component to this investigative process is a critical review of the work product by the supervisory personnel. In OCI, supervising investigators must hold their personnel accountable not only to timelines, but also for conducting thorough investigations. Case deficiencies must be clearly identified, and the full range of corrective measures should be available depending on the circumstances.

⁴¹ On January 28, 2009, the Court amended this paragraph to require the DPD to 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.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

- OCI has been improving their case management system, and they are encouraged to continue along this course. The additional functionality will provide useful tools for both investigators and supervisors. The system should enhance, but not be a substitute for, frequent interaction between the two.
- Emphasis must be placed on officers notifying supervisors when force is used, and in turn supervisors must respond when notified absent a more pressing priority. Our reviews of auditable forms found that, in some instances, officers do not believe that they need to make the notification absent excessive force, which is not the case. In at least one instance, a supervisor explained that because there was no injury or complaint of injury, he was not required to respond to the use of force. CRIB is aware of these issues and is working on procedures that might remedy the problems.

Next Steps:

During the next reporting period, we will:

- Continue to review compliance with particular attention to meeting the specific detailed elements prescribed in these requirements. Of particular concern to us are the thoroughness and completeness of investigations, their review by supervisors, and compliance with the timelines.
- Discuss with DPD credibility determinations and appropriate due diligence in contacting complainants and witnesses in force investigations.
- Review a random sample of cases closed in January, February, and March 2011.
- Review activities of the OCI Backlog Squad and the status of aging cases in general.
- Review progress on OCI's case management system and the results of current field-testing.
- Discuss specific OCI cases from this reporting period with the Chief Investigator and OCI supervising investigators.

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
27	Revise investigative policies	In Compliance	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

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

37	Joint Incident Shooting Team	In Compliance	Not in Compliance
38	Protocol for critical discharge investigations	In Compliance	Not in Compliance
39	Command Level Force Review Team	In Compliance	In Compliance
40	Review critical firearm discharges	In Compliance	Pending Compliance
41	Command-level force review requirements	In Compliance	In Compliance

V. ARREST AND DETENTION POLICIES AND PRACTICES

The arrest and detention policies and practice requirements are a critical component of this Agreement. The 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 that is unsupported by probable cause, or a warrant that is 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 appropriately define investigatory stops and reasonable suspicion. DPD also revised its witness identification policies to comply with the revised arrest and investigatory policies. Policy also establishes that a material witness can only be taken into custody by obtaining a Court order prior to such taking.

The revised policies and procedures in this area require significant documentation and reviews by supervisors. Command notification is required in all instances where there exists a reported violation of DPD arrest, investigatory stop-and-frisk, witness identification and questioning policies, and all reports in which an arraignment warrant is not sought. Compliance review in this area thus draws heavily on the detailed records required in this section.

DPD has made significant progress in documenting Investigatory Stops, Detainee Registration and following their internal Witness Identification policies. The Department's ability to document and timely prepare warrant submittals to the prosecutor remains problematic in that failure to do so causes other violations of policy. We have found that in a few instances, the failure to prepare the required auditable form has kept DPD out of compliance with certain paragraphs. We have found that supervisory and command review in many areas is lacking, and that documentation of violations should be a Departmental priority.

For this reporting period, DPD assigned a commanding officer (lieutenant) to coordinate the efforts of the different district/precincts and other investigative operational units in their reviews of witness identification and questioning policies. This strategy was successful and should be continued, as we found the applicable CJ paragraph in compliance.

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.

Policy:

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

We previously reviewed the applicable DPD directives (DPD 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010; and found them in compliance with the requirements of this paragraph.

Comments:

Phase 2 compliance is linked to 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.

Policy:

We have reviewed the applicable policy, DPD 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010 pertaining to this paragraph, and found it in compliance with the requirements of this paragraph.

Comments:

We have previously reviewed the arrest audit reports that were conducted at the Northeastern, Northwestern, Eastern, and Southwestern Districts. The results of those reviews are consistent with the results of our review for this reporting period. We noted that the commanders from the districts responded to the audits with plans of action to remedy the deficiencies identified in the audit. DPD has been in compliance with this paragraph for the previous five reporting periods.

To assess compliance with these requirements for this reporting period, we reviewed a random sample of 109 case files. We reviewed Crisnet reports, Detainee Input Sheets, DPD Warrant Verification Logs, officers' Daily Activity Logs, Arraignment Verification Logs, and detainee file folders. In all of the cases we reviewed, sufficient probable cause for the arrest was present, and supervisory approval occurred within 12 hours of the arrest.

When an officer is not seeking an arraignment warrant, the Department is required to complete Auditable Form U004 (effective September 2009). In each instance of a warrant not sought, there was an auditable form completed. We reviewed 24 completed auditable forms in our random sample for this reporting period. Eighteen of these forms were completed in a timely

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

fashion and submitted for supervisory review. In six cases, although the auditable form was completed, the officers who completed the forms did not indicate the date or time the arraignment warrant was not sought. (DPD policy requires that an auditable form be completed within 12 hours of the event.) On Form U004, the person submitting the form (usually the Officer in Charge) is required to place the date and time on the form by his/her signature and, in the box provided, the reasons why the warrant was not sought and the date and time the form was generated. This verifies the reason the arraignment warrant was not sought and that the form was completed in a timely fashion.

We continue to find Department personnel using the older version of the Warrant Tracking Form (WTF) U004 to document these events. We reviewed DPD's internal audit (July 7, 2010) of the Twelfth Precinct, and noted the finding that personnel are utilizing the older version of the WTF form is consistent with our review for this reporting period. DPD has provided us with copies of Corrective Action Notices and we have noted that Departmental action or retraining was in order for ensuring thoroughness and timeliness in submitting the forms.

On January 11, 2011 DPD issued a Management Awareness System update that combined the Warrant Arraignment UF-004 and the Hold Exception Form UF-007. The new form is called the Warrant Arraignment/Hold Exception Form, UF-004/007. The new form is now in MAS, and should eliminate the use of the outdated form, which did not contain sufficient information. DPD has also issued an Administrative Message directing personnel that UF-004/007 must be completed within 12 hours of a warrant not being sought.

DPD's compliance with this paragraph is dependent upon probable cause to arrest and timeliness in preparing the required auditable form. The DPD's compliance rate for this reporting period is 95% for the three separate and distinct requirements of this Judgment. DPD is in Phase 2 compliance with this paragraph.

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.

Policy:

We previously reviewed the applicable DPD directive (DPD 202.1, Arrests, effective July 1, 2008, and revised November 20, 2011), and found it in compliance with the requirements of this paragraph. In addition, the DPD issued an Administrative Message, "Roll Call Training Stop

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

and Frisk,” on March 19, 2010, with instructions that it be read at roll calls from March 20, through March 26, 2010. The message emphasized the following actions: (1) recording the investigatory stop-and-frisk; (2) documentation of supervisory review; (3) supervisory documentation of all investigatory stops and/or frisks within 24 hours; and (4) identification of stops/frisks unsupported by reasonable suspicion.

Comments:

Phase 2 compliance is related to and contingent upon the implementation of U45; accordingly, our compliance finding is deferred.

Compliance Status:

Phase 1: In Compliance

Phase 2: Deferred

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.

Policy:

The applicable DPD policy for this requirement is DPD 202-3.2, Arrests, effective July 1, 2008.

Comments:

In our five previous reports, we determined that DPD was not in compliance with the provisions of this paragraph. DPD's efforts in traffic and investigatory stops have come into compliance, while progress with Terry stops (frisks) has leveled to less than 70%. Our reviews showed that officers did not articulate reasonable suspicion with frisks, and that supervisors did not properly check the officers' Daily Activity Log entries. During the current reporting period, we found that DPD personnel have made significant progress in documenting investigatory stops. We also noted that some supervisors, when reviewing officers Daily Activity Logs, have checked off each investigatory stop on their subordinates' logs to ensure accuracy. This good practice should be continued.

To assess compliance for this reporting period, we reviewed 326 officers' Daily Activity Logs completed on three randomly selected dates.⁴² Each district provided the logs requested, which

⁴² For this review, we randomly selected Daily Activity Logs completed on October 27, November 12, and December 4, 2010.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

included traffic stops and other situations where officers made investigatory stops of individuals who were not in vehicles.

Our review yielded 62 investigatory stops, of which 60 indicated a lawful purpose and the remaining two failed to describe the reasons for the investigatory stop. An auditable form was not completed for the two stops that did not articulate a purpose for the stop. In all but two instances, supervisors reviewed all stops within the required timeframe. DPD's compliance rate for investigatory stops only (excluding frisks, traffic stops, and required auditable forms) this reporting period is 97%. This is a substantial improvement over the previous quarter and it meets the standard for reporting and/or justifying these serious interactions with the community.

The Logs included 299 traffic stops, and our review indicated that 17 did not contain sufficient information to justify the stop, which is a basic requirement. For example, there were situations where the officer issued a summons for driving without a license or proper insurance without providing any additional information describing what violation occurred or what investigatory purpose was necessary for the initial stop. Supervisors reviewed 297 traffic stops in a timely fashion, marking their signatures, and dates and times of review. In two cases, the supervisor signed, dated, and timed the log more than 24 hours after submission by the officer. While DPD officers have made progress by articulating reasonable suspicion for traffic stops more consistently, we continue to find the Daily Activity Log entries difficult to read or understand. DPD's compliance rate for traffic stops is 94%.

During this reporting period, we also reviewed the 92 frisks appearing on officers' Daily Activity Logs. Our review indicated that 62 of the frisks articulated reasonable suspicion, and 30 failed to describe the rationale for the frisk. In a few cases, the officer marked the box under "Recap of Activity" on the face sheet of the Daily Activity Log, but we were unable to locate the frisk. Officers are required to fill in the Recap of Activity portion of the log to indicate their total daily activities and also mark the "Frisk" box in the narrative portion of the report.

Of the 30 frisks that failed to articulate reasonable suspicion, 13 of those occurred by two separate units in one day (six frisks by one unit, and seven frisks by the other). The same supervisor reviewed both units' Daily Activity Logs. On both logs, there was no attempt to describe or articulate the reason for the frisks. These two units were responsible for 43% of DPD's failure rate. DPD did provide us with Corrective Action Notices indicating action was taken with officers failing to adequately describe their actions.

We have found, in previous reporting periods, where frisks occurred and the officers used the term "furtive gestures" to justify their reasonable suspicion for the frisk. This phrase does not adequately define the requirement for a Terry stop, and should not be used by officers unless they describe in detail the actions of the offender that led to the search (pat-down).⁴³ We did not find any instances during our review for the current reporting period in which DPD officers used this term to describe a frisk.

⁴³ Terry v. Ohio 332 US 1 (1968): Police may perform a quick surface search (pat-down) of the person's outer clothing for weapons if they have reasonable suspicion the person is armed (officer safety).

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

We again discovered two instances where officers asked citizens for permission to search (verbal consent) them if reasonable suspicion for a frisk did not exist. We believe that this method of conducting a Terry stop by DPD does not meet the intent of the Consent Judgment.

We found that all frisks were documented by the end of the officers' shifts. In two cases, supervisory review was late. Supervisory review improved during the current reporting period. There were no Investigatory Stop and Frisk Exception Forms (Auditable Form UF003) included in the case report packets. We inquired with DPD to learn if there were any auditable forms relating to this paragraph that were completed for this reporting period. Although there is evidence of some progress with articulating reasonable suspicion by DPD officers, the Department's compliance rate for frisks this quarter regressed to 67%, due to a few officers' actions, as indicated previously. The DPD remains out of compliance with these requirements.

We also reviewed the DPD's Investigatory Stop and Frisk Practices Audit Report, dated August 31, 2010. The Audit Team recommended a number of steps to ensure compliance with the Department's stop-and-frisk policies that include retraining officers and reviewing all stop-and-frisk situations by supervisors and command personnel in a timely fashion. Two of the Audit Team's recommendations should be considered: 1) periodic mini-inspections of logs by the Commanding Officer of the district; and 2) random reviews of in-car video to detect unreported frisks. It does not appear that Commanding Officers review the investigatory stops, as we have not reviewed an Activity Log of an officer with any comments by command personnel, or reviewed any documents that indicate that command personnel have questioned the lack of auditable forms generated by supervisors.

We have not received any auditable forms (Stop and/or Frisk Exception form, DPD UF-003, effective October 31, 2009) from supervisors indicating that they have challenged an improper investigatory stop-and-frisk during any of our previous reviews. An Administrative Message was issued on March 19, 2010 (Roll Call Training) that emphasized recording of investigatory stops/frisks by officers, and the supervisor's responsibility in completing the Investigatory Stop and Frisk Exception Form when the officer did not adequately document the facts and circumstances that led to reasonable suspicion. We noted that there has been corrective action/discipline taken as a response to the audits.

DPD is not in Phase 2 compliance with this paragraph.

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

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

police action. The DPD shall prohibit the conveyance of any individual to another location without reasonable suspicion, probable cause or consent of the individual.

Policy:

We previously reviewed the applicable DPD directives (DPD 203.9, Custodial Questioning, effective July 1, 2008, and revised November 20, 2010), and found them in compliance with the requirements of this paragraph.

Comments:

Full compliance with the requirements of this paragraph is dependent upon successful implementation of U48; accordingly, the DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.

Policy:

We previously reviewed DPD Directive 203.9, Custodial Questioning, effective July 1, 2008, and revised November 20, 2010, and found it to be in compliance with the requirements of this paragraph.

Comments:

Full compliance with the requirements of this paragraph is dependent upon successful implementation of U48; accordingly, the DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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.

Policy:

We previously reviewed DPD Directive 203.9, Custodial Questioning, effective July 1, 2008, and revised November 20, 2010; and DPD 203.3 Notifications, effective July 1, 2008; and found them to be in compliance with the requirements of this paragraph.

Comments:

During the previous reporting period, we reviewed interviews and interrogations, from the Sex Crimes Command, the Southwestern District Investigative Operations Unit (IOU), the Northeastern District, and the Narcotics Unit.

To assess compliance with these requirements for this reporting period, we expanded our review to include the Northeastern District's Investigative Operations Unit (IOU), the Eastern District's Investigative Operations Unit (IOU), the Southwestern District Investigative Operations Unit (IOU), and the Narcotics Unit.

During this reporting period, we reviewed the Northeastern IOU case files, which contained 43 witness/interview interviews. Forty interviews/interviews met the requirement, and contained the proper documentation and supervisory review within prescribed timeframes. In three cases, the supervisory review did not occur; however, the required auditable form was completed in one of the three cases. The Northeastern District's compliance rate for the previous quarter was 56%. The command made adjustments during the current reporting period to address the lack of timeliness in supervisory review, and its progress is evident. During this reporting period, the Northeastern District achieved a compliance rate of 95% with this paragraph.

In addition, we reviewed 47 Narcotics Unit case files, and found 35 cases involving interrogations. In the previous reporting period, the Narcotics Unit had regressed in its progress toward compliance with its personnel using the approved form and conducting supervisory reviews of the interviews. For the current reporting period, all interrogations but one were detailed on the approved Statement Form (DPD 103, revised February 9, 2009). During this reporting period, we found that 31 of the 35 Narcotics interrogations were in compliance. All 35 included supervisory review, and one included supervisory review but not the date of the review. In one case, the supervisory review was late; and in another, the name of the witness was omitted. During this reporting period, the Narcotics Unit achieved a compliance rate of 89% with this paragraph.

We also reviewed 47 case files from the Southwestern District IOU, and found 83 interviews conducted on the proper form and one conducted on the Interrogation Sheet. Of these 84, eight supervisory reviews were late; however, an auditable form was completed for each. Three

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

supervisory reviews were late without an auditable form being completed and for the one interview conducted on an improper form an auditable form was completed. In one case, the supervisor signed the document, but failed to list the date or time. It should be noted that in our previous review of the Southwestern District, the compliance rate for interviews/interrogations was 35%. The Southwestern District has improved considerably, and its compliance rate for the current quarter is 96%.

We reviewed 47 case files from the Eastern District IOU that resulted in 81 interviews/interrogations. There were five supervisory reviews that were late; however, completed auditable forms for the lateness were contained in three of the case packets. Two of the supervisory reviews that were late failed to contain the required auditable form for the noted violation. In one case, the beginning time of the interview was missing and the reviewing supervisor failed to notice the omission or complete an auditable form. Eastern District's compliance rate for the current quarter is 98%.

DPD's overall compliance rate for Interviews/Interrogations is 96%.

We reviewed all instances of conveyances to DPD facilities for the purposes of interviews or interrogations during the current quarter. There were 21 such conveyances, and 20 of those were in full compliance with the requirements of the paragraph. In the one exception, the supervisor failed to sign the document. DPD's compliance rate for Conveyances is 95%. Since our first (2009) review of interviews, interrogations, and conveyances, we have seen Homicide, Sexual Crimes Command, Northeastern, Eastern, and Southwestern come into compliance with this paragraph, which is attributable to the leadership and initiative on the part of supervisors and employees in those commands. We have also observed other investigative units making progress with compliance-related documentation, and will be reviewing other investigative operations in our future site visits.

DPD has made considerable progress in this area; the Department is now in Phase 2 compliance with the requirements of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Policy:

We previously reviewed the applicable DPD directives (DPD 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010), and found them in compliance with the requirements of this paragraph.

Comments:

Full compliance with the requirements of this paragraph is dependent upon successful implementation of U50; accordingly, the DPD is in Phase 2 compliance with this paragraph.

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.

Policy:

We previously reviewed the applicable DPD directive (DPD 201.1, Arrests, effective July 1, 2008, and revised November 20, 2010) and found it to be in compliance with this paragraph.

Comments:

We reviewed DPD's previous custodial detention audits of the Southwestern District, the Eastern District, and the Northeastern District during the previous reporting period. The scope of the audits covered U49 through U58 and U60. The results of DPD's conclusions were consistent with our findings in our previous and this reporting period. The audits identified four main issues that were addressed by the Audit Team, and we concur with the team's recommendations. The issues are: (1) the time it takes to identify and clear holds/warrants; (2) auditable forms not being prepared for failing to provide prompt judicial review; (3) all pertinent information not being entered into Livescan; and (4) auditable forms not being prepared for violation of holds/warrants policies. We also found that, on occasion when Warrant Tracking Forms are prepared, the OIC fails to place the date and time the form was completed, and/or fails to mark the appropriate box on the form.

Due to a few case reports involving traffic, probation violations, and warrant arrests that are handled by other means, or where the arrestee is taken directly to court, we reviewed 85 case reports that eventually were submitted to the Prosecutor's Office for arraignment. The documentation supporting this review included Crisnet reports, Warrant Verification Logs,

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Arraignment Sheets, Detainee Input Sheets, and Warrant Tracking Hold Forms. Of the 85 cases we reviewed, all but two met the 48-hour requirement. In both instances the required auditable form was not located in the case packets. DPD's compliance rate is 98%.

DPD is in compliance with these requirements.

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.

Policy:

We previously found the DPD in compliance with this paragraph. The applicable DPD policies for this review are DPD 202.1, 202.1-7.2, and 202.1-8.1, Arrest, effective July 1, 2008, and revised November 20, 2010. To assess compliance with these requirements for this reporting period, we reviewed the same documents referenced in U50.

Comments:

Of the 109 arrest case reports we reviewed, there were 53 that began at the initial arrest and concluded in arraignment. Cases that were excluded include warrant arrests, juvenile arrests, some traffic cases, and situations where the offender was able to post bond or taken directly to court. In 27 cases, the arrest occurred during a domestic violence event, and we have found that the prosecutor typically denies the arraignment due to insufficient evidence to proceed or the victim refuses to prosecute.

There were 26 cases where the arraignment occurred after 48 hours from the time of the initial arrest. In all 26 cases, an auditable form was completed, including 24 that were due to those involving extraordinary circumstances. In two cases, the delay occurred due to the warrant submittal to the prosecutor being delayed; in eight cases, we could not determine if the auditable form had been prepared by the end of the shift, as the OIC did not list the date/time the event was recognized. The failure of DPD personnel to not prepare the form timely occurred more in October, than November or December, 2010. In each case in October, the revised DPD form was not used. We also note that nearly half of the cases where the arraignment was over 48 hours occurred in October. The use of this particular outdated form has been an ongoing

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

problem. When the commanding officers review the auditable form, they are not inspecting the document to ensure that the OIC is dating or placing the time the event was recognized. The OICs not documenting the date and time they generate the auditable form is keeping DPD out of compliance.

On January 11, 2011 we reviewed a Departmental Message that indicated UF-004/007 had been combined and put into MAS. The new form has a designated box for the OIC to place the date and time the form is generated. If utilized properly, the issues noted above should be resolved.

DPD's compliance rate with this requirement for the current reporting period is 70% – an improvement over the previous reporting period. Previously, the Department has been in compliance with the requirements, and the failure to comply with the requirements for two consecutive reporting periods takes the Department out of compliance.

In our previous report, we determined that Department personnel occasionally delay completing the warrant submittal unnecessarily (although it is within the 48-hour timeframe), and thus arraignments are often delayed. Our review indicates that after the arrest, the personnel completing the request may wait more than 24 hours prior to generating the documentation for the arraignment. If DPD submits the documentation in a more timely fashion, the number of arraignments delayed more than 48 hours would be reduced significantly, and the number of auditable forms required would also be reduced. We observed that some entities within DPD have successfully addressed the problem of submitting the warrant request timely.

As we noted previously, the elimination of evening arraignments by the 36th District Court of the State of Michigan will continue to be problematic for DPD in its ability to arraign detainees in a timely fashion.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

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 in the current arrest shall not delay this process.

Policy:

We previously reviewed the applicable DPD directive (DPD Directive 305.2, Detainee Registration, effective September 12, 2005), and found it in compliance with the requirements of this paragraph. DPD is in Phase 2 compliance with this paragraph.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Comments:

Full compliance with the requirements of this paragraph is dependent upon successful implementation of U53; accordingly, the DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In 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.

Policy:

We reviewed DPD Directive 305.2, Detainee Registration, effective September 12, 2005. DPD is in Phase 1 compliance with this paragraph.

Comments:

In previous reporting periods, DPD was not in Phase 2 compliance with this paragraph, due to holds/warrants not being cleared and the auditable form not being prepared. In the last reporting period, the Department's compliance rate was 92%.

To assess compliance with these requirements for this reporting period, we reviewed 109 Detainee Input Sheets, and found a total of 51 holds/warrants listed on the forms. In three cases, the hold exceeded 48 hours prior to being cleared. We found that in the three hold/warrants not being cleared within 48 hours that arraignments on the initial charges were in excess of 48 hours. Auditable forms for the violations were not included in the case packets. DPD is required to complete an auditable form when a hold/warrant is not cleared within 48 hours of the time it is identified. There are two separate and distinct parts to this particular requirement. With few exceptions, the majority of the Detainee Input Sheets did not indicate a "date cleared" in the appropriate location (box), although the actual time of release (hold/warrant cleared) is indicated in Section (3), the Final Charging, and Disposition and Release portions of the form, which indicates when the detainee is released from custody. As we have noted previously, the lack of DPD personnel properly indicating the date and time holds/warrants are identified and cleared continues to be a problem for the Department. DPD's compliance rate for this requirement is 94%.

We found that supervisors are not ensuring that the Detainee Input Sheets are completed in a timely fashion as it relates to warrants/holds being cleared, and that the required auditable forms

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

are not submitted for a commander's review. These deficiencies are and have been the basis for DPD's performance in this area during this quarter. These errors can be corrected by ensuring that officers fill in the date/time boxes on the form and complete the auditable form when required.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.

Policy:

We previously reviewed the applicable DPD directive (DPD 305.2, Detainee Registration, effective September 12, 2005) and found it in compliance with the requirements of this paragraph.

Comments:

Full compliance with the requirements of this paragraph is dependent upon successful implementation of U55; accordingly, the DPD is in Phase 2 compliance with this paragraph.

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.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Policy:

We have reviewed DPD Directive 305.2, Detainee Registration, effective September 12, 2005, and found it in Phase 1 compliance with the requirements of this paragraph.

Comments:

To assess Phase 2 compliance with these requirements for this reporting period, we reviewed 109 case files and found one restriction that met the requirement. DPD personnel advise us that restricting a detainee's access to visitors, attorneys, and the use of telephone privileges rarely occurs. Personnel may impose a telephone restriction when a detainee makes threatening or harassing calls to individuals outside the facility. There are payphones in each holding facility for the detainees' use. DPD is fully compliant with the requirements of this paragraph.

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.

Policy:

We previously reviewed DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010, and found it to be in compliance with the requirements of this paragraph.

Comments:

Full compliance with the requirements of this paragraph is dependent on the implementation of U57; accordingly, the DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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.

Policy:

We previously reviewed DPD Directive 202.1-3.3, Arrest, effective July 1, 2008, and revised November 20, 2010, and found it in compliance with the requirements of this paragraph.

Comments:

To assess Phase 2 compliance with these requirements for this reporting period, we reviewed all of DPD's requests to the Court for taking a material witness into custody for the period of October 1, through December 31, 2010. The auditable form, approved by a supervisor, was attached to the Court order in both cases. The Court orders were all issued by a Judge in the 36th District Court of the State of Michigan prior to the witnesses' detention. DPD's compliance rate with this paragraph for the current reporting period is 100%.

The Department has only been out of compliance with these requirements once in our previous five reporting periods.

Compliance Status:

Phase 1: In Compliance

Phase 2: In 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 individual's 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.*

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Policy:

We previously reviewed the applicable DPD directives (DPD 305.2, Detainee Registration, effective September 12, 2005), and found them in Phase 1 compliance with the requirements of this paragraph.

Comments:

DPD has been in compliance with this paragraph in all previous reporting periods. To assess Phase 2 compliance with these requirements for this reporting period, we reviewed a random sample of 109 arrest case files where a Detainee Input Sheet was completed that contained personal information about the detainee, charges, holds/warrants, and other supporting data. The contained documents included Detainee Input Sheets, Warrant Verification Logs, Arraignment Logs, and Livescan forms. In the majority of the instances, the: (a) individual's personal information; (b) crime[s] charged; (c) date and time of arrest and release; (d) time and date the arraignment was submitted; (f) time and date of arraignment, if applicable; (g) time and date each warrant was lodged and cleared; and (h) individual's custodial status; were listed on one of the applicable forms.

In the review of U58e, the Judgment requires that "the name and badge number of the officer who submitted the arraignment warrant" be documented. In our first four previous reviews, we found that in approximately 25% of the cases, although the officer's name was listed, the officer failed to include his/her badge number on the Warrant Verification Log. DPD rectified this issue in the fifth reporting period, when we found just one case where the officer failed to list his/her badge number on the warrant submittal form. In the current reporting period, we found two instances where the officer failed to list their badge number on the warrant submittal form. In six cases, the officer failed to include relevant detainee personal information under U58a. We examined the 109 cases for compliance with the eight individual requirements, and found an overall compliance rate of 99%, accounting for the issues 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

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

actions taken to correct the violation and whether any corrective or non-disciplinary action was taken.

Policy:

We previously reviewed the applicable DPD directive (DPD 202.1, Arrests, effective July 1, 2008 revised November 11, 2010), and found it in Phase 1 compliance with the requirements of this paragraph.

Comments:

In our previous reports, we did not find the DPD in Phase 2 compliance with this requirement, noting the lack of auditable forms, the lack of documented reasonable suspicion for frisks, and an inadequate supervisory review of Officer's Daily Activity Logs.

In our review of 109 arrests, we determined that all the arrests properly documented probable cause. In addition, we reviewed officers' Daily Activity Logs, investigatory stop-and-frisk, and checked for the presence of auditable forms (Form UF003, Investigatory Stop and/or Frisk Exception Form, effective date October 31, 2009). We found no completed auditable forms for 30 of the 92 frisks that lacked documented reasonable suspicion. We also found an inadequate supervisory review of Daily Activity Logs to ensure that reasonable suspicion existed prior to the frisks.

In order to be lawful, a 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 he/she has reasonable suspicion to believe that the suspect may have the means to do harm. Although officers articulated reasonable suspicion for a majority of the stops, the remainder documented no basis for the frisk. While supervisors do review the officers' Daily Activity Logs, they are not challenging officers to document the stops/frisks. The officers, in some cases, are only noting the stops. There were no completed DPD forms (DPD UF003, Investigatory Stop and/or Frisk Exception Form) included in the case report packets we reviewed.

Our review of traffic stops determined that officers' abilities to accurately describe the actions that led to the stop greatly improved over the past year; however, there were no auditable forms generated for the 17 traffic stops in which a form was required to be completed. Commanders are not receiving the forms due to supervisors not completing them.

There were 62 investigatory stops (excluding frisks and traffic stops), of which 60 were based on a documented investigatory purpose. Two of the stops did not articulate reasonable suspicion. We were unable to locate any auditable forms. There were no auditable forms generated for the commander to review.

There were 24 cases where documentation was completed that indicated an arraignment warrant was not sought and an auditable form completed. In all 24 cases, a commanding officer approved the form and attached his/her signature including the date of review. In one case the commanding officer's review was two days late. We have seen significant progress with

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

commanders' oversight as it relates to warrants not served. DPD's compliance rate for commanders' review of warrants not served is 96%.

We reviewed 243 witness/interrogation interviews from the Northeastern, Eastern, and Southwestern Districts/Precincts; and the Narcotics Unit. Eleven of these did not meet the requirement in the documentation of the interview form (DPD 103) or the failure to generate the auditable form. This is the first quarter DPD field commands have generated auditable forms for violations of witness identification policy. It is the commander's responsibility to ensure these forms are completed.

Although progress has been moving forward with commander's reviews of warrants not sought and witness identification and questioning policies DPD remains not in compliance with investigatory stops due to the lack of any auditable forms being forwarded for review. DPD is not in Phase 2 compliance with this paragraph.

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.

Policy:

We previously reviewed DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010; and DPD Directive 305.4, Holding Cell Areas, effective May 9, 2005 and revised March 3, 2010; and found them in compliance with the requirements of this paragraph.

Comments:

DPD is not yet in Phase 2 compliance with this paragraph. To assess compliance with these requirements for this reporting period, we reviewed 109 arrest case reports, of which 85 were submitted to the Prosecutor's Office and 53 went to arraignment. There were 26 cases where the arraignment occurred more than 48 hours after the arrest. In all cases but two, the request for the warrant was submitted in a timely fashion. In 24 cases, the late arraignment was due to extraordinary circumstances; and in two cases, the officer failed to submit the warrant request to the prosecutor within 48 hours. In all 26 cases, there was appropriate command review. In nine cases command review was late. We noted that the Department sent Corrective Action Notices to commanders who failed to review the auditable forms within the allotted time constraints. DPD's compliance rate for this portion of the requirement is 65%.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Of the 51 hold/warrants we identified, there were three holds that were not cleared within the required 48 hours. An auditable form was not generated for the three holds; therefore, the commander was unable to conduct a review. It is the commander's responsibility to ensure that the required auditable forms are generated for those personnel under their command.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

Critical Issues:

- As we previously noted, on January 11, 2010, the Chief Judge of the 36th District Court of the State of Michigan announced the discontinuance of evening felony arraignments conducted at the 36th District Court. This has, in effect, further burdened DPD's ability to have detainees arraigned and to meet the requirement that arraignment occur within 48 hours of arrest. In addition to this edict from the District Court, the cutoff time for submitting prisoner information to the Court has been moved back to 10:30 a.m., restricting DPD's ability to provide prompt judicial review.
- We reviewed a DPD Administrative Message (Teletype #10-04118) dated November 22, 2010 noting that several precincts/districts were delaying the faxing of prisoner information to Court Liaison just before the "cut off" time, thus creating delays in arraignment. DPD has addressed this concern by notifying the various commands of the hindrance created by late filings.
- We are concerned that officers do not always follow the detailed requirements needed for compliance; and, perhaps more important, supervisors do not always demonstrate the willingness and ability to exercise the roles required of them. For instance, as noted above, we found that officers often failed to record complete information concerning arrests and detentions; and that supervisory review of their reports was often deficient. If each officer timed and dated their signature on all documents they prepared or received, achieving compliance would be much less difficult.
- Likewise, DPD policy requires written documentation of all investigatory stops and frisks, but our review indicated that the officers often fail to articulate "reasonable suspicion." Supervisory monitoring of stops and frisks has also been an ongoing issue since the beginning of the Consent Judgments. We have yet to receive an auditable form from a supervisor for any investigatory stop that did not describe a reason for the stop.
- When an arrest is made, personnel who typically prepare the warrant request for the Prosecutor's Office need to present it in a timely manner. We have reviewed cases where an arrest is made early on a Monday morning, and the warrant request is not submitted until Wednesday. In our previous reviews of timeliness of warrant submittals to the Prosecutor's Office, we have discovered arrests for minor offenses that took two full weekdays to prepare the request. When the request is made within 48 hours of the

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

arrest, it delays the arraignment more than 48 hours. By preparing the request promptly, there will be fewer arraignments over 48 hours, fewer holds not cleared; and thus fewer auditable forms generated, and thus less commander reviews. For every unnecessary auditable form that is created by DPD, an additional opportunity for failure exists.

Next Steps:

During the next reporting period, we will:

- Meet with DPD's Civil Rights Integrity Bureau (CRIB) to discuss our stop-and-frisk concerns. Completeness, accuracy, and timeliness of all reports and auditable forms continue to affect field units and the quality of administrative review.
- Review other investigative units (Sixth, Eighth, Tenth, and Twelfth Precincts) to determine their compliance with interrogations, interviews, conveyances, and material witness policies.
- Observe the personnel who are responsible for the detainee booking process; and interview them regarding their process and procedures for detailing detainee information, including when holds/warrants are identified and cleared; and how they can assist in the probable cause review as a back-up for the probable cause verification normally completed on the Crisnet report.
- Inquire with DPD if any additional processes have been put in place to address the dilemma that occurs when a hold has been previously placed on an arrestee, and the warrant request to the Prosecutor's Office on the current charge has been denied. The concern for DPD in these instances creates a delay in presenting the hold for arraignment within 48 hours only on the basis of the hold.

	Requirements	Phase 1 Policy	Phase 2 Implementation
42	Define and prohibit arrest without 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	Deferred
45	Written account of stops and frisks	In Compliance	Not in Compliance
46	Revise witness policies	In Compliance	In Compliance
47	Revise above in three months	In Compliance	In Compliance
48	Document content, etc. of interviews, etc.	In Compliance	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	Not in Compliance
52	Revise hold policies	In Compliance	In Compliance
53	Documentation of all holds	In Compliance	In Compliance
54	Policy for restricting phone access	In Compliance	In Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

55	Document and review such restrictions	In Compliance	In Compliance
56	Define material witness	In Compliance	In Compliance
57	Custody of material witnesses-court order	In Compliance	In 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 violations	In Compliance	Not in Compliance

VI. EXTERNAL COMPLAINTS

The stated mission of the Internal Affairs Division (IAD) is to ensure the public's trust and confidence in 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. 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 DPD; IAD is responsible for all external complaints alleging possible criminal misconduct.

Consistent with this obligation, IAD accepts information from any source; and requires that all officers and employees document all complaints filed in writing, verbally, in person, by mail, by telephone, by facsimile, or by electronic mail.

During our most recent site visit, we examined the investigative procedures employed by IAD for consistency in the application of procedural fairness, timeliness, confidentiality, and the meticulous reporting of facts and results of an investigation. We 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 (BOPC). The OCI is responsible 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 led by a civilian Chief Investigator who is appointed by the BOPC. The OCI is staffed with a combination of civilian and sworn investigators who assist in the investigation of citizen complaints. The OCI's mission is to provide meaningful and objective investigations 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 including in writing, verbally, in person, by mail, by telephone, by facsimile, or by electronic mail. Members of the public may also file complaints at the BOPC office or at BOPC meetings.

During our most recent site visit, we met with the newly appointed Chief Investigator, the Executive Secretary to the Board of Police Commissioners, and the Supervising Investigators assigned to OCI. We discussed OCI's efforts to address the aging cases in general and the Backlog Squad's activities in particular. The Department continues to make progress on an internally developed case management system that will allow investigators to enter case notes in

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

OCI's databases, and supervising investigators to review progress and provide direction electronically, which will become part of the case file. As of our visit, four investigators were field-testing the system. Following up on comments made at a Command Accountability Meeting in October 2010, we reviewed OCI's efforts to notify Departmental commands of "repeat offenders," and what follow-up, if any, results from these notifications. We also discussed specific cases from our last quarterly report.

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.

Policy:

We previously reviewed the applicable DPD directives and found them in compliance with the requirements of this paragraph. DPD Directive 102.6, Citizen Complaints, effective July 1, 2008, and revised November 2010; IAD Standard Operating Procedures, Sections 1 and 3; and OCI Standard Operating Procedure, effective July 1, 2010; establish the jurisdictional responsibility of the DPD (Internal Affairs Division) and OCI. 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 DPD. IAD is responsible for all external complaints alleging possible criminal misconduct. OCI investigates non-criminal allegations of misconduct against DPD personnel in the following categories: arrest; demeanor; entry; harassment; force, as it relates to threats; property; search; and service.

Comments:

The established policies and procedures also provide guidance for receiving, recording, tracking, referring, and investigating complaints. IAD and OCI track each open, pending, and closed case by the unique case identifier that is placed on all relevant documentation regarding the specific external complaint and provided to each citizen upon lodging a complaint. Each entity uses a computerized database to record data that is developed concerning external citizen complaints. OCI is in the process of making enhancements to its database, as outlined above. OCI is required to compile a summary of its investigations annually. These summaries are distributed throughout the DPD, to the Board of Police Commissioners, and to the public. In addition, the City displays informational posters in the public areas of all police facilities and public libraries. The City sponsors community meetings and runs public service announcements concerning how to file a citizen's complaint against the police. Through the OCI, the Board of Police Commissioners maintains a community outreach coordinator, who attends meetings and makes

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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 BOPC website also allows the public to file complaints online.

The DPD and the City are in compliance with these requirements.

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*

Policy:

Office of the Chief Investigator Standard Operating Procedures, effective July 24, 2003 (and revised April 29, 2004, and July 1, 2010) vests responsibility for DPD's informational campaign with OCI and OCI's Community Affairs Coordinator. DPD is in Phase 1 compliance with this paragraph.

Comments:

During previous site visits, we inspected Police Headquarters, the Office of the Chief Investigator, police facilities, libraries, and Neighborhood City Halls for compliance with the requirements of this paragraph. All locations displayed, in a prominent location, permanent placards that described the complaint process. All desk personnel in the police facilities were able to produce citizen complaint brochures immediately, and were aware that they should not discourage citizens from filing a complaint.

During our most recent site visit, we inspected the Northeastern and Eastern Districts, Schaefer Annex, and the Twelfth Precinct. We found the appropriate citizen complaint posters, forms, and brochures in place. We contacted desk officers and field officers at each site, and they were able to provide the appropriate citizen complaint forms and brochures.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

We also inspected five City libraries (the Main Library, Hubbard Branch, Parkman Branch, Redford Branch, and Richard Branch) and one Neighborhood City Hall (the Northwest Community Access Center). With the exception of one library, we found the appropriate posters on display and supplies in order. The one library reopened the week prior to our visit after a yearlong renovation, and personnel had not yet restocked their supplies. We provided them with the appropriate contact information to do so.

Both DPD and OCI conduct community outreach programs designed to inform citizens of the complaint process and the procedures for filing complaints. The Board of Police Commissioners' website allows the public to file complaints against the police online. The City of Detroit broadcasts public service announcements that describe the complaint process. DPD provided us with the broadcast schedule for the week of our site visit.

DPD remains in Phase 2 compliance with this paragraph.

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.

Policy:

DPD Directive 102.6, Citizen Complaints, effective July 1, 2008, and revised November 2010; requires all officers to carry informational brochures and contact forms in their vehicles at all times when on duty. The policy further outlines each officer's responsibility with respect to the complaint process and officers' interactions with citizens. DPD is in Phase 1 compliance with this paragraph.

Comments:

During previous site visits, we reviewed the audits conducted by the DPD Office of Civil Rights regarding citizen complaint informational brochures and contact forms carried in police vehicles, and we randomly selected officers during our field visits to police facilities and asked them to provide the brochures and forms for review. Each officer who we contacted provided the documents upon our request, and was aware of the requirements of the DPD policy concerning citizen complaints.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

During this review, we randomly selected both desk officers and patrol officers in the Northeastern and Eastern Districts, Schaefer Annex, and the Twelfth Precinct, and asked them to produce complaint forms and brochures. They were able to do so in each case. We also inspected the complaint logs in each location.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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.

Policy:

The following policies are applicable to DPD's compliance with the Intake and Tracking paragraphs: DPD Directive 102.6, Citizen Complaints, effective July 1, 2008, November 2010; IAD Standard Operating Procedures, Sections 1 and 3; and OCI Standard Operating Procedures, effective July 24, 2003 (and revised April 29, 2004; and July 1, 2010); establish the jurisdictional responsibility of the DPD (IAD) and the Board of Police Commissioners (OCI). DPD Directive 102.6, Citizen Complaints, effective July 1, 2008, November 2010, IAD Standard Operating Procedures, Section 3, and OCI Policy, Section 8, describe the intake and tracking policy as defined by the Consent Judgment. We previously reviewed the applicable DPD directives and found them in Phase 1 compliance with the requirements of this paragraph.

Comments:

Our past reviews of IAD and OCI external complaint investigations determined that the complaints were filed using all of the communication facilities identified in this paragraph.

Our review of 30 IAD and 100 OCI investigations for this report again found that complaints were filed using all of the communication methods identified in this requirement. DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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.

Policy:

The following policies are applicable to this requirement: Office of the Chief Investigator Standard Operating Procedures, effective July 24, 2003 (and revised April 29, 2004, and July 1, 2010); DPD Directive 102.6, Citizen Complaints, effective July 1, 2008; and IAD Standard Operating Procedures, Section 1 and 3, revised November 2009. DPD is in Phase 1 compliance with this paragraph.

Comments:

In our previous reviews, we found no instances where personnel accepting complaints reported any opinions regarding the mental capacity or veracity of the complainant.

We reviewed 30 IAD and 100 OCI cases for this reporting period. We again found no instances where personnel accepting complaints reported any opinions regarding the mental capacity or veracity of the complainant. In one instance, it was noted that a complainant appeared to have been drinking (and admitted to same). We found that this comment regarding physical condition comports with policy and this requirement.

DPD and the City are in compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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).

Policy:

The following policies are applicable to DPD's compliance with the Intake and Tracking paragraphs: DPD Directive 102.6, Citizen Complaints, effective July 1, 2008; IAD Standard Operating Procedures, Section 1 and 3; and OCI Standard Operating Procedures, effective July 24, 2003 (and revised April 29, 2004, and July 1, 2010); establish the jurisdictional responsibility of the DPD (IAD) and the Board of Police Commissioners (OCI). DPD Directive 102.6, Citizen

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Complaints, 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. We previously reviewed the applicable DPD directives and found them in compliance with the requirements of this paragraph.

Comments:

During previous reporting periods, we reviewed closed IAD and OCI external complaint investigations, and found that 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.

For this reporting period, we reviewed 30 IAD and 100 OCI investigations. All investigations contained all of the required information. The letters also provided case-specific identifiers for the complainant to reference when contacting either IAD or OCI. DPD and the City are in Phase 2 compliance with this requirement.

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*

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

- 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.*⁴⁴

Policy:

The following policies are applicable to DPD's compliance with the Intake and Tracking paragraphs: DPD Directive 102.6, Citizen Complaints, effective July 1, 2008; IAD Standard Operating Procedures, revised November 2009; and OCI Standard Operating Procedures, effective July 24, 2003 (and revised April 29, 2004, and July 1, 2010); establish the jurisdictional responsibility of the DPD (IAD) and the Board of Police Commissioners (OCI). DPD Directive 102.6, Citizen Complaints, effective July 1, 2008, IAD Standard Operating Procedures, revised November 2009, and OCI Policy Section 8 describe the intake and tracking policy as defined by the Consent Judgment. We previously reviewed the applicable DPD directives and found them in compliance with the requirements of this paragraph.

Comments:

Office of the Chief Investigator: For this reporting period, we reviewed 100 randomly selected OCI cases. Five cases were transferred to either IAD or Force Investigation. One involved an allegation of theft and the others alleged excessive force. These cases were appropriately transferred, although we note that one was not transferred for two months. Three cases were resolved informally, and all met the criteria as they involved service complaints. However, in two of these cases, an inordinate amount of time elapsed before they were informally resolved (six and seven months respectively).

Timeliness of case completion continues to be an issue. Only 21 of the 100 cases we reviewed were completed within 90 days. While this represents an improvement over the 12 cases deemed timely during our last review, the number is unacceptable. We noted many had long gaps of time in which no apparent activity took place. Many of these cases were ultimately assigned to the Backlog Squad (33 of the cases we reviewed), which, for the most part, completed them within a reasonable amount of time. Twenty-one of the 100 cases we reviewed were not referred to OCI within five business days, as required by DPD policy. This is an improvement over the 35 such cases identified in our last review, but still well below the standard outlined in the requirement.

In 94 of the cases, we noted efforts to keep the complainant informed of case progress. Often, this correspondence involved attempts to encourage uncooperative complainants to participate in their investigations. In all but one case, the complainants were notified of the disposition of their

⁴⁴ Consent Judgment amendment, September 15, 2008.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

cases, and if any allegations were sustained, they were advised that the case was referred to the Chief of Police for appropriate corrective action.

During our last site visit, we confirmed on-going in-service training for OCI personnel. Much of this training occurs in conjunction with other DPD employees. While we do not discourage this practice, we encourage OCI to continue to explore training specific to their responsibilities, in order to address knowledge and skill gaps which impact the quality of their investigations. We note that during this review period, the Executive Secretary trained investigative staff in investigation basics and an overview of the new investigation report.

DPD is not in Phase 2 compliance with this paragraph.

Internal Affairs Division: IAD Standard Operating Procedures do not specifically permit or encourage informal resolution due the nature of their investigative jurisdiction of alleged criminality and/or serious misconduct lodged against Department personnel. Accordingly, IAD investigates and makes findings in each case.

IAD Standard Operating Procedures and OCI Policy require that all complaints be referred to the appropriate agency within five business days of their receipt. Historically, we have discovered significant delays in transferring appropriate cases from OCI to IAD. We reviewed 30 IAD cases during the current reporting period, and determined that two had been referred by OCI within the five business day requirement.

The IAD Standard Operating Procedures contains criteria for investigator applicants and training. During this quarter, the IAD lost one investigator to a promotion and gained one investigator that had previous investigative experience.

In cases of prolonged investigations, IAD must provide an updated case status to complainants, and upon closure, notify them of the closure, finding(s), and action(s) taken, where appropriate.

Our review determined that the IAD is in compliance with the notifications to complainants upon the closure of all investigations, but there was no indication in any files that complainants received status updates on cases while under investigation, or cases that were extended beyond 90 days.

IAD's ability to complete all investigations within 90 days remains problematic. During our current review of 30 investigations, nine exceeded the 90-day limit. DPD is not in Phase 2 compliance with this paragraph.

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:

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

- 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 Board of Police Commissioners to complete review of OCI investigations within 45 days of completion of the Chief Investigator's review;⁴⁵ 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 BOPC's review.*

Policy:

DPD Directive 102.6, Citizen Complaints, effective July 1, 2008, and revised November 2010, mandates compliance with the timelines outlined in this paragraph. DPD is in Phase 1 compliance with this paragraph.

Comments:

During this reporting period, as in our past reviews, the external complaint review process was completed within the appropriate timeframes. We continue to see some reports where the Chief Investigator and/or the Board of Police Commissioners are not dating their signatures, indicating the date of review. We can generally make reasonable assumptions on review dates or glean this information from other sources such as the Significant Event Log. We also received documentation of when cases are delivered the Chief of Police for review, well within the required timeframe, but do not necessarily know when such reviews are completed. We will work with OCI and CRIB staff to identify an appropriate method of verification.

DPD is in Phase 2 compliance with this paragraph.

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;*

⁴⁵ Consent Judgment amendment July 18, 2003.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

- 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.*

Policy:

DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008; DPD Directive 102.6, Citizen Complaints, effective July 1, 2008, and revised November 2010; Training Directive 04-4 Garrity Protocol, effective February 9, 2006, and revised October 24, 2009; Internal Affairs Standard Operating Procedures, revised November 20, 2009; OCI Standard Operating Procedures, effective July 24, 2003 (and revised April 29, 2004, and July 1, 2010) define and outline appropriate use of the above-listed dispositions. DPD is in Phase 1 compliance with this paragraph.

Comments:

During our previous assessment of compliance with these requirements, we found that IAD cases were generally appropriately resolved with the stated dispositions based on the findings of the investigator. However, OCI cases often had either inappropriate dispositions or no dispositions for specific allegations.

For the current reporting period, we reviewed 100 randomly selected OCI cases. All allegations received one of the appropriate dispositions. As noted above, some investigations contained some deficiencies that, if addressed, *may* have changed findings in some instances. For purposes of this paragraph, we evaluated the determination of finding based on the information in the case file. We believe an inappropriate determination was reached in only two instances. In one, an involved supervisor did not recall that he or any of his personnel engaged in the activity complained of, but the investigator reached an exonerated finding because the complained of behavior would have been allowed by policy. In the other, a complaint of force was unfounded primarily because the complainant wanted to withdraw his complaint. The allegation, based on the information at hand, should have been not sustained.

In addition, we reviewed all 30 IAD cases that were completed during this quarter, including internal and external complaints. All contained the required dispositions.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Critical Issues:

We examined 30 closed and completed OCI cases for the period of October 1, through December 31, 2010. Our review disclosed that the following issues continue to require immediate attention:

- *IAD Case Tracking:* IAD has recently adopted a computer program to aid in tracking its cases. While the system does not alert the users to deadlines, it does allow for communication between the investigator and supervisor.
- *Timeliness of Investigations:* As mentioned in earlier sections, OCI's adherence to the 90-day time limit for investigations continues to be an issue.
- *Inadequate OCI Case Management:* OCI needs to implement a reliable case-tracking system that alerts the supervisors to deadlines and extended deadlines for cases. While OCI has made strides with a case management system, there is still much work to be completed. OCI staff experiences a lack of technological support; and much of OCI's case management system currently consists of written documents, handwritten notes, and ledger books. As mentioned above, supervising investigators must hold their personnel accountable for conducting quality investigations within timelines established by policy. This requires regular and consistent interaction during which each active case is reviewed.

Next Steps:

During the next reporting period, we will:

- Review a sample of the cases closed by OCI and IAD for the months of January, February, and March, 2011.
- Verify the length and content of in-service training offered to OCI and IAD personnel.
- Review enhancements to OCI's case management system, and results of the field-testing that was underway during our recent site visit.
- Review documentation regarding the supervision of the investigative process. Our review will examine: 1) IAD and OCI case tracking; 2) OCI case assignment procedures to reduce assignment delays; 3) the OCI process to reduce backlog cases; 4) procedures for administratively closed cases; 5) 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 carry information/contact forms	In Compliance	In Compliance
64	Policy to define complaint intake/track	In Compliance	In Compliance
65	Permit factual account, no opinion	In Compliance	In Compliance
66	Unique identifier for complaints	In Compliance	In Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

67	Revision of complaint investigations	In Compliance	Not in Compliance
68	Time limits for review of investigations/complaints	In Compliance	In Compliance
69	Required finding categories specified	In Compliance	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 the DPD develops policies, all the terms used are clearly defined, and that prior to making policy revisions, the DPD posts the proposals on the DPD website to inform the community of the proposed revisions. It requires DPD to advise all of its officers that taking police actions in violation of DPD policies shall subject them to a variety of possible actions, to include disciplinary, criminal prosecution, or civil liability. This section also requires officers to report acts of misconduct by other officers, whether on or off duty. Additionally, this section required DPD to revise its policy regarding police actions by off-duty officers; and to revise the policies on how DPD handles prisoners, to include summoning first aid as necessary, summoning assistance if required, and prohibiting the accompanying of prisoners to the holding cell area. This section also required DPD to develop a foot pursuit policy and to plan for adequate distribution of manpower. DPD has developed the appropriate policies and is taking steps to achieve implementation. The revised foot pursuit policy was posted on the Department's website in December 2010, and approved by the Board of Police Commissioners in January 2011.

CJ Requirement U70

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

Policy:

We previously reviewed the applicable DPD directives, and found them in compliance with the requirements of this paragraph. DPD Directive 101.1, Directive System, effective November 1, 2010, 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 Information); Teletypes (Administrative); and Training Bulletins. DPD Directive 404.1, Definitions, effective July 1, 2008, includes a comprehensive list of terms frequently used within the Department, from "Actively Resisting" and ending with "Writ of Restitution."

During our most recent site visit, we reviewed a revised version of DPD Directive 401.1, Definitions, effective November 2010, and found it to be in compliance with Phase 1

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

requirements of this paragraph.⁴⁶ DPD 29th Quarter Status Report, dated December 31, 2010, identifies the controlling policy and training directive associated with this requirement.

Comments:

We noted that the DPD formed a Policy Focus Committee (PFC) to concentrate on policy issues. The DPD 29th Quarter Status Report, dated December 31 2010, states that: “On December 9, 2010, the amended *Foot Pursuit* policy, Directive 202.7, was presented to the Board of Police Commissioners for their review.”

The DPD informed us that there have been no meetings of the PFC since May 12, 2009. DPD remains in Phase 2 compliance with this paragraph.

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.

Policy:

The DPD has developed three documents that govern the process to be followed to ensure compliance with this requirement. The DPD established a Protocol for Proposed Policy Revisions; an SOP outlining procedures for posting proposed policies to the website; and a flow chart (Visio-DPD Policy Flow Chart) that tracks the movements of proposed policy revisions through the Department and through the public review. In addition, DPD Directive 101.1, Directive System, effective November 1, 2010, provides a process for the issuance of Special Orders and guidance on their use. DPD 29th Quarter Status Report, dated December 31, 2010, notes that “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:

To assess Phase 2 compliance with this requirement for this reporting period, we again examined the process for the implementation of policies and reviewed comments contained in the DPD

⁴⁶ Rather than a revision, this is actually a DPD required annual review of the Directive. There were no changes noted in the “revision.”

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

29th Quarter Status Report, dated December 31, 2010.⁴⁷ The comments contained in the status report indicate the DPD's continued effort to make proposed policy changes available to the community, but also note that the Department has not received any citizen comments.

During our most recent site visit, we inquired regarding any changes to DPD policies since our last site visit. We were provided a list of 25 directives identified as revised. We determined that the majority of them do not contain substantive or procedural changes and are, in fact, revised in name only. The majority of "revisions" are simply annual reviews required by DPD. We will continue to discuss the four directives we believe are in question, and will report on those in our next report. Insofar as DPD has instituted the required policy changes to the foot pursuit policy, it is reinstated to Phase 2 compliance with this paragraph.

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.

Policy:

We previously reviewed DPD Directive 102.3, Code of Conduct, effective November 1, 2009, and found it in Phase 1 compliance with the requirements of this paragraph. During our most recent site visit, we reviewed a revised version of DPD Directive 102.3, Code of Conduct, effective November 2010, and found it to be in compliance with Phase 1 requirements of this paragraph.⁴⁸ DPD 29th Quarter Status Report, dated December 31, 2010, identifies the controlling policy.

⁴⁷ The DPD has had a dedicated email address since July 2004 on the City of Detroit's website that allows for citizen comments to be provided directly to the DPD. To date, no comments have been received regarding any of the DPD's policies. The DPD requires that all proposed policy revisions are posted for a period of 30 days on the City of Detroit's website. The OCI is currently operating under the Procedure for Reviewing Comments on Policies Posted to the DPD Website Protocol. Every policy that is developed or that is substantively or procedurally revised is presented to the BOPC. Meetings of the BOPC are open to the public and are often held as community forums. The DPD not only presents and explains new policies and directives, but encourages comments and input from the community. On December 9, 2010, the amended *Foot Pursuit* policy, Directive 202.7, was presented to the Board of Police Commissioners for their review. Copies of the policies were available to the public at the meeting and have been made available at the districts and precincts. This revised policy was posted on the City of Detroit's website for citizen review and comment on December 28, 2010. The policy was approved on January 20, 2011.

⁴⁸ Rather than a revision this is actually a DPD required annual review of the Directive. There were no changes noted in the "revision."

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Comments:

In our previous report, we noted that on June 18, 2010, the training period for Fiscal Year 2009/2010 ended with 99% of DPD members receiving the use of force block of training.” We also reviewed the training data for the new Fiscal Year, and found that 902 of the members, or 33% of the workforce, received use of force training.

During this reporting period, we reviewed the training data for attendance through the midpoint of the new Fiscal Year, and found that 1,362 members (50%) had completed the use of force training, which incorporates the code of conduct material.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.

Policy:

As we have noted in our past reviews, during 2007, the DPD agreed to a 1:10 ratio of supervisors to officers in patrol and specialized units.⁴⁹ The agreement was reached and memorialized in electronic mail dated November 6, 2007. The previous monitor found the DPD compliant with the associated policy requirements of this CJ paragraph, but not with the implementation requirements.⁵⁰ Our initial reviews confirmed Phase 1 compliance with this paragraph, but we expressed concern with the DPD assignment practice wherein sergeants were not assigned responsibility for the conduct or performance of specific officers and officers were not accountable to a specific sergeant. We emphasized that this practice did not provide appropriate accountability mechanisms.

The DPD addressed our concerns with the issuance of Special Order 10-03, effective January 1, 2010, which is to be incorporated into a policy directive. This Special Order sets forth the ratio requirements and specifically requires the assignment of each officer to a specific sergeant;

⁴⁹Section I of the Use of Force Consent Judgment 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.

⁵⁰Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009 (Report #22).

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

accordingly, sergeants are accountable for the conduct and performance of officers assigned to them and for preparing the required performance evaluations. The DPD reinforced these requirements through a Roll Call Training Bulletin.⁵¹

DPD is in Phase 1 compliance with this paragraph.

Comments:

During previous reporting periods, we found the DPD staffing levels at the 15 commands on varying days did not meet the >94% compliance requirement. The Department was, however, gradually improving its rate of compliance. During the last reporting period, we found that of the total 129 platoons where officers worked, 120 (or a fraction above 93%) were in compliance with span of control requirements.

We again reviewed the daily detail reports for the 15 work groups for three days selected at random: Tuesday, October 12; Wednesday, November 17; and Friday, December 10, 2010. We found that five of 128 platoons that worked on these dates had supervisors who were overassigned.⁵² Thus, 123 platoons (96%) were in compliance with the requirement that span of control not exceed one to ten. DPD is in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.

Policy:

We previously reviewed DPD Directive 102.3, Code of Conduct, effective November 1, 2009, and found it in compliance with the requirements of this paragraph. During our most recent site visit, we reviewed a revised version of DPD Directive 102.3, Code of Conduct, effective November 2010⁵³ and found it to be in compliance with Phase 1 requirements of this paragraph.

⁵¹ The DPD issued Teletype 10-00617, containing Roll Call Training 10-05 – Span of Control – Supervision: To Be Read at All Roll Calls From Platoon One, Saturday, February 13, 2010; through Platoon Three, Friday, February 19, 2010.

⁵² Over assigned indicates more than 10 subordinates assigned to a single supervisor.

⁵³ Rather than a revision, this is actually a DPD-required annual review of the directive. There were no changes noted in the “revision.”

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

DPD 29th Quarter Status Report, dated December 31, 2010, identifies the controlling policy associated with this requirement.

Comments:

In the previous reporting period, we noted that our review of the training data for the new Fiscal Year reflected that 33% of the members received the required training.

During this reporting period, we reviewed the training data for attendance through the midpoint of the new Fiscal Year, and found that 1,362 members (50%) had completed the use of force training, which incorporates the code of conduct material. Our review of closed Command, OCI, FI, and IAD investigations during this reporting period found no cases wherein a DPD officer reported misconduct on the part of another DPD officer.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.*

Policy:

We previously reviewed DPD Directive 102.3, Code of Conduct, effective November 1, 2009, and found it in compliance with the requirements of this paragraph.

During our most recent site visit, we reviewed a revised version of DPD Directive 102.3, Code of Conduct, effective November 2010, and found it to be in compliance with Phase 1 requirements of this paragraph.⁵⁴ DPD 29th Quarter Status Report, dated December 31, 2010,

⁵⁴ Rather than a revision, this is actually a DPD-required annual review of the directive. There were no changes noted in the "revision."

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

identifies the controlling policy associated with this requirement; it notes that on April 24, 2008, the DOJ and the DPD agreed, in writing, that the DPD would annually send a letter to the Michigan Association of Chiefs of Police (MACP) requesting that member agencies notify IAD of any off-duty action involving DPD members.⁵⁵ IAD would then investigate the incident to ascertain if the involved member was in violation of Paragraph U-75.

DPD is in Phase 1 compliance with this paragraph.

Comments:

Our previous report noted that there were no cases reported during that reporting period.

There were no cases reported during this reporting period. During our most recent site visit, we discussed the letter to the MACO with the staff at CRIB, and they advised us that a new letter is being prepared for the Chief's signature.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In 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.*

Policy:

We previously reviewed the applicable directives and found them in compliance with the requirements of this paragraph. Directive 305.4, Holding Cell Areas, effective March 2010; and Directive 305.7, Transportation of Detainees, effective May 2010; remain in compliance with the requirements of this paragraph. DPD's 29th Quarter Report, dated December 31, 2010, identifies the controlling policies for this requirement.

⁵⁵ The most current letter to the MACP is dated April 21, 2010.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

DPD remains in Phase 1 compliance with this paragraph.

Comments:

In the previous reporting period, we noted that our review of the training data for the new Fiscal Year reflected that 33% of the members had received the required training.

During this reporting period, we reviewed the training data for attendance through the midpoint of the new Fiscal Year, and found that 1,362 members (50%) had completed the use of force training, which incorporates the materials related to this requirement.

As noted previously, our reviews of UF002 and UF002a Reports detailed in U15 through U36 continue to cite examples of aid being rendered to subjects who are injured in the course of their arrests. Medical treatment is provided for incidents ranging from shootings to flushing the eyes of subjects who have been sprayed with chemical spray carried by officers. Officers routinely request assistance when dealing with subjects who offer resistance, including summoning a supervisor.

Based on the midpoint member (50%) training level and our reviews of the auditable forms, we find DPD in continued Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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.*

Policy:

We previously reviewed DPD Directive 202.7, Foot Pursuits, effective July 1, 2008, and found it in compliance with the requirements of this paragraph. During our most recent site visit, we reviewed a revised version of DPD Directive 202.7, Foot Pursuits, effective November 2010, and

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

found it to be in compliance with Phase 1 requirements of this paragraph.⁵⁶ DPD 29th Quarter Report, dated December 31, 2010, identifies the controlling policy for this requirement.

DPD is in Phase 1 compliance with this paragraph.

Comments:

Our last quarterly report noted that our review of training data for the new Fiscal Year reflected that 33% members had received the requisite training regarding this directive.

In our previous reports, we also noted that DPD had failed to properly implement the changes to the foot pursuit policy, as required by U71, in that it had not posted to the Department's website the change to the auditable reporting document affected by a Special Order issued August 15, 2009.⁵⁷ The DPD 29th Quarter Report states that this policy was amended, and was presented before the BOPC on December 7, 2010. The policy was approved on January 20, 2011.

Our review of the use of force reports for the last reporting period found that there were eight documented foot pursuit cases. There were no cases documenting a request for reinforcements; two of the cases were pursuits of armed individuals, both of whom discarded their weapons during the chase.

During this reporting period, we reviewed the Fiscal Year midpoint training data, and determined that 1,362 members (50%) attended the training sessions.

Also during this reporting period, there were nine instances of foot pursuits. There were two cases in which reinforcements were requested. In one of the nine cases, the subject being pursued was armed; however, he discarded the weapon during the pursuit. All of the pursuits were documented on the 002 form (100%).

We previously reported that due to DPD's failure to adhere to the requirements in U71, the Department would be placed in pending compliance status. In view of the posting of the revised foot pursuit policy to the website, and the approval of the policy by the Board of Police Commissioners, the DPD is returned to Phase 1 and 2 compliance with the requirements of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

⁵⁶ This revised version of the foot pursuit policy contains the language requiring that foot pursuits ending in a use of force be documented on the 002 use of force auditable form.

⁵⁷ The change was the deletion of the requirement to prepare a DPD Form 699, Foot Pursuit Evaluation Form, and instead utilizing the 002, Use of Force Form.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Critical Issues:

- DPD is making progress toward full compliance in this area, and we see no major issues that suggest concerns about continued progress in this area. DPD must, of course, continue to ensure that all personnel receive the necessary training related to the requirements.

Next Steps:

During the next reporting period, we will:

- Continue to monitor relevant policy changes, including efforts to address the public's interest in policy.
- Continue to heed the training requirements inherent in policy development in this area.
- Review correspondence with the Michigan Chiefs.

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
70	Clear definitions in policies	In Compliance	In Compliance
71	Proposed policy changes open to comm.	In Compliance	In Compliance
72	Advise officers policy violations disciplined	In Compliance	In Compliance
73	Adequate officer/supervisor ratio	In Compliance	In Compliance
74	Enforce misconduct reporting requirements	In Compliance	In Compliance
75	Revise policies regarding off-duty officers	In Compliance	In Compliance
76	Revise prisoner-related policies	In Compliance	In Compliance
77	Develop foot pursuit policy	In Compliance	In Compliance

VIII. MANAGEMENT AND SUPERVISION

A. Risk Management Database

This portion of the Use of Force Consent Judgment addresses several key management areas including the development of a risk management system, audit requirements including in-car cameras, personnel evaluations, and the reduction of a backload of disciplinary cases. Thirteen of the 28 requirements in this section address the development and use of a comprehensive risk management system.

DPD continues to demonstrate high levels of compliance with requirements related to discipline, audits and personnel evaluations. Progress also continues on the development and implementation of the risk management system. Last quarter we noted a new sense of urgency with regard to the development of MAS since the decision was made that it was not necessary to consider alternative systems. We are pleased by DPD's response. The Department has

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

continued to produce monthly reports documenting the changes to the system. The Department has begun the process of revising the relevant policies and other key documents, and is expected to complete the training of all supervisors within a few weeks after our recent site visit. The progress is noteworthy and is reflected in the advancements toward full compliance that are noted below. We now look forward to moving beyond concerns with the technical dimensions of the database, to consideration of the operation of the risk management system as a whole.

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.*

Policy:

Policy relevant to this requirement is found in DPD Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010; and is incorporated into the documents that are mandated as part of the Department's risk management plan. The compliance status with regard to this requirement remains as it has been in since our first report.

Comments:

This paragraph provides a summary of requirements detailed in paragraphs U79-99. Each of the system's components is evaluated separately in the materials that follow. The Data Input Plan, Report Protocol, and Review Protocol have been recognized as sufficient since they were developed under the previous monitor. In light of developmental work on MAS, however, these documents are currently being revised. The implementation of these requirements is moving forward with the work on MAS. However, as it is described in the reviews below, it is not complete.

Accordingly, DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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.

Policy:

DPD Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010, governs Phase 1 compliance with this requirement. DPD has been in Phase 1 compliance with this requirement since our first quarterly visit and remains so for this visit.

Comments:

Prior to our last report, DPD was consistently found out of Phase 2 compliance with this requirement because it had not been established that the early iterations of MAS could satisfy the Judgment's technical demands. After extensive further development and a rigorous test of the system last September, we concluded that MAS could be capable of meeting the risk management requirements. At that time, we determined DPD to be in pending compliance with this paragraph to provide an opportunity for DPD to continue to demonstrate the system's capabilities. In our assessment, we recognized the potential of the system, but did not find that the system met the specifics described in U80-91. In noting that, we understand that additional technical work is required, as is additional training and continued review. We continue to find DPD in pending Phase 2 compliance, with the expectation that full compliance can be achieved during the next reporting period – assuming that the needed work progresses as expected. We also note that failing that, DPD will fall back out of compliance since, consistent with our assessment methodology, the pending status can remain in place for a maximum of two quarters.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending 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;*

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

- 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.*

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Policy:

Phase 1 compliance with this requirement is governed by DPD Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010; and also by the Data Input Plan, noted in U82, which is currently under revision. Based on these documents, DPD is in Phase 1 compliance with this paragraph.

Comments:

As noted in our last report, the development of MAS has proceeded to the point that our attention can move beyond the structure of the system to considering its functionality. During our most recent site visit, this meant making specific inquiries as to the source of the data for each required field and how it is stored in the system. To date, our probes in search of data have reflected the developing status of the system. They have necessarily been general and not precise or exacting enough to allow a finding of full compliance with this requirement. During our most recent examination, we were satisfied that all required categories of data were being collected in MAS, and accordingly, we find DPD in pending compliance with this paragraph. During our next site visit, we will expand our inquiry by seeking to locate specific detailed information that should be on file in MAS from the quarter that will be under review.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending 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).

Policy:

Phase 1 compliance with this requirement is governed by DPD Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010; and also by the Data Input Plan, noted in U82, which is currently under revision. Based on these documents, DPD is in Phase 1 compliance with this paragraph.

Comments:

With regard to Phase 1 compliance with this paragraph, the mandated identifying information is reflected in policy, included in the Data Input Plan developed for the Management Awareness

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

System (MAS), and part of the computerized system in its present form. DPD has been in Phase 1, but not in Phase 2, compliance with this requirement since our first site visit.

We have not recognized Phase 2 compliance with this paragraph, because our tests identified difficulties in retrieving key data points, including personnel information. We placed DPD in pending Phase 2 compliance, based on our largely successful test during the last reporting period. We continue that finding for this reporting period, as the Department is currently finalizing the data entry and storage processes, particularly as they relate to information on civilians. We will review that area again during our next site visit.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending 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.*

Policy:

Policy relevant to this requirement is found in DPD Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010. Our last report raised the concern that the development of MAS had advanced to a point at which policy did not fully reflect the changes in the area. The recent revision of the MAS policy is sufficient to maintain Phase 1 compliance, although approval from DOJ is still necessary.

The Department has also revised its Data Input Plan, which had been approved by the Department of Justice under the previous monitor. The major revisions are reflected in several appendices which provide detailed information on the data input and storage process. These appendices include: a list of data tables in the relational database and a summary of data input requirements which describe the sources of data collected; the schedule for entry; and the party designated as responsible for data submission. The appendices also include a case scenario which illustrates the matching process used to satisfy the common control number related concern described in requirement U86.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Comments:

The revisions described above reflect the current state of design of MAS and move the Department forward with regard to compliance. Given the changes since the first approval, the new documents should also be submitted for review by DOJ. During our next site visit, we will also review the application of these revisions to the operation of MAS.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending 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.*

Policy:

DPD is in Phase 1 compliance with this paragraph based on Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010.

Comments:

As is true of the Data Input Plan discussed above, the Report Protocol was originally approved by DOJ under the previous monitor. The original Report Protocol also no longer reflects the current state of development of MAS. To resolve that issue, DPD has prepared a draft version of revised Report Protocol. The draft describes the reports the system generates and leaves open

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

the revised schedule for the completion of the system. New dates are expected to be presented for the Court's consideration during the quarter considered in our next report. It is also worth noting that, in light of technological advancement of MAS, some reports are expected to be producible directly from the system at any time on an as-needed basis.

DPD's progress on the development of MAS is noteworthy and is reflected in movement toward compliance. As new material is added, we expect revisions to the key MAS documents required under the Consent Judgment to be submitted to DOJ for review. Consistent with a finding of pending compliance, during our next site visit we will also further examine the system's ability to produce the required reports.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending 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;*

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

- 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.*

Policy:

DPD is in Phase 1 compliance based on Policy Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010.

Comments:

The Review Protocol is the third major MAS-related document required by the Consent Judgment. Like the Data Input Plan and Report Protocol, this document is currently being revised. Its status, however, is substantially less complete than that of the other documents. For that reason, we are not yet ready to move to pending compliance on this requirement.

The Review Protocol details the operation of the risk management system. It describes the operation of MAS from the use of the database and the setting of thresholds, through the Performance Evaluation and Enhancement Review Sessions (PEERS) and reviews by Command staff. This critical document provides an important guide for how the system is to work.

DPD is clearly taking care in the preparation of this document. From our review of an early draft, it is clear that significant issues are currently under consideration by the Department. When completed and reviewed by DOJ, the new Review Protocol will support further progress toward compliance with this requirement.

For now, the DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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.

Policy:

Policy relevant to this requirement is found in DPD Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010.

Comments:

The Department continues to be in Phase 1 and Phase 2 compliance with this requirement. Progress on the development of the system has occurred over the past year, and has continued during the review period. As noted in our last report, this requirement outlines an essential problem-solving process that is expected to prevent delays in the development of the risk management system. Although progress since the inception of this Agreement has not been timely, it is also clear that substantial progress is now occurring. That progress is sufficient to demonstrate an expeditious problem-solving as it was envisioned much earlier in the history of this Agreement.

DPD is in Phase 1 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.

Policy:

Policy relevant to this requirement is found in DPD Directive 401.13 Management Awareness System, effective November 6, 2008, and revised November 1, 2010. The specific issue of a

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

common control number or equally effective system is addressed in the revised Data Input Plan. This is sufficient to support a finding of Phase 1 compliance with this paragraph.

Comments:

During this reporting period, DPD addressed the need for a common control number or other equally effective means of connecting information across reports of a single incident by developing an algorithm to link documents in the database. The system now links documents using as many as nine variables. These include such elements as identifying information on officers and civilians involved in the incident, the date of the event, and the Crisnet number. An illustration provided in the Data Input Plan links seven documents using this system. DPD has also incorporated a box to check to retrieve “related documents” directly on the appropriate MAS computer screens.

We have noted in our earlier reports that the common control number problem presented technical challenges. Those seem to have been addressed through the identification of an equally effective approach to linking documents as allowed by this agreement. During our next site visit, we will examine a sample of cases that should contain linked documents in the MAS database.

DPD is in pending Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending 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.

Policy:

Policy addressing this requirement is found in DPD Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010; and is sufficient to support a finding of Phase 1 compliance.

Comments:

The Phase 1 and Phase 2 compliance findings for this requirement remain unchanged. We determined during the last reporting period that previously identified problems of linking personnel data to MAS have been resolved. The required data are accessible through MAS, and the five-year retention policy on personal information is in place.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U88

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

- a. *By January 24, 2008, 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 the purposes of checking the risk management database.*
- b. *The risk management database shall be operational and fully implemented by July 24, 2008.*
- c. *The parties and the independent monitor shall meet on a monthly basis to discuss what actions have been taken during the previous month toward development of the new risk management database.*
- d. *The defendant shall present to the plaintiff and the independent monitor, on a monthly basis, evidence of satisfactory progress sufficient to justify a conclusion that completion of the new risk management database by August 11, 2008 remains feasible. If at any time the plaintiff concludes that successful completion of the project within the timeframes described in this paragraph is unlikely, the plaintiff shall so notify the Court and the defendant. Within sixty days after receipt of such notice, the defendant shall issue an RFP to develop or complete development of the new risk management database as was required by 88c. of this Consent Judgment before it was amended. In that event, the requirements of paragraphs 88.d., 88.e., 88.f., and 88.g. of this Consent Judgment before it was amended shall be enforced, with dates adjusted as follows: the Review Protocol (paragraph 88.d.) shall be issued within five months after issuance of the RFP; the defendant shall select the contractor (paragraph 88.e) within seven months after issuance of the RFP; the beta version (paragraph 88.f) shall be ready for testing within fifteen months after issuance of the RFP; and the risk management database shall be operational (paragraph 88.g) within twenty-six months after issuance of the RFP.⁵⁸*
- e. *By May 31, 2004, the DPD shall select the contractor to create the risk management database.*

⁵⁸ Consent Judgment amendments, November 9, 2007, and July 22, 2008.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

- 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.*

Policy:

Policy relevant to this requirement is found in DPD Directive 401.13 Management Awareness System, effective November 6, 2008, and revised November 1, 2010.

Comments:

All of the timeframes and dates specified in the original Consent Judgment and later extended by the Court have expired. In the latest related development, at a status conference on October 20, 2010, the Court required the City to provide a detailed timeline for moving forward. In its November 10, 2010 filing, the City indicated that the training of staff would take place before February 15, 2011; a risk management plan would be completed by February 20, 2011; and a MAS progress report would be filed on a monthly basis. DPD and the City appear to be on course to meet this schedule.

The Department has demonstrated clear progress on MAS over the past year. Although no firm deadline for the entire system has been established, it appears that this progress should continue in a timely fashion. That being the case, this requirement is clearly one that should be reexamined and perhaps replaced by a requirement that notes that we will continue to review advancements in MAS to ensure that progress continues. In the meantime, the obsolete overall schedule continues to dictate compliance findings.

Accordingly, DPD is not in 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

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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.

Policy:

Policy relevant to this requirement is found in the original version of DPD Directive 401.13 Management Awareness System, effective November 6, 2008. The Interim Management Awareness System is also noted in the November 1, 2010 revision of the policy, although that interim system is no longer needed.

DPD is in Phase 1 compliance with this paragraph.

Comments:

In accordance with the Consent Judgment, DPD developed and used the Interim Management Awareness System (IMAS) prior to development of MAS. With progress on the current system, the need for IPAS has been superceded. The compliance status, therefore, remains unchanged. This requirement should be considered for removal from further review.

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.

Policy:

Policy relevant to this requirement is found in DPD Directive 401.13 Management Awareness System, effective November 6, 2008, and revised November 1, 2010. This policy, and the related Data Input Plan and Review Protocol, acknowledge the need for periodic revisions and present the general process to be undertaken to accomplish that goal.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

DPD is in Phase 1 compliance with this paragraph.

Comments:

Compliance with this paragraph is unchanged from the prior reporting period. Documentation of the system in the Review Protocol includes descriptions of the process of using the system and its updating and revision, thus meeting the requirements of Phase 1 compliance. Since initial implementation is underway but not complete, and since DPD has not yet submitted proposals for change to DOJ for review and approval, we do not find DPD in Phase 2 compliance with this paragraph at this time. The issue is particularly relevant with regard to the revised version of the Data Input Plan, Report Protocol, and Review Protocol. Once the DPD completes its drafts, they should be submitted to DOJ for review.

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 below the rank of Deputy Chief occur at least annually and include, but are not limited to, consideration of the following:*⁵⁹

- 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.*⁶⁰

Policy:

Phase 1 compliance with this requirement is satisfied by Directive 401.2, Performance Evaluation Ratings, effective July 1, 2008, and revised November 1, 2010. DPD has remained in Phase 1 compliance with this paragraph since the first reporting period.

⁵⁹ Consent Judgment amendment, October 4, 2004.

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.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Comments:

DPD has been in full compliance (Phase 1 and Phase 2) for the past four reporting periods. The governing directive, describes above, 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.

To assess DPD's Phase 2 compliance with this paragraph, we requested random samples totaling 100 employee evaluations drawn equally from the duty rosters of the Tenth Precinct and the Southwestern District. For this analysis, DPD located all 100 evaluations. Our examination of all performance reviews showed that all were individually completed with original narratives, references to "no change in status," or references to material in MAS. All but four were signed off by the person being reviewed, the reviewer, and commanders, when appropriate. Six other evaluations were unsigned or undated because the reviewed officer was on sick leave or military leave, or listed as disabled. Based on our review of the sample of performance evaluations, DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

C. Oversight***CJ Requirement U92***

*The DPD shall develop a protocol for conducting annual 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. The annual audit period for conducting the audits required by paragraphs 93 to 97 for the first year shall end on August 31, 2004. The subsequent annual periods shall end on July 17, 2005, and every year thereafter.*⁶¹

Policy:

The DPD document, "Audit Protocol," was revised, and approved. It became effective October 31, 2010. DPD is in Phase 1 compliance with this paragraph.

⁶¹ Consent Judgment amendment, October 4, 2004.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Comments:

In the four most recent reporting periods, we found DPD in Phase 2 compliance with this requirement. That status is continued for this reporting period. A new Audit Protocol was completed, reviewed, and approved by the CRIB Commander (on October 31, 2010), and now governs the audits process. It specifies the audit calendar established in this requirement.

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.

Policy:

The DPD document, "Audit Protocol," was revised, and approved. It became effective October 31, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

DPD has been in full compliance with this requirement for the past four reporting periods. The status regarding this requirement remains unchanged at this time. Audit procedures, and a review of the new audits make it clear that the results of the audits reach the Chief of Police and each precinct or specialized unit commander, as required. Corrective Action Reports are also required.

During our most recent site visit, we reviewed the notification of Chief's and Assistant Chief's receipt of audit summaries (memos signed and dated October 22, 2010). Corrective Action reports from precinct supervisors or commanders to the Commander of the Civil Rights Integrity Bureau (CRIB) provide specific responses to concerns raised in the audits. The audits and corrective action are also discussed at the Command Compliance Review Meetings. This information satisfies the requirements for Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

CJ Requirement U94

*The DPD shall conduct regularly scheduled annual audits, covering all DPD units and commands that investigate uses of force, prisoner injuries, and allegations of misconduct. The audits shall include reviewing a statistically valid 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.*⁶²

Policy:

The DPD document, "Audit Protocol," was revised, and approved. It became effective October 31, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

Consistent with our findings during the previous reporting periods, DPD remains in compliance with this paragraph. The revised audit protocol governs current audits. Annual audits are required and completed according to the set schedule. The audits of investigations of use of force, prisoner injuries, and allegations of misconduct cover all relevant DPD units. Many of these audits were completed in July and were reviewed for the last reporting period. They will be due again next July. The audits produce highly critical reports of the investigations. Those reports are then associated with Corrective Action Reports, which provide some evidence that the audit findings and recommendations are being acted upon. The structure and process of the audits, rather than their outcome, is what is relevant to this requirement. Audits covering COC requirements are currently being completed as required by the schedule.

DPD is in Phase 1 compliance based on the completed and adopted audit protocol, and is in Phase 2 compliance based on the quality of the audits.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U95

The DPD shall conduct regularly scheduled annual audits covering all precincts and specialized units that review a statistically valid 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

⁶² Consent Judgment amendment, October 4, 2004.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

*comparison of the number of arrests for which warrants were sought to judicial findings of probable cause.*⁶³

Policy:

The DPD document, "Audit Protocol," was revised, and approved. It became effective October 31, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

We found DPD in Phase 2 compliance with this requirement in the last reporting period. At that time, we determined that the specifically mandated audit requirements were being met. In our last report we also reviewed the sampling of cases as it was required in the July audits. The structure and process of the audits, rather than their outcome, is what is relevant to this requirement. DPD is in Phase 1 compliance based on the current active audit protocol, and continues in Phase 2 compliance based on the completion of the audits in a manner consistent with that protocol.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U96

*The DPD shall conduct regularly scheduled annual 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.*⁶⁴

Policy:

The DPD document, "Audit Protocol," was revised, and approved. It became effective October 31, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

We found the DPD in full compliance with this paragraph during previous reporting periods. That status remains unchanged for this reporting period. New custodial detention audits of all

⁶³ Consent Judgment amendment, October 4, 2004.

⁶⁴ Consent Judgment amendment, October 4, 2004.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

relevant facilities were completed in accord with the July due date. The annual audits examining custodial detention practices will be due again next July.

DPD is in Phase 2 compliance based on the completion of the audit in a manner consistent with that protocol.

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 annual audits that examine external complaints and complaint investigations. The audit shall include reviewing a statistically valid 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.*⁶⁵

Policy:

The DPD document, "Audit Protocol," was revised, and approved. It became effective October 31, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

We found DPD in Phase 1 and Phase 2 compliance with this requirement in the last reporting period. At that time, we determined that the specifically mandated annual audits were completed satisfactorily. The audit produced 11 calls for corrective action and recommendations. The problems are addressed elsewhere in this report (C28 and C29). DPD is in Phase 1 compliance based on the current active audit protocol, and is in Phase 2 compliance based on the completion of the audit in a manner consistent with that protocol.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

⁶⁵ Consent Judgment amendment, October 4, 2004.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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.

Policy:

DPD Directive Number 303.3, which has been revised several times in the past few years, addresses the requirement that periodic random reviews of scout car videos and equipment be conducted. On February 22, 2010, Directive 303.3 was revised to require supervisors to review one video randomly selected for every MVS-equipped car on every shift and to document the results on the supervisor's activity log.

DPD is in Phase 1 compliance with this paragraph.

Comments:

During the past year, DPD has made progress in successfully installing MVS equipment throughout the Department. During our October 2010 site visit, we determined that the DPD had exceeded its goal of equipping 300 scout cars with MVS; it had 313 cars equipped and operational.

During our most recent site visit, we interviewed the Deputy Chief for Technology, and reviewed MAS to determine whether random reviews were being conducted as required by revised Directive 303.3. During the current reporting period (October 1, through December 31, 2010), DPD supervisors reviewed 7,870 videos. Of these reviews, 6,815 were determined to be working units in which a recorded video was found. In the remainder of the reviews, the video was not present in the system at the time the review was conducted.

The Department is in pending Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending Compliance

CJ Requirement U99

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

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Policy:

Policy relating to this requirement is contained in Special Order 11-07 Training, Effective January 11, 2007. This order expires on December 31, 2011, and is currently being incorporated into DPD's policy directives.

Comments:

Since 2004, the Department has been in full compliance with requirement U99. During our most recent site visit, we met with the DPD Commander who attended the quarterly meeting on November 3, 2010, along with other DPD command staff and prosecutors. We also reviewed the documentation of that meeting. The topics discussed included warrant requirements, an officer's failure to appear in court, and other issues related to the management of cases for prosecution. The Department remains in Phase 2 compliance with U99.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

D. Use of Video Cameras***CJ Requirement U100***

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

Policy:

We found previously that the DPD had modified applicable directives to comply with the requirements of this Consent Judgment paragraph. Directive 303.3, In Car Video, effective June 21, 2004, and revised February 22, 2010, requires DPD officers in precincts where operational MVS systems have been placed to ensure that the audio/video equipment is working properly at the beginning of their shift, check the equipment, and record the results of their inspection on the Officer's Daily Activity Log. The policy directs that any vehicles with non-functioning MVS equipment be transported to the Lyndon Garage facility where the equipment is to be repaired or replaced. The Department is in Phase 1 compliance with this paragraph.

Comments:

During the previous reporting period, we found that DPD had made progress in repairing its non-functioning MVS equipment. The Department originally estimated that it had about 300 MVS units that it could successfully repair. As of this reporting period, DPD has completed work on 313 of the MVS units. In addition, the DPD had completed work on its request for proposals to acquire new, upgraded MVS equipment. The Department has acquired 46 new MVS systems that it expects will be more durable and will provide enhanced management support to enable

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

DPD supervisors to monitor the use of the equipment more effectively. We found during our most recent site visit that this complement of MVS equipped cars has remained the same. The DPD is now working to place 46 new automobiles in its fleet. The IT staff is focusing on upgrading the precinct/district wireless sites in order that they can receive and upload the data from the new MVS equipment. The new equipment is expected to be available in March 2011, after the wireless capabilities have been enhanced.

During this reporting period, we interviewed DPD Technology Bureau staff, and reviewed maintenance logs and other records relating to the repair and installation of MVS equipment. We found that of 718 service repair requests, the DPD IT Bureau was able to promptly complete work on 647. The machines that were not repaired promptly were in need of additional parts that had to be ordered or were not practicable candidates for repair. Of these service repairs of MVS equipment and computers, the average repair time was one hour and 12 minutes. During our next site visit, we will review 100 repair records from the previous quarter to determine whether >94% of the repairs were completed within a reasonable time period. DPD is in pending Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending 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.*

Policy:

DPD remains in Phase 1 compliance with this paragraph. Directive 303.3, In Car Video, effective June 21, 2004, and revised February 22, 2010, requires that officers activate video cameras at all times while on patrol, supervisors conduct reviews prescribed in U101, and the Department preserves all recordings as mandated.

Comments:

In the past year, we have observed the DPD make progress in two of the three sub-requirements of U101:

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

- a. The DPD has made progress in repairing and equipping its cars with MVS systems. The cameras are set to operate 100% of the time on patrol. MVS units capture one frame of video per second at all non-emergency times. Whenever the emergency lights are activated, the units switch to full-video mode and capture 28 frames per second.
- b. While supervisory review of videotapes involving injuries to a prisoner or officer, uses of force, vehicle pursuits, and external complaints are required, DPD has been unable to provide comprehensive data identifying all such incidents. Measurement of compliance with U101b cannot, therefore, be accurately performed.
- c. DPD preserves and retains videos, as required by U101c.

During this reporting period, we found that the capabilities of MVS have been extended throughout the Department. A total of 313 cars have been equipped with systems that are set to operate all the time when the officer is on patrol; systems are set to record one frame per second during routine operations, and to accelerate to full video when traffic stops or other events to be recorded occur.

We conducted a review of Crisnet reports to identify pursuits during the quarter under review. Twenty-four such incidents occurred during this reporting period, and 36 different vehicles were identified as having participated in these pursuits. Twenty-six of the 36 vehicles had operational MVS systems installed. The incident was captured on video in 19 (73%) of these pursuits. In only 12, however, was audio activated. The Department is in Phase 2 compliance with U101a and U101c. It is not yet in compliance with U101b.

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.

Policy:

DPD remains in Phase 1 compliance with this Consent Judgment requirement. DPD Directive 303.3, In-Car Video, effective June 21, 2004, and revised February 22, 2010, requires that DPD officers activate video cameras at all times on patrol and specifically record all motor vehicle stops, consent searches of vehicles, and deployments of drug detection canines.

Comments:

As of the last reporting period, 313 of DPD's MVS systems are operational. This number remains unchanged for the current reporting period. The Department is now upgrading the

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

wireless receivers at the various precincts and districts to ensure that the new MVS units, when installed, will function properly.

During this reporting period, we selected a random sample of 102 traffic stop records from the traffic violations issued in October 2010, and 111 traffic stop records from the traffic violations issued in November 2010. The December records were not available for review. Of the October 2010 records, 76 (75%) contained video, and seven (7%) contained audio. Of the November 2010 records, 92 (83%) contained video, and 21 (19%) contained audio.

DPD is not in Phase 2 compliance with this paragraph.

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.

Policy:

The policy governing this area is Directive Number 102.4, Discipline/Misconduct Investigations effective July 1, 2008, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

During the last four reporting periods, we found DPD in Phase 1 and Phase 2 compliance with this paragraph due to the addition of staff and improvements to the physical space of the unit, including the addition of hearing rooms. The staff of the unit continues to include one lieutenant, three sergeants, three police officers, and one non-sworn employee. Resources for this unit have not changed since the last review.

Summary statistics continue to show that the unit is making significant efforts to address the volume of cases on its books. This quarter 56 cases were closed, while 98 new cases were opened.

Disciplinary Unit personnel continue to report that they have now eliminated the “backlog” of cases. More specifically, this means that the Disciplinary Unit has no cases from before 2008, three cases remaining from 2008, and 11 that were opened in 2009. A total of 137 cases are open from 2010. A review of the 2008 and 2009 cases reveals that they remain open for one of three common reasons: the officer involved is on military or sick leave; or the officer is currently suspended. One case from 2009 remains on hold pending an IAD investigation, and another is scheduled was for an upcoming trial board. Delays in commanders’ actions, as noted

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

last quarter, have not occurred during this quarter. The Disciplinary Unit continues to work with the Department's legal counsel to find appropriate ways to close long-open cases.

We previously noted several strategies identified and developed within the Disciplinary Unit to assist in expediting cases to closure when appropriate. These strategies include consultation with legal counsel, as noted above, and a streamlined process for completing trail board write-ups by commanders. Looking forward, the Disciplinary Unit is negotiating with the relevant labor organizations to permit further streamlining of the disciplinary process.

The Disciplinary Unit has resolved the problem of backlogged cases that was evident just a year ago. The unit has also developed effective means of moving cases forward and appropriately dismissing some lingering cases. It has also worked to develop procedures to prevent a backlog of cases from accumulating to track cases through the disciplinary process.

Thus, we find DPD in Phase 1 compliance based on the existence of appropriate policy and the maintenance of available resources, as noted above. We find DPD in Phase 2 compliance with this paragraph based on the Department's continued progress with case closures.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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.

Policy:

Directive Number 102.4, Discipline/Misconduct Investigations, effective July 1, 2008, and revised November 1, 2010, governs processes related to this requirement.

Comments:

We have found DPD in compliance with this requirement in the last four reporting periods. The Department continues in that status for this reporting period. DPD manages disciplinary cases with reference to the schedule provide in its Disciplinary Process Timelines document as revised August 29, 2006. These guidelines comply with the intent of this paragraph.

As noted above, DPD opened 98 disciplinary cases and closed 56 cases during the current reporting period. We reviewed the cases closed by the Disciplinary Unit during this time period, which included 22 in October, seven in November, and 27 in December. All of the cases were closed within the timeline prescribed in policy. Based on existing policy and our review of cases, DPD is in both Phase 1 and Phase 2 compliance with this requirement.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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.*

Policy:

Under DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008, and revised November 1, 2010; and the DPD Discipline Matrix (DPD22a); the Department is in Phase 1 compliance with this paragraph.

Comments:

Our analysis of case closures for the last four reporting periods found DPD in compliance with this requirement. That status is retained for this quarter.

DPD Directive 102.4, Discipline; and DPD Discipline Matrix (DPD22a) set forth complete, understandable procedures that include a presumptive range of discipline sanctions based upon both an officer's prior violations of the same rule as well as other violations. We examined all 56 cases that were closed during the current reporting period, and found that all discipline decisions fell within guidelines described in policy. Penalties were all consistent with policy regarding expected severity of sanctions.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT

April 15, 2011

Critical Issues:

- ***Risk Management and the Status of MAS:*** DPD continues to make progress on MAS. The Department's monthly updates help the Monitoring team to follow these developments. The Command Compliance Meetings have also provided a valuable forum for addressing important issues relevant to our compliance assessment in this area. Consistent with our methodology, the Department can remain in pending compliance status for only two quarters before reverting to being classified as out of compliance. With the movement of some tasks to pending compliance it is important to complete the work needed to achieve full compliance on these tasks. The following issues should be considered in preparation for our next site visit:
 - Progress on the technical issues has been accompanied by advancements in training supervisors and command staff on the use of MAS. It is now important to assess that use to ensure that the full risk management process is working as expected.
 - Finally, we again note the importance of integrating MAS into a broader perspective of risk management. We were pleased to see some effort toward this during our last site visit. It is important that MAS be recognized as part, but only part, of a system of continuous assessment, feedback, and appropriate response to problems of risk. The management of risk should be recognized as an important function throughout the Department and throughout the City of Detroit. (See Appendix D for a review of data that may contribute to a broad view of risk management in the Department.)
- ***In-car Video Progress:*** During the past year, the DPD made progress in its implementation of MVS using equipment that some had written off as unsalvageable. The DPD has now reached 100% of its goal of making 300 units of MVS equipment operational. It is now appropriate that the Department concentrate on gaining compliance with the requirements that the units be activated where appropriate by its officers.

Next Steps:

- ***Risk Management:*** We will continue to monitor development of the MAS database during our next site visit. We will also examine progress on the policy developments in this area. In light of the technical advancements noted in our reports, we will add to our focus greater attention to the functionality and efficacy of the system. Specifically, we will examine the PEERS process and its outcomes to ensure that these meet the requirements of the Consent Judgment.
- ***In-car Video:*** Each month, the DPD TSB will produce a spreadsheet identifying the traffic stops that occurred in the previous month. The TSB will send the spreadsheet to the Monitoring Team electronically, and we will select a sample of incidents to be audited during the next review period. Also during the next reporting period, we will

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

review 100 repair records from the previous quarter to determine whether >94% of the repairs were made within a reasonable time period.

- **Discipline:** The Department has virtually eliminated the problem of backlogged cases. We will, therefore, continue to monitor the disciplinary process to ensure that no similar problems arise.

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
78	Comprehensive Risk Management Plan	In Compliance	Not in Compliance
79	Improve risk management system	In Compliance	Pending Compliance
80	Database requirements (a-z)	In Compliance	Pending Compliance
81	Database to include officer information	In Compliance	Pending Compliance
82	Data Input Plan (a-d)	In Compliance	Pending Compliance
83	Report Protocol for database (a-c)	In Compliance	Pending Compliance
84	Review Protocol for database (a-l)	In Compliance	Not in Compliance
85	Use modules to ensure work progress	In Compliance	In Compliance
86	Common control number required	In Compliance	Pending Compliance
87	Data retention	In Compliance	In Compliance
88	Database schedule (expired)	Not in Compliance	Not in Compliance
89	Interim database (rescinded)	In Compliance	In Compliance
90	Change process needs DOJ approval	In Compliance	Not in Compliance
91	Annual officer review criteria specified	In Compliance	In Compliance
92	Protocol for conducting audits	In Compliance	In Compliance
93	Audit results to Chief and commanders	In Compliance	In Compliance
94	Quarterly audits-use of force	In Compliance	In Compliance
95	Quarterly audits-probable cause/stop-and-frisk	In Compliance	In Compliance
96	Quarterly audits-detention practices	In Compliance	In Compliance
97	Quarterly audits-external complaints	In Compliance	In Compliance
98	Random reviews of in-car camera videos	In Compliance	Pending Compliance
99	Regular meeting with local prosecutors	In Compliance	In Compliance
100	Replace/repair video cameras	In Compliance	Pending 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	In Compliance	In Compliance
104	Scheduling of disciplinary cases	In Compliance	In Compliance
105	Disciplinary matrix of responses/sanctions	In Compliance	In Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

IX. TRAINING

During our most recent site visit, we visited the Detroit Police Training Center and interviewed the Deputy Chief, the Commander, and a sergeant. We also reviewed a variety of memoranda and policy material and the seven lesson plans used in recruit and in-service training. We observed Field Training Officer classroom instruction.

The Deputy Chief and Commander understand that training is fundamental to the Chief's effort for Departmental reform. From our initial reviews until now, the instructional process has made progress in the development of training policy, the association of DPD training needs to what is taught, and the methodology of instruction. We have seen improvement in the manner and content of training, in general, and in recordkeeping in support of training. During the past year, the primary challenge in Training was for the DPD to obtain full participation in its in-service training programs. It did so first with its bi-annual firearms training program in January 2010, in which 99% of the officers available to be trained attended and qualified. In July 2010, we determined that the DPD trained 99% of its available personnel in its in-service programs. Since compliance can be determined annually after June 30, when the Fiscal Year has ended, we are monitoring DPD's progress towards remaining in compliance for the next year.

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.

Policy:

In our previous on-site reviews, we found DPD policies, as published in DPD Directive 304.2-Section 6.1 and Special Order 10-02, Training, effective January 16, 2010, requires the training of all members "by qualified instructors in any authorized lethal or less lethal weapon they carry...and that all sworn members attend mandatory annual training on use of force, laws of arrest, search and seizure, the PR-24 Baton and bi-annual firearms use." The responsibility for the coordination, development, approval, and delivery of all use of force, arrest, and detention training rests with the Commander of Training. These directives also require that semi-annual evaluations of training be conducted. DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD audited use of force instructional classes by training managers and produced a report, "Training Oversight and Development Report – Semi-Annual Review, December 2010," that addresses requirement U106. This report is the fourth such report to be issued; and contains the evaluation of use of force, arrest, and detention training and covers all elements of this

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

requirement. Each instructor is rated and the evaluator's comments were discussed with the instructors and recorded in the report.

The DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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.*

Policy:

Special Order 10-02, Training, effective January 16, 2010, remains in effect during 2010, addresses this requirement. DPD is in Phase 1 compliance with the requirements of this paragraph.

Comments:

To assess Phase 2 compliance with this paragraph for this reporting period, we met with the Training Director and staff at the Training Center, and reviewed training records. We found that the DPD training complies with the Michigan Law Enforcement Council's standards and Michigan law. With regard to subparagraphs a-f, during the past year we found as follows:

- a. DPD lesson plans (Use of Force, July 3, 2009; Arrest and Search and Seizure, May 14, 2007; Detention Officer Training, May 30, 2007) addressed this requirement. The UOF lesson plan was modified effective July 2010. We observed training sessions, needs assessments, and evaluations of training.
- b. The DPD has developed use of force and arrest and detention training curricula that outlines the subjects taught in use of force and arrest and detention training. The curricula are consistent with the required standards.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

- c. The DPD process for the selection of new training personnel is limited by the existing collective bargaining contracts for sergeants and lieutenants. This contract requires that trainers be selected on the basis of seniority – rather than ability, instructional ability, or expertise. There is, however, an allowance for the screening out of personnel applying for these positions on the basis of certain disciplinary issues.⁶⁶ This process significantly mitigates the ability of DPD to select trainers who can provide the training required by contemporary policing standards; and more importantly, by police officers working in large cities or metropolitan areas. The selection of non-ranking member candidates for trainer positions are not so limited by a collective bargaining contract and a more involved process for their selection is in place. During the past quarter only one officer was added to the training compliment. That officer was selected based on seniority under the union contract.
- d/e. As we have observed in past reviews, DPD policy, curricula, and lesson plans address these provisions. A fourth evaluation report for the past operational year (dated December 2010) was produced by the Training Committee chaired by the Commander of Training. Members of the Training Committee are identified below. The first report for the current training year is due to be completed in December 2010.
- f. The DPD Training Committee documented its efforts in a January 2011 report to implement its plan to complete the Department's assessment of training needs for the next operational year. The Training Committee is headed by the Commander of Training; and includes the Deputy Chief who oversees Training, the Commander of the Criminal Investigations Bureau, the Commander of Risk Management, the Commander of CRIB, the Police Legal Advisor, and three members from the Patrol Operations Bureau (rank unspecified).

In the past, the committee completed reviews of audits; Internal Affairs cases; police legal issues; contemporary national best police practices; and internal training needs surveys conducted by a first-line supervisor of field personnel regarding use of force, arrest, and detention, as well as other operational issues to gain field perspectives and surface any unknown training deficits. Its January 2011 memorandum discusses the following deficiencies and training remedies identified during the past quarter: Use of Force De-Escalation Techniques; Detainee Processing Forms; Documentation of Stop & Frisk; Documentation of Use of Force; In-Car Video; DNA Collection; Felony Traffic Stops; and Destruction of Animals. A weakness in each of the topical areas is discussed and training or other remedy outlined.

The Department has identified and analyzed key deficiencies, and made amendments to its training curricula in order to rectify the problems it identified. Based on the Department's continued progress, we find DPD in Phase 2 compliance with this requirement.

⁶⁶ Section 23, A2 of the lieutenants' and sergeants' union contract states, "Whenever openings occur in precincts, sections or units, the most senior employee on the list shall be transferred." Seniority is defined by Article 18 of this Agreement.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.

Policy:

The DPD addresses this requirement through Special Order 10-02, Training, effective January 16, 2010. This policy places responsibility for creating and maintaining training records on the Training command. DPD is in Phase 1 compliance with this paragraph.

Comments:

DPD has captured data relating to its in-service training, and recorded it on a spreadsheet. Since the spreadsheet is used by the Department to determine if all of its officers have attended the required in-service training sessions, we conducted audits of its accuracy during the past and current reporting periods. In both reviews, we randomly selected 100 officers who were listed on the spreadsheet as having received and complete in-service training. Since there are six sessions recorded on the sheet (Detention, PR-24, Firearms, Use of Force, Report, and Legal), a total of 600 records should be recorded for the 100 officers selected at random. DPD Training was able to locate sign-in sheets reflecting attendance for all 600 training sessions (100%) during the previous reporting period. During the current reporting period, it located 599 (99%).

During our previous reviews, we found that the Department committed to recording training data in the MITN System, a part of the Michigan Commission on Law Enforcement Standards (MCOLES) data system. We were advised that DPD has entered data on all of its training into the MITN System from January 2009, forward. In addition, the Department has begun retroactively entering training records for all of its members, in an effort to electronically store records dating to the beginning of the Consent Judgment. Data for years 2005 through 2007 are now complete. The Department has partially completed 2003, 2004, and 2008 data.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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 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.

Policy:

Special Order 10-02, Training, effective January 16, 2010, is consistent with the requirements of this provision. The DPD continues in Phase 1 compliance with this paragraph.

Comments:

During the first reporting period, we found that the DPD training directive and lesson plans properly direct and instruct on the relevant provisions of the Consent Judgment.⁶⁷ Our review of the actual lesson plans and curricula documents indicated that they were sufficiently crafted to meet the requirements of the Consent Judgment. However, the local scenarios required by U109 had not yet been developed.

In the second reporting period, we found that the DPD had developed five scenarios utilizing Internal Affairs incidents, and accepted them for incorporation into use of force training. During our next site visit, we were informed that five additional scenarios, for a total of 10 scenarios, had been incorporated into mandated training. Also during that visit, we were advised that the DPD had developed another 12 scenarios which were not being used as training materials. Our review of training curricula, lesson plans, and scenarios show that they properly instruct and convey the requirements of the Consent Judgment and DPD policy. The Department remains in Phase 2 compliance with this paragraph. We will review future changes and report on their compliance in coming quarterly evaluations.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.

⁶⁷ See Training Oversight and Development Report, Summer, 2009.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Policy:

The DPD was found in compliance with this requirement by the previous monitor.

Comments:

The DPD met with the City Law Department pursuant to this requirement on November 17, 2010. Meetings are held quarterly. The DPD remains in compliance with U110.

Compliance Status:

Phase 1: In compliance

Phase 2: In compliance

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 affected 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:

Recruits receive this training after they complete their state certification exams and before they graduate from the Academy. Civilian employees receive this training from CRIB. We found that no new civilian employees were hired during the last quarter.

During our last site visit, we found that since appropriate policies have been promulgated to ensure that this training will be continued for as long as is necessary, we find DPD in both Phase 1 and Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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:

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

- 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*
 - j. *consideration of the safety of civilians in the vicinity before engaging in police action.*

Policy:

Special Order 10-02, Training, effective January 16, 2010, which was in effect during the current reporting period, covering October through December 2010, addresses the requirements of U112. The order specifies that officers who do not attend in-service training shall be placed in an administrative "no gun" status and relieved of their police powers until they successfully complete the next training session. Based on this policy, we found DPD in Phase 1 compliance with this paragraph. That status remains for the current reporting period.

Comments:

In past site visits, we reviewed training policy directives, curricula, lesson plans, Special Orders, and Teletypes, among other materials purported to address the requirements of U112 during

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Fiscal Year 2011 (July 1, 2010, through June 30, 2011).⁶⁸ Our review and analysis showed that the course content requirements of U112 and all of its subparagraphs were met for all recruits and in-service trainees.

In July 2010, we found that 99% of available members had been trained in use of force for that training year.

During our most recent site visit, our observations for the first two quarters of the new training year show that at the midpoint of the training year (the end of the last quarter) 1,362 DPD officers (50% of its complement of 2,727 members listed as “available to train”) had attended Use of Force training. This is 5% ahead of last year’s rate in which 1,233 officers (45%) were trained at the same point in the year.

As the Department met the 94% or greater requirement for the prior year and remains on a course to train its complement of officers this year, the Department maintains its Phase 2 compliance for this quarter.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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 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;*

⁶⁸ For our assessment, we reviewed lesson plans, instructor guides, student guides, handouts, and other materials as follows: Firearms Lesson Plan and associated guides and materials, dated January 24, 2008; PR-24 Basic Course 2007; Internal Affairs Lesson Plan and associated guides and materials; dated September 12, 2008; Use of Force Lesson Plan and associated guides and materials, dated July 3, 2009; Detention Officer's Training Lesson Plan and associated guides and materials, dated May 30, 2008 and; Law of Arrest and Search and Seizure Lesson Plan and associated guides and materials, dated May 14, 2007.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

- d. *Incorporates evaluation criteria to determine satisfactory completion of recruit and in-service firearms training, including:*
- e. *Maintains finger off trigger unless justified and ready to fire;*
- f. *Maintains proper hold of firearm and proper stance; and*
- g. *Uses proper use of force decision making.*

Policy:

During our first site visit to the Training Center, we found the DPD in Phase 1 compliance with U113. (See Teletype 09-02385.) During our next review, we determined that the training policy codified in the then new Special Order 10-02, Training, effective January 16, 2010, which was in effect during 2010, and requires the development of curricula, lesson plans, and training scenarios that address the items of this paragraph. The policy directs that officers who do not attend firearms training and qualify bi-annually have their firearms removed and be relieved of their police powers until they attend a firearms training session and qualify.

DPD is in Phase 1 compliance with this paragraph.

Comments:

Following the completion of the last training year, the Department had trained 99% of its members for that year and sustained compliance in both six-month segments of the year. As reported in U21, we found that during the first six-month period of Fiscal Year 2011 (July 1, through December 31, 2010), 2,651 officers (97%) of the 2,727 officers available to train qualified at DPD Firearms training. An additional 107 officers were “not available” due to medical situations or military leave. Fifteen officers were placed in “no gun” status until they qualified. All 15 subsequently qualified. The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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:*

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

- c. *Advising officers that the “possibility” that an individual committed a crime does not rise to the level of probable cause;*
- d. *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*
- e. *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*
- f. *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.*

Policy:

Special Order 10-02, Training, effective January 16, 2010, which was in effect during 2010, and the Law of Arrest and Search and Seizure Lesson Plan and associated guides and materials, dated May 14, 2007, brought DPD into Phase 1 compliance with the requirements of this paragraph.

Comments:

Use of Force, Search, and Detention training compose an eight-hour block on use of force; and a four-hour block on arrest, search, and detention. Annual training is provided by DPD in its in-service training program for officers and supervisors. During the period of July 1, 2009, through June 30, 2010, the Department trained 99% of its available members and achieved compliance with this paragraph.

We noted in our last review that the DPD was in compliance for properly training its members on the legal requirements to stop, frisk, and search citizens, but that there appeared to be an operational disconnect. The Department was not yet in compliance with the requirement that each member who makes a stop or frisk document, in writing, the factors leading to such action illustrating the legal justification. Nor were supervisors conducting effective report reviews to address a lack of information documentation or to correct an improper action. Though we saw this as primarily a supervisory issue, we discussed this observation with the Training and Risk Management commanders for their consideration and action. We were informed that these issues will receive appropriate attention in their ongoing training needs assessment. We found that the needs assessment, completed in time for our most recent site visit, is indeed responsive to these issues and specifically addressed Use of Force De-Escalation Techniques; Detainee Processing Forms; Documentation of Stop and Frisk; Documentation of Use of Force; In-Car Video; and Felony Traffic Stops.

During our most recent site visit, we found that the DPD had trained 1,359 officers (50%) of 2,727 members in Arrest procedures, as compared to 1,237 members (45%) for the same period of last year, for a 5% increase in the rate of training. The DPD maintains its Phase 2 compliance status for this reporting period.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.

Policy:

Special Order 10-02, Training, effective January 16, 2010, directs sworn members of the Department to attend in-service training where these critical subjects are taught. DPD is in Phase 1 compliance with this paragraph.

Comments:

In previous reporting periods, we found that the DPD had developed appropriate policies and lesson plans to comply with this provision, as well as a protocol to train all recruits, sworn members, confinement officers, investigators, and supervisors.⁶⁹ All officers who attend use of force in-service training receive the detention training specified by this requirement. Officers who serve in the detention cell areas are required to receive *additional* annual detention officer training, which is more specifically related to detention responsibilities (see C73). During the last training year period, 99% of members met all of these requirements. Our observations for the first two quarters of the new training year show that at the midpoint of the training year (the end of the last quarter) 1,362 Detroit officers (49.9% of its complement of 2,727 members listed as “available to train”) had attended Use of Force training. This is 5% ahead of last year’s rate, in which 1,233 officers (45%) were trained at the same point in the year.

Our review found that DPD in-service training afforded to all officers meets the requirements of U115. The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

⁶⁹ Law of Arrest and Search and Seizure Lesson Plan and associated guides and materials, dated May 14, 2007; Detention Officer Training Lesson Plan, dated May 30, 2008.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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 gathering of additional evidence or obtaining a confession.

Policy:

Special Order 10-02, Training, effective January 16, 2010, and lesson plans on arrest, search and seizure, and detention previously referenced address this requirement. The Department is in Phase 1 compliance with this paragraph.

Comments:

Our last review found that the DPD had incorporated these training requirements into its Use of Force lesson plan, that it was meeting its training obligation and had trained greater than 94% of its members during the past training year. As noted above (see U115) the DPD is training officers at a higher rate this year than last and is expected to again exceed training >94% of its officers.

The Department remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.

Policy:

In previous reporting periods, we found the DPD to be in Phase 1 compliance with U117. DPD Training Directive 04-1, Confinement of Material Witnesses, effective March 21, 2005; specifies that a material witness can be taken into custody only upon an order from the court where the criminal matter is pending. DPD remains in Phase 1 compliance with this paragraph.

Comments:

This is consistent with DPD arrest policies articulated in DPD Directive 202.1, Arrests, effective July 1, 2008. Departmental policy clearly states, “[O]nly a court has the authority to decide

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

whether an individual is a material witness, and whether that material witness should be committed to jail pending his or her testimony.”

Material witness training has been incorporated into the Use of Force lesson plan. As noted above (see U115) the DPD is well on its way to meeting the requirements of training >94% of its officers in use of force during this training year.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

F. 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.

Policy:

During the previous reporting period, we found that DPD Special Order 10-02, Training, effective January 16, 2010, specifies that DPD in-service training include “appropriate evaluation of written reports, including what constitutes a fact based description.” The DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD strove to fulfill Consent Judgment Requirements U118-122 through its annual in-service training for supervisors. The Department came into Phase 2 compliance with this paragraph when it trained >94% of its supervisors in its annual in-service training program which we documented in our July 2010 review. During Fiscal Year 2010 (July 1, 2009, through June 30, 2010) the DPD had trained 650 (99%) of its current complement of 652 supervisors.

We are now tracking DPD efforts to comply during Fiscal Year 2011. During the first half of Fiscal Year 2011, 346 (52%) of the 668 DPD supervisors attended the in-service. At the same point last year, the Department had trained 304 (47%) of its supervisors.

DPD is in Phase 2 compliance with U118.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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.

Policy:

DPD Special Order 10-02, Training, effective January 16, 2010, directed that “members of the rank of investigator and above shall attend and successfully complete the following training course within thirty (30) days of assuming their rank and thereafter shall attend the course on an annual basis.” Accordingly, we find the Department in Phase 1 compliance with this paragraph.

Comments:

The DPD did not promote any personnel to the supervisor rank during the past quarter. As noted in U118, during Fiscal Year 2010, the DPD trained 99% of its supervisors at its annual in-service training course. As we reported in U118 the Department is well on its way to remain in compliance at the end of this training year. DPD remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.

Policy:

During the previous reporting period, we noted that the DPD Special Order 10-02, Training, effective January 16, 2010, addresses this requirement.⁷⁰ Accordingly, we found the DPD in Phase 1 compliance with this paragraph.

⁷⁰ Law of Arrest and Search and Seizure Lesson Plan and associated guides and materials, dated May 14, 2007; Detention Officer Training Lesson Plan, dated May 30, 2008.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Comments:

The Department's Supervisory and Leadership Accountability in-service training addresses this requirement. The Department trained 99% of its supervisors in the past year through its annual supervisory and leadership in-service training. The DPD is in Phase 2 compliance with this requirement, and it is on its way to remaining in compliance for the current year (see U118).

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

G. 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.

Policy:

Special Order 10-02, Training, effective January 16, 2010, addresses requirement U121. DPD is in Phase 1 compliance with this paragraph.

Comments:

The training required by U121 is delivered in the DPD supervisory and leadership in-service. In July 2010, we found that the DPD delivered this training to 99% of its supervisors during its Fiscal Year 2010 Supervisory Leadership and Accountability training program. The Department is in Phase 2 compliance with U121 and as described above (see U118) is making satisfactory progress towards remaining in compliance during Fiscal Year 2011.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Policy:

DPD Special Order 10-02 requires that in-service training include “DPD’s external complaint process, including the role of the Office of the Chief Investigator and Internal Affairs/Force Investigation in the process.” The DPD is in Phase 1 compliance with this paragraph.

Comments:

During our July 2010 review, we found that the Department trained 99% of its supervisors in the past year in both its leadership and supervisory in-service training, which addresses handling external complaints; and in its use of force in-service training, which addresses the role of the OCI. Inasmuch as U122 is one of the requirements that can only be measured annually, we are now monitoring the DPD’s progress to determine if the Department is proceeding satisfactorily to remain in compliance during the current Fiscal Year (FY 2011, July 1, 2010, through June 30, 2011). We found that during the first half of Fiscal Year 2011, the Department maintained excellent progress towards training all of its supervisors (see U118). The Department is in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

H. 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.

Policy:

During the last reporting period, we found that the Department developed and implemented a protocol to enhance the FTO Program. The Standard Operating Procedures Manual Field Training Program (revised 2007) reflects the DPD FTO Program as it was approved by the DOJ. The procedures are designed to enhance the FTO Program, and address the criteria and methods for selecting, removing, training, and evaluating FTOs. DPD is in Phase 1 compliance with this paragraph.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Comments:

During the last reporting period, we found that the DPD had not selected or trained any additional FTOs. The Department currently has 47 probationary officers in training.

During the current reporting period, we determined that the DPD had selected 15 new FTOs who were undergoing training at the time of our visit. We reviewed the FTO lesson plan and observed the FTO training, and found it to be satisfactory.

DPD is in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

- As we observed in our last report, until July 2010, the DPD had never achieved full attendance at its in-service training programs. Due to the efforts of the Department and the threat of removal of police powers, Fiscal Year 2010 training was fully attended by DPD officers. Our tracking in this current reporting period has indicated that attendance has increased in each of the six in-service programs that constitute the 2011 in-service training program. The Department is well on its way to remaining in compliance with the training requirements.
- During our previous review, one important area of training that required work to obtain compliance was Requirement U107, which mandates that the Department conduct training 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. We reviewed the most recent DPD training needs assessment, which identifies and addresses operational difficulties such as de-escalation techniques, administrative requirements in detention procedures, medical referrals and custodial care, stop and frisk issues, use of force, in-car video, traffic stops, peer interventions and DNA collection.⁷¹ The needs assessment also sets forth adjustments to training to correct the deficiencies highlighted within the document. The process of self-criticism, identification of deficiencies, and creation of training remedies, if continued as part of the DPD training regime, could potentially generate significant value to the Department.

Next Steps:

During the next reporting period, we will review:

⁷¹ See *Training Needs Assessment*, January 21, 2011.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

- New or revised policy directives that have been developed for the Consent Judgment requirements relating to training.
- The list of officers selected to serve as trainers, and the documentation regarding their selection and training as trainers.
- The training record system and any training needs assessment that has been conducted.
- A random sample of officers who have attended in-service training to determine if the training is documented in training records.
- Documentation of the development of scenarios derived from local incidents used in instruction.
- Documentation of meetings with the City Law Department.
- Documentation that the City and the DPD distributed the Consent Judgments to all DPD and all relevant City employees, and trained them on its content.
- A list of officers and supervisors who have attended in-service for Fiscal Year 2010 as of June 30, 2011, to determine if the DPD is in compliance (>94% attendance) with the several Consent Judgment training requirements.
- A random sample of officers, supervisors, and, if appropriate, detention personnel who are required to be trained in several subjects (see requirements U114-122), and their training records to determine if they, in fact, received the training set forth in these requirements.
- A list of all supervisors, and a count of supervisors, who have completed supervisor training during Fiscal Year 2011 as of March 31, 2011, which we will compare against the number who attended supervisory training during Fiscal Year 2008 as of June 30, 2009, to determine DPD's progress toward compliance.
- A list of all supervisors promoted during the past quarter and the dates they received the training required by the Consent Judgment.
- A list of all officers who conduct investigations. From this list, we will randomly select a sample and compare it to the lists of officers who have actually received the training required by U121.
- Documentation of field training officer selection and training.

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
106	Coordination and review of training	In Compliance	In Compliance
107	DPD will meet state training standards	In Compliance	In Compliance
108	Maintain individual training records	In Compliance	Not in Compliance
109	Train from approved objectives and plans	In Compliance	In Compliance
110	Quarterly meetings with Law Department	In Compliance	In Compliance
111	Distribute and training on the agreement	In Compliance	In Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

112	Annual use of force training required	In Compliance	In Compliance
113	Develop firearms training protocol	In Compliance	In Compliance
114	Annual arrest, citizen interaction training	In Compliance	In Compliance
115	Annual training on custodial detention	In Compliance	In Compliance
116	Prohibition of arraignment delays	In Compliance	In Compliance
117	Material witness custody	In Compliance	In Compliance
118	Supervisory training-report evaluation	In Compliance	In Compliance
119	Supervisory training-leadership	In Compliance	In Compliance
120	Supervisory training-risk management	In Compliance	In Compliance
121	Investigator training-procedures	In Compliance	In Compliance
122	Supervisory training-external complaints	In Compliance	In Compliance
123	Enhance the FTO program	In Compliance	In Compliance

**SECTION THREE: COMPLIANCE ASSESSMENTS - THE
CONDITIONS OF CONFINEMENT CONSENT JUDGMENT**

This Consent Judgment sets forth procedural and operational requirements relating to the confinement facilities maintained and operated by the Detroit Police Department. The Judgment requires the revision and implementation of policies and practices that are safe, respectful, and constitutional in the areas of fire safety, emergency preparedness, medical and mental health, prisoner safety, environmental health and safety, persons with disabilities, food service, and personal hygiene. In addition, the Judgment sets forth requirements relating to the use of force in detention facilities, as well as procedures for the investigation of the use of force and complaints relating to other events occurring in these facilities. The Judgment also establishes requirements for management and supervision, the auditing of internal practices, and the training of personnel who are assigned detention responsibilities.

During our first site visit in November 2009, we reviewed required directives, supporting logs, forms, and documentation relating to the operation of the detention facilities. Accompanied by key members of the DPD Office of Civil Rights personnel, we conducted our first tour of the Detroit Police Department's five facilities with holding cells and the Detroit Receiving Hospital.⁷² We have repeated our tours and inspections of some or all of these facilities during each of our subsequent site visits, and have interacted with command and key detention staff at each facility.

In addition, we have met with key CRIB command staff, Audit Team personnel, and the designated health care professional to conduct a thorough review of all requirements, DPD directives, forms, logs, and documentation relating to and required by this Judgment. Our review disclosed the need for the DPD to revise various health-related directives and to have them

⁷² Facilities with holding cells are located in the Northeastern, Eastern, and Southwestern Districts; Sixth and Twelfth Precincts.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

reviewed and approved by a health care professional. This was accomplished. In addition, we met with DPD Training staff regarding training issues, which were promptly addressed.

During our visits to and inspections of the various facilities with holding cells, we were often accompanied by CRIB staff, and assisted by the cell block supervisors and compliance officers. These inspections included our entering and examining every holding cell, interviewing detention staff, and reviewing forms and logs.

The Conditions of Confinement Consent Judgment is comprised of several different categories relating to the confinement facilities maintained and operated by the DPD:

- **Fire Safety:** Although we had concerns with the fire safety practices during our first site visit, those concerns have been addressed. The DPD has implemented required practices and procedures, including the conducting of required fire drills with even greater frequency than required. Our previous concern that evacuation equipment – i.e., shackles for the prisoners – was not readily available in all of the facilities, has now been rectified.
- **Emergency Preparedness:** The DPD has addressed our concerns with regard to facility key control, but we note that the Department needs to revise DPD Form 715 to ensure consistency with Departmental practice. We also note that the keys are now stored in cabinets in a manner in which they are readily available if an emergency should occur. The number of available fire extinguishers is sufficient, and the fire extinguishers can easily be located in all of the facilities.
- **Medical and Mental Health Care:** We reviewed a random sample of 375 detainee file folders for the months of October, November, and December 2010. Additionally, during our most recent site visit, while inspecting four precincts/districts, we reviewed several detainee file folders for compliance with health screening and other required procedures. We continue to find clerical errors and missing documentation relating to medical referrals, medication logs, staff signatures, and supervisory reviews. We are particularly concerned with the lack of exchange of information relating to health and other significant issues among shifts. During our current review of the DPD log 659a, Platoon Daily Detainee Summary, in the five districts/precincts with holding cells, we found critical detainee health information missing, blank comment sections on the forms, and signatures between shifts missing.
- **Environmental Health and Safety:** The sanitary conditions and cleanliness of the holding cells and adjacent areas are concerns in every detention facility. DPD directives require its holding cells and adjacent areas to be kept in clean and sanitary conditions at all times. The directives also require that appropriate inspections be conducted to ensure that the required cleanliness and sanitary conditions are maintained. During our second site visit, we observed a high degree of compliance with regard to the conducting and documentation of the required inspections, but the actual cleanliness and sanitary conditions of the facilities did not meet those standards. Our inspection found the condition of three facilities unsatisfactory, one marginal, and one (Twelfth) satisfactory.
- **Persons with Disabilities:** We continue to find problems with DPD staff's use of TDD (Telecommunications Devices for the Deaf) devices. These problems could be corrected if the districts/precincts that maintain holding cells would develop a training program for their personnel.

SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT

April 15, 2011

- **Food Service and Personal Hygiene:** Since the first reporting period, the DPD has made significant improvements, obtaining both Phase 1 and Phase 2 compliance with the CJ requirements related to food service and personal hygiene. During our most recent site visit, we verified that three out of the four districts/precincts that we inspected had an adequate number of alternative meals available for detainees with religious or dietary needs.
- **Use of Force and Restraints:** DPD is required to implement policies for the investigation of uses of force in detention facilities, consistent with their general use of force requirements. While policies are in place, the same deficiencies noted in field investigations are present in those investigations specific to detention facilities. Additionally, the acquisition of video equipment and the utilization of available video recordings remain issues.
- **External Complaints:** DPD properly refers complaints originating from its detention facilities to IAD or OCI, as appropriate. However, we continue to note deficiencies in areas such as the timely completion of investigations.
- **Management and Supervision:** The DPD continues to improve in the process of updating the Department's directives, policies, and forms on an annual basis. We continue to find that when CRIB makes changes on directives and policies, the implementation of the updates and changes lags behind in practice. The Department continues to have problems training on the updated directives, policies, and forms.
- **Training:** In order to gain compliance with the Conditions of Confinement training requirements, the DPD must assign only officers who have been trained in its Detention Officer Training Program to detention duties. During this reporting period, we found that 95% of the officers assigned to detention duties received the required training. This represents a significant improvement from the third reporting period, when we found that only 78% of the officers assigned to detention duties received the required training.

The DPD has made progress with regard to directive and policy guidance; however, the DPD must effectively implement and adhere to these directives. This requires training and competent supervision. The DPD should ensure that the directives and policies, particularly those relating to health care, are reviewed annually and revised as required. Additionally, the DPD must adhere to C61, regarding "making available proposed policy revisions to the community for review, comment and education." The DPD must also provide detention personnel with ongoing in-service training to ensure the maintenance of required standards of performance.

The details of our findings are included in the following sections.

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

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

inspections to evaluate whether the conditions in DPD holding cells, and buildings that contain them, are in compliance with the Life Safety Code.

Policy:

The DPD Comprehensive Emergency Preparedness Plan (CEPP) includes a Fire Safety Plan (FSP), which requires compliance with the Life Safety Code and inspections. The FSP was developed in consultation with the Detroit Fire Marshal. DOJ approved the FSP on May 23, 2006. DPD Directive 305.4, Holding Cell Areas, effective March 2010, provides guidelines and procedures for the operation of holding cells.

Comments:

The Fire Marshal reviews the FSP annually; the most recent review was conducted on November 29, 2010. The Fire Marshal also conducts regular and periodic (annual) inspections of holding cells; the most recent review was conducted in November 2010. Accordingly, we find the DPD continues to be in Phase 2 compliance with this Consent Judgment paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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.

Policy:

The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was developed in consultation with the Detroit Fire Marshal. DOJ approved the FSP on May 23, 2006. The Fire Marshal reviews the FSP annually; the last review was conducted on November 29, 2010.

Comments:

The DPD developed the required Fire Safety Plan.⁷³

⁷³ The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was developed in consultation with

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

During the first reporting period, we found the DPD in Phase 1, but not in Phase 2, compliance with this paragraph because required fire drills and fire extinguisher inspections were not conducted at an acceptable level. This problem was resolved during the second reporting period, which resulted in full compliance with this paragraph. During this reporting period, we reviewed DPD 716, Fire Extinguisher Monthly Inspection/Inventory, and DPD 703, Fire Drill Documentation Forms for all of the districts/precincts with holding cells; and determined that all facilities are in compliance with the requirements of this Consent Judgment. We also examined all of the fire extinguishers at each holding facility, and found them all to be fully charged.

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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 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 buildings 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.

Policy:

The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) was reviewed and approved on November 29, 2010. DPD Directive 305.4, Holding Cell Areas, effective March 2010, provides guidelines and procedures for the operation of holding cells.

Comments:

As noted above, the DPD developed the required Fire Safety Plan.⁷⁴

Following the development of the FSP, the DPD made required structural changes to districts/precincts' holding facilities, including the updating and/or installation of sprinkler

the Detroit Fire Marshal. DOJ approved the FSP on May 23, 2006. The Fire Marshal annually reviews the FSP; the last review was conducted in November 2010.

⁷⁴ The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was developed in consultation with the Detroit Fire Marshal. DOJ approved the FSP on May 23, 2006. The Fire Marshal annually reviews the FSP; the last review was conducted on November 29, 2010.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

systems, fire alarm systems, and fire-rated doors. During our inspection of the district/precinct holding cells, we found the presence of all three. Our interviews with supervisory staff in each of the districts/precincts determined that they were appropriately familiar with the operations of each of the systems.

The DPD is in Phase 2 compliance with this Consent Judgment paragraph.

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.

Policy:

The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) was approved on November 29, 2010. DPD Directive 305.4, Holding Cell Areas, effective March 2010, provides guidelines and procedures for the operation of holding cells.

Comments:

The DPD has developed and implemented the required Fire Safety Plan.

During our recent visits to each district/precinct that maintains holding cells, we found evidence of the Fire Marshal's inspections. The most recent inspections were conducted in November 2010. DPD remains in Phase 2 compliance with this Consent Judgment paragraph.⁷⁵

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

⁷⁵ The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was developed in consultation with the Detroit Fire Marshal. DOJ approved the FSP on May 23, 2006. The Fire Marshal annually reviews the FSP; the last review was conducted on June 5, 2010.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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.*

Policy:

The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) was approved on November 29, 2010. DPD Directive 305.4, Holding Cell Areas, effective March 2010, provides guidelines and procedures for the operation of holding cells.

Comments:

We found the DPD in full Phase 2 compliance with this paragraph during the first and subsequent reporting periods.

As previously noted, we visited each district/precinct that maintains holding cells, and determined that the DPD has made the required structural, electronic, and mechanical upgrades within the facilities. We also noted that Fire Systems of Michigan and the Fire Marshal conducted and documented inspections of suppression systems in November 2010. The DPD remains in Phase 2 compliance with the requirements of this Consent Judgment paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Policy:

The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) was approved on November 29, 2010. DPD Directive 305.4, Holding Cell Areas, effective March 2010, provides guidelines and procedures for the operation of holding cells.

Comments:

We found the DPD not in Phase 2 compliance with this paragraph in the first reporting period. In subsequent reporting periods, we found the DPD in Phase 2 compliance with this paragraph following our review of supplemental documentation regarding routine testing of systems and equipment.

The Fire Safety Plan places responsibility for ensuring the required testing, inspections, and maintenance of the various systems, fire extinguishers, emergency lighting and signs, and equipment with the DPD Office of Facilities Management.

Fire Systems of Michigan and the Fire Marshal conduct the required inspections, which were last conducted in November 2010. The Fire Safety Practices and Policies audit for the reporting period ending January 31, 2011, was conducted by the Office of Civil Rights Audit Team, and members of the Holding Cell Compliance Committee from the Detroit Fire Department and the Independent Qualified Source, as required by Paragraph 66 of the Conditions of Confinement Consent Judgment. A review of the audit documents during this quarter indicated that maintenance problems were discovered in four of the five facilities. As noted above, the DPD Office of Facilities Management is responsible for the maintenance of these systems. We have requested documentation of the remediation of these issues. The weekly testing of emergency generator power supply systems is documented on Form 715 - Evaluation of the Operation of Holding Cells, which is supported by the printouts of weekly testing completed and generated by DTE Energy.

The DPD remains in Phase 2 compliance with this Consent Judgment paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C20

The DPD shall enforce immediately its no-smoking policy in the holding cells or provide ashtrays and ensure that all holding cell areas are constructed and supplied with fire-rated materials.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Policy:

We found the DPD in Phase 1 compliance with this paragraph in our first quarterly report. DPD Directive 305.4, Holding Cell Areas, Section 5-3, effective April 1, 2010, and the Fire Safety Plan (FSP) prohibit smoking in the district/precinct holding cells.⁷⁶

Comments:

During our inspection of the holding cell areas, we found no trace of smoking in the facilities. A close examination of the cells revealed that they did not contain combustible materials. During our review of a sample of DPD 715 - Evaluation of the Operation of Holding Cells, we found no documentation that any smoking had been observed in the facilities. The DPD is in continued Phase 2 compliance with this Consent Judgment paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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.

Policy:

The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) was approved on November 29, 2010. DPD Directive 305.4, Holding Cell Areas, effective March 2010, provides guidelines and procedures for the operation of holding cells.

We found the DPD in full Phase 1 compliance with this paragraph in our first quarterly report. The Fire Safety Plan sets forth guidelines for the storage of flammable materials.⁷⁷

⁷⁶ The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was developed in consultation with the Detroit Fire Marshal. DOJ approved the FSP on May 23, 2006. The Fire Marshal annually reviews the FSP; the last review was conducted on November 29, 2010.

⁷⁷ The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was developed in consultation with the Detroit Fire Marshal. DOJ approved the FSP May 23, 2006. The Fire Marshal annually reviews the FSP; the last review was conducted on November 29, 2010.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Comments:

Our inspection of the holding facilities found that each district/precinct was equipped with at least one yellow storage cabinet, located in the garage area, for flammable and combustible liquids. We checked the cabinets and found flammable materials and gas storage containers. The DPD is in continued full compliance with this Consent Judgment paragraph.

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.

Policy:

The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) was approved on November 29, 2010. DPD Directive 305.4, Holding Cell Areas, effective March 2010, provides guidelines and procedures for the operation of holding cells.

DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD has been in continued compliance with this Consent Judgment paragraph since 2005 when it closed some of the facilities where kane fiber ceiling tiles were in place, and it removed the tiles from the remaining facilities. We reviewed an invoice dated February 2, 2004, wherein the required modification to the holding cells is documented. The DPD is in continued full compliance with the requirements of this Consent Judgment paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
14	Holding Cell Life Safety Code compliance	In Compliance	In Compliance
15	Fire detection, suppression, and evacuation	In Compliance	In Compliance
16	Fire Department consultation/evaluation	In Compliance	In Compliance
17	Implementation of fire safety program	In Compliance	In Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

18	Immediate interim fire safety measures	In Compliance	In Compliance
19	Routine testing of fire safety equipment	In Compliance	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 cane 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.

Policy:

The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) was approved on November 29, 2010. DPD Directive 305.4, effective March 2010, provides guidelines and procedures for the operation of holding cells. The DPD developed and published a Comprehensive Emergency Preparedness Program (CEPP) addressing safety and security, as required. The CEPP includes an emergency response plan for each district/precinct (see C24) and a key control system requirement (see C25).

Comments:

Phase 2 compliance is related to and contingent upon the implementation of C24-25; accordingly, our compliance finding is deferred.

Compliance Status:

Phase 1: In Compliance

Phase 2: Deferred

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 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*

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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).*

Policy:

The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) was approved on November 29, 2010. DPD Directive 305.4, effective March 2010, provides guidelines and procedures for the operation of holding cells. DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD developed the required Comprehensive Emergency Preparedness Plan (CEPP).⁷⁸ The CEPP identifies staff responsibilities in the event of a fire emergency to include notifications, evacuation, and key control procedures. (See C15.)

We found the DPD in compliance with policy (Phase 1), but not practice (Phase 2), in the first reporting period because fire drills were not conducted at a level greater than 94%. The DPD achieved full compliance in the second and subsequent reporting periods because it increased the frequency of fire drills to the 100% level. During this reporting period, we determined that the fire drills were conducted according to policy at the 100% level.

During the previous reporting period, we reviewed Form 703, Fire Drill Documentation, and observed notations on the forms at two districts indicating that during the fire drills, personnel were not able to find the leg shackles to secure the detainees in the event of a building evacuation. As noted previously, evacuations without shackles could lead to a serious breach of security for the officers and the community. We also confirmed that the shackles were missing or placed in cabinets in such disarray that it would be difficult to retrieve them quickly for an evacuation. We inquired with the staff about the missing shackles, and were told that they were being used by the transportation van. We also questioned the validity of the Fire Drill Documentation data, if the shackles were not available.

Following our recommendations that the detention evacuation equipment be stored in the immediate vicinity of the holding cells so that it is readily accessible to officers, we found, during our most recent inspection, that the shackles are fully accounted for and placed individually in crates, allowing for easy access.

⁷⁸ The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP), developed in consultation with the Detroit Fire Marshal, was approved by DOJ on May 23, 2006. The Fire Marshal annually reviews the FSP; the last review was conducted on November 29, 2010.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

The DPD is in continued Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C25

The DPD shall develop and implement key control policies and procedures that will ensure that all staff is 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;*
- b. and require routine inventory, testing and maintenance of keys and locks.*

Policy:

DPD Directive 305.4, Holding Cell Areas, Section 6.7, effective March 2010 (and revised April 1, 2010), provides guidelines and procedures for the operation of holding cells, including DPD's key control policy.

DPD is in Phase 1 compliance with this paragraph.

Comments:

We noted in our first quarterly report that the DPD had not achieved Phase 2 compliance with this paragraph, due to a lack of documentation regarding maintenance and operational testing of the keys. During our first site visit, we recommended that each officer working in a cell block be issued a complete set of keys. As a result, we were informed that two extra sets of keys were distributed to each district/precinct with holding cells, bringing the total at each to five – three in the cell block, one with the sergeant assigned to the public lobby, and one in the emergency key box in the lieutenants'/sergeants' office. The DPD subsequently achieved Phase 2 compliance in this area, as we noted in our second and third quarterly reports. In both of those reports, we stated that Directive 305.4 and DPD form 715 (Evaluation of the Operation of the Holding Cells) needed to be updated to reflect current practice. Directive 305.4 was revised effective March 26, 2010, and requires an annual review; it was revised again on April 1, 2010, and states that each officer working in the detention area be assigned a set of keys. To date, DPD form 715 has not been updated and, as of this current reporting period, the form (block 24) continues to reflect three sets of keys. There are a minimum of five sets of keys, and in some precincts, there are six.

During our most recent inspection, we found that each district/precincts had, at the minimum, five sets of keys – three in the cell block, one with the sergeant assigned to the public lobby, and one in the emergency key box in the lieutenants'/sergeants' office. The precincts have initiated a procedure for tracking the keys as they are assigned on each shift. The DPD Evaluation of the Operation of the Holding Cells, DPD Form 715, is not completed daily, as before, but once per

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

month by Civil Rights Integrity Bureau personnel. However, as a result of not updating the 715 form, only three sets of keys, instead of five or more, are accounted for in each monthly inspection. During our previous visit, we found that there were sets of keys sitting loosely in cabinets. Following our recommendations, during our most recent site visit, we found that keys are now being labeled and, in some of the precincts, there are storage hooks for unassigned keys.

We expect that by the next reporting period, the Department will have updated the DPD form 715. The DPD is not in Phase 2 compliance with this paragraph.

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	Deferred
24	Develop comprehensive emergency preparedness program	In Compliance	In Compliance
25	Implementation of key control policies	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.

Policy:

DPD Directive 305.1, Detainee Intake Assessment; Directive 305.5, Detainee Health Care; and Directive 403.2, Infectious Disease Control Plan; were not reviewed nor approved on an annual basis in the first two reporting periods by a qualified health care professional. In the third reporting period, the directive was revised and approved (on February 5, 2010) by a qualified medical care professional, and the DPD achieved Phase 1 compliance with this paragraph. The DPD remains in that status for the current reporting period.

Comments:

During the first four reporting periods, we found the DPD out of Phase 2 compliance with this paragraph. Our inspections, along with our review of the quarterly detainee file folders, revealed multiple issues in this area including: clerical errors; incomplete or missing documentation of medical referral and medication logs; missing signatures; missing documentation of required supervisory reviews; and the lack of a documented exchange of health information between consecutive shifts.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

During the previous reporting period, we found that only 71% of the detainee file folders we reviewed were in compliance with this paragraph.

For the current reporting period, the DPD continues to be out of Phase 2 compliance with this paragraph. Our review of a random sample of 375 detainee file folders from the five districts/precincts that maintain holding cells found 82% in compliance with this paragraph. This shows an improvement from the last reporting period, but still falls below the 94% needed to achieve compliance.

Our most recent inspections of detainee file folders and observations of staff in the districts/precincts revealed that the personnel are still not properly implementing these procedures in accordance with the DPD directives. We continue to identify clerical errors, incomplete or missing documentation of medical referral and medication logs, missing signatures, missing documentation of required supervisory reviews, and the lack of a documented exchange of health information between consecutive shifts.

Full compliance with the requirements of this paragraph is dependent upon correct and complete implementation and documentation of detainee health assessments, with appropriate responses to detainees' medical and mental health needs. DPD remains out of Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C27

The DPD 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.

Policy:

DPD Policy 305.5, Detainee Health Care, became effective May 9, 2005. This directive, along with forms and logs, comprises the Comprehensive Medical and Mental Health Screening program (CMMHSP). In the third reporting period, the directive was revised and approved (February 5, 2010) by qualified medical care personnel, and the DPD achieved Phase 1 compliance with this paragraph. The DPD remains in that status for the current reporting period.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Comments:

In the first and second reporting periods, we were unable to verify that an annual review was conducted. In the third reporting period, a qualified health professional completed an extensive review and made revisions. Effective February 5, 2010, the DPD revised and updated the policies and the policy was approved by a qualified medical and mental health professional. During the fourth reporting period, we briefed the CRIB staff on the importance of updating all policies and directives on an annual basis, and found the DPD in Phase 2 compliance with this paragraph.

During the current reporting period, we met with the CRIB staff accountable for updating all policies/directives. We learned that CRIB has had several meetings with the DPD Health Authority, which is conducting the annual review of the CMMHSP directives that were due to expire on February 4, 2011.

We were advised that once the Health Authority has completed the review and approved the CMMHSP policies and directives, the DPD will provide us with documentation – either during or before our next site visit.

The DPD, at a minimum, has implemented a comprehensive detainee screening process with health protocols, and remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In 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;*
- 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.*

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Policy:

Our review of DPD Directive 305.1, Detainee Intake/Assessment, effective May 9, 2005, and revised February 5, 2010; and Directive 403.2, Infectious Disease Control, effective May 9, 2005, found that they contain the required detainee screening procedures. The DPD revised Directive 305.1 and Directive 403.2, on February 5, 2010, and therefore maintained its Phase 1 compliance status with this paragraph during the previous two and the current reporting periods.

Comments:

During the first four reporting periods, we found deficiencies in the staff's ability to consistently implement the requirements of this Consent Judgment paragraph, and thus, we determined that the DPD was not in Phase 2 compliance with this requirement.

During the fifth reporting period, we reviewed a random sample of detainee file folders from the five districts/precincts that maintain holding cells. We continued to find many of the deficiencies that we identified in past reviews: clerical errors; missing signatures of police detention officers and supervisors; and incomplete or incorrect completion of Detainee Intake Form (651). Our review also revealed that a number of arresting officers do not fill out the medical and mental health information on the Detainee Input Sheets (DIS). In addition, we found that detention officers conducting the intake screens did not transfer to the Detainee Intake Form (DIF) information on medical and mental issues that arresting officers documented on the Detainee Input Sheets. In several cases, we found that the detainee intake screenings were not conducted within two hours of a detainee's arrest. Several of the detainee file folders were missing documentation including: Medical Care Referral Form 660; Detainee Treatment Medication Log 664; Hospital Prisoner Form 127B; and DRH discharge instructions. Our review of the 375 randomly sampled detainee file folders revealed that 82% were in compliance.

The DPD designed and implemented the Platoon Daily Detainee Summary (Form 659a) to ensure the effective communication of screening information between the consecutive shifts take place. Comments are required under DPD policy 305.5-4.1(2): "The OIC of the desk shall ensure that all complaints and observations are noted on the Detainee Intake Form (DPD 651), Platoon Daily Summary Log (DPD 659) and in the Desk Blotter." During our current review of the DPD log 659a, Platoon Daily Detainee Summary, in the five districts/precincts with holding cells, we found missing signatures between shifts, critical detainee health information missing, and blank comment sections on the forms. It appears that the majority of errors occurred in the Southwestern District. During our January 2011, site visit, we noted that the forms in the Southwestern District did not describe detainee complaints or observations in the appropriate boxes. We met with the staff (supervisors) when we were onsite, and advised them of the deficiencies, which they acknowledged and said they would rectify. Our review revealed that two of the five facilities were in compliance, and two others were pending. (See C36-C38.) The DPD's compliance rate with this requirement for the current reporting period is 84%.

Despite this slight improvement from the last reporting period, we continued to observe many of the aforementioned deficiencies. We learned from our review of the detainee file folders that medical and mental health information is not being updated in the Livescan system. We continue to recommend that CRIB develop and implement a process so that when a detainee's medical or mental health status changes, detention staff update Livescan accordingly. We find

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

that detention officers are not consistently recording all information required on the Detainee Information Form 651(DIF). We also noted discrepancies between the information contained on the Detainee Intake Form 651 and the Detainee Input Sheet 667 relating to detainees' medical and mental health issues; the incorrect completion of Medical Treatment/Medication Logs, wherein medication dosages and required signatures were not included; Medical Referral Forms 660 missing from detainee file folders; and several cases where detainees should have been referred to DRH in accordance with DPD directives, but were not.

During our most recent site visit, we witnessed in one district, that the supervisor and detention staff did not follow policy requiring that intake screening be conducted within two hours of intake through a verbal exchange between the DPD and a detainee.

The detention staff had not conducted an intake screen on a particular detainee for over 12 hours. We observed the detainee acting out in the holding cell area. When we questioned the staff about this detainee, we learned that the detainee was arrested in another district at 12:15 a.m., and was brought back by the arresting officer to the district where the officer was assigned. We were advised that the policy states that a detainee should be taken for processing to the district that covers the location where the arrest takes place. We questioned staff why the arresting officers did not follow policy and take the detainee to the closest district to the location of arrest, but we did not receive the answers to our questions. While we were onsite, the detention staff finally conducted the intake screen on the detainee at 1:45 p.m., after the detainee had been taken back and forth between the two districts for 12 hours because the supervisors at each district would not process the detainee. With the over 12 hours that had lapsed, the detainee was very upset and was acting out, which caused chaos in the holding cell area. The detainee had not eaten anything and was hungry. The staff offered the detainee a meal, but the district did not have in stock any alternative meals that the detainee requested so the detainee would not eat. The detainee continued to scream that he was sick and needed to go to the hospital. When the detention staff completed the intake process and housed the detainee in a cell, we reviewed the detainee's file folder, and learned that the detainee had serious medical and mental health issues and the detainee was on medications. The staff did not follow DPD policy that requires referring the detainee to DRH.

Through further detainee file folder review at this district, we learned that there were other detainees waiting four hours after the intake process to be transported to DRH for health services. When we questioned staff about this, they acknowledged this was a problem but stated that they were waiting on other staff to transport the detainees to DRH. When we left the district, the detainees still had not been transported to DRH for health services.

The DPD remains out of Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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.*

Policy:

Directive 305.1, Detainee Intake Assessment, effective 2005, was revised by CRIB in the second reporting period on February 5, 2010; this policy was further revised in the third reporting period. The DPD has remained in Phase 1 compliance with the requirements of this paragraph since that time.

Comments:

We found that the DPD was not in Phase 2 compliance with these requirements in all previous reporting periods.

During the current reporting period, we reviewed a sample of 375 detainee file folders, and inspected each of the districts/precincts that maintain holding cells and the Detroit Receiving Hospital. Our assessment found that staff did not follow policy in several key areas, including:

- Untimely referral, or lack of referral, of detainees in need of medical or mental health care to the Detroit Receiving Hospital;
- Medical and mental health issues not described properly on the Detainee Input Sheet or transferred to the Detainee Intake Form;
- Cases in which intake screenings were not conducted within the required two-hour timeframe following arrests;
- Required red medical alert stickers missing from detainee file folders;
- Medical referrals not completed correctly;
- Detainees not receiving medications prescribed by the Detroit Receiving Hospital in a timely manner;
- Medical referral forms missing from detainee file folders;
- Health information not being updated in Livescan;
- Medical information not being placed in confidentiality envelopes, as required;
- Supervisors' signatures missing on forms regarding the health information of detainees requiring medical care;
- Hospital Prisoner Forms not completed properly; and

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

- Detroit Receiving Hospital discharge instructions missing.

Overall, we found that 82% were in compliance with this paragraph, an improvement from the 71% we found during the previous last reporting period. The DPD remains out of Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

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.*

Policy:

During previous reporting periods, we met with CRIB staff and reviewed directives and supplementary documentation required for compliance with this paragraph. CRIB staff prepared revisions to DPD Directive 403.2, Infectious Disease Control Plan; and Directive 403.2-4.4-1, Care and Storage of PPE Kit; which were reviewed and approved by a qualified medical and mental health professional, and issued with an effective date of February 5, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

During our previous site visits, we inspected the Detroit Receiving Hospital and all five DPD facilities that maintain holding cells. Our inspections disclosed poor levels of sanitation in similar degrees at all five DPD facilities and the Detroit Receiving Hospital (DRH) with a trend toward improvements, but during the third reporting period, several sites had relapsed. We also noted issues with PPE kits and first aid kits not being properly stocked. Although we observed some improvements during the fourth and fifth reporting periods, DPD did not achieve Phase 2 compliance with this paragraph.

During our January 2011 site visit, we inspected the Personal Protective Equipment (PPE) kits and first aid kits. We found each PPE kit to be in order and including an adequate supply of the required contents. We found that the four facilities we inspected had first aid kits, although in one district, we found that the burn ointment in the kit had expired in 2001 and the medical

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

dressings for wounds had expired in 2003. We recommend that personnel open and check the first aid kits on a regular basis to ensure that the contents have not expired.

In addition, we inspected all vacant cells at four different facilities on two separate days and found the cells at the Eastern District and the Twelfth Precinct to be satisfactorily clean. The Northeastern District was not quite satisfactory, and at the Southwest District we found paint that had appeared to peel from power-washing and adhere to the floor in the cells and walkways. The CBS accompanied us during the inspection and indicated that he would take action to resolve the issue. Throughout the holding cell area in this facility, there was an obnoxious odor that permeated every space. We were advised by the supervisor that the odor had lingered in the area all week. The cleanliness of the cells and common areas in the Southwestern District left much to be desired, and the failure of the Eastern Precinct to follow and complete the instructions in the Holding Cell Cleaning Log is critical to DPD's ability to be in compliance with this paragraph. (See C39, C40.)

We also continued to observe that the staff has food and drinks in the holding cell areas, and many times, we have observed them eating in the holding cell areas. DPD Directive 403.2-5-1-8, Precaution Strategies, requires that staff do not eat, drink, smoke, apply cosmetics or lip balm, handle contact lenses, or store food or drink in work areas where there is a reasonable likelihood of significant exposure to infectious diseases. We recommend that the DPD take appropriate action to remedy these violations of policy.

While our review of the Holding Cell Cleaning logs found them to be satisfactory on paper, our inspection revealed that while the previous conditions we noted have improved considerably, the cleanliness of some of the cells and common areas remain at unacceptable levels. (See C39-C41.)

An effective infectious disease control plan must account for the sanitation and maintenance of all plumbing and equipment; physical plant cleanliness; and documentation that a plan to maintain the physical plant is being implemented in the holding cell areas and holding cells. The DPD Infectious Disease Policy 403.0, Section 403.2-6.3, Statements 1-6, Department Equipment, vehicle or facility, affirms the importance of building maintenance and cleaning and decontamination of the facility.

Based on the deficiencies aforementioned in the implementation of a DPD infectious disease control policy, and our observations of conditions, the DPD is not in Phase 2 compliance with this paragraph.

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;

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

- a. require that prisoner's 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.*

Policy:

Directive 305.5, Detainee Health Care was reviewed, updated, and approved, effective February 5, 2010. During the second reporting period, we met with CRIB staff and reviewed directives and supplementary documentation required for compliance with this paragraph. A qualified medical and mental health professional completed an extensive review, incorporating necessary revisions, and approved the aforementioned directives. Accordingly, DPD remains in Phase 1 compliance with this paragraph.

Comments:

During the last four reporting periods, our reviews of DPD form 661, Mental Health High Risk Log; form 661a, Medical Health High Risk Log; and form 659a, Platoon Daily Detainee Summary Form; indicated that required detainee health information – such as whether a detainee is taking medication or has a medical condition – was not being documented and communicated between consecutive shifts. Other errors included missing dates, times, names of the officers in charge authorizing the watch, and reasons for the detainee's removal from the cell.

Our current review and most recent inspections in January 2011 revealed that sharing relevant health information between shifts, as required by this paragraph, remains inconsistent. This practice is important to ensure that the detainees' health needs are met, and for the purposes of staff safety. This information must be documented, updated, and communicated between the initial shift receiving the detainee and the subsequent shifts until the detainee is released.

We reviewed DPD log 659a, Platoon Daily Detainee Summary in the five districts/precincts that maintain holding cells, and uncovered errors including missing signatures between shifts, critical detainee health information missing, and a lack of comments in the "comment" section on the forms. The majority of errors occurred in the Southwestern District.

We reviewed a total of 144 DPD Form 661/661a for the period of October 1, through December 21, 2010, that required a 15-minute watch. While the entries were made in a timely fashion, we found that the date, time, and reason for the removal from the watch were recorded in only 136 of the 144 cases. Though this is an improvement which we attribute in part to the revised and combined DPD Form 661/661a, the DPD needs to continue to ensure that its detention personnel complete the forms correctly.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

During this reporting period, we continued to find numerous deficiencies in the documentation of important health information in the detainee file folders. The problems included clerical errors, incomplete or missing documentation for Medical Referral Form and Medication Logs, missing signatures, missing documentation of required supervisory reviews, the lack of a documented exchange of health information between consecutive shifts, and missing updated health information in Livescan.

Based on these findings, DPD remains out of Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: 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. require that unused medications prescribed at the DRH or other treating hospitals are provided to prisoners upon their release.*

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Policy:

DPD Directive 305.5, Detainee Health Care, was effective May 9, 2005. The directive was subsequently reviewed, updated, and approved by a qualified medical and mental health professional, and issued with an effective date of February 5, 2010. As of that date, we found the DPD in Phase 1 compliance with this paragraph. The DPD remains in that status for the current reporting period.

Comments:

During all of the previous reporting periods, at the five districts/precincts that maintain holding cells, we found multiple Medication Logs missing essential detainee and staff information. Detainee dosages, dosing times, signatures, the names of the persons administering the medications, and prescription release information frequently did not appear on the logs. As a result, we found the DPD out of Phase 2 compliance with this paragraph.

During the current reporting period, we continued to find instances in our review of 375 detainee file folders where the DPD failed to record crucial detainee and staff information. We found that several medication logs on detainees who had been released were missing signatures of detention staff and detainees; therefore, it was unclear whether the detainee received their unused medications at the time of release, and what happened to the medications that the detainees were prescribed by DRH. We also continued to find essential detainee and staff information missing. For instance, some of the files did not contain detainee medication logs and signatures of PDOs and detainees when medications were administered.

During our most recent site visit, we inspected four districts/precincts that maintain holding cells. We found several instances where detainees' signatures were missing from the medication logs, raising doubt as to whether detainees actually received their medications.

We also found, in some districts/precincts, missing information on detainee dosages, dosing times, signatures, and the names of the persons administering the medications on detainees' medication logs. In one facility, we found that information on a detainee's refusal to take medication was not recorded on the medication administration log correctly.

We also found cases where the DPD did not obtain medications from the pharmacies in a timely manner, resulting in detainees missing their scheduled dosing of medications prescribed by DRH. In one instance, we found that a detainee in one district was prescribed anxiety and depression medication by DRH on January 23, 2011. The local pharmacy did not have the medication available, and told DPD that it would not be able to get it until at least January 26, 2011, though it was possible that it would not be able to get it at all. When we visited the facility on January 25, 2011, the detainee still had not received the prescribed medication. When we interviewed the detention staff, they stated that they had not checked at other pharmacies for the medication, nor contacted the DRH about the issue. We recommend that CRIB enact a policy and process to address this type of circumstance when it occurs.

We also examined the Platoon Daily Summary logs, which are used to ensure that detainee health information is exchanged and communicated between shifts, and found missing signatures between shifts, critical detainee health information missing, and blank comment sections on the forms. It appears the majority of errors occurred in the Southwestern District. During our most

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

recent site visit, we noted that the forms in the Southwestern District did not describe detainee complaints or observations in the appropriate boxes. DPD's compliance in this area for this reporting period is 84%.

In addition, we inspected the medication cabinets at the precincts/districts maintaining holding cells. The Southwestern District tracks the administration of medications to detainees differently than the other districts/precincts. The Southwestern District places the medication logs directly into detainees' file folders, preventing that information from being centralized in a medication log. We believe this practice can result in missing administration of medications which could result in dosing errors, particularly if a shift misses recording that a detainee is on medication on the Platoon Daily Summary. CRIB staff advised us during our previous visit that this would be corrected before our next site visit, but we found that this practice is being continued. We again recommend that the medication administration logs be locked in the cabinet when not in use, in order to prevent dosing errors and to maintain privacy laws.

DPD remains out of Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: 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.

Policy:

Our previous reviews determined that DPD Directive 305.1, Detainee Intake Assessment, effective May 9, 2005, and revised February 5, 2010; had not been reviewed and approved on an annual basis by a qualified medical and mental health professional as required; however, this was subsequently achieved with the required medical and mental health review and the issuance of a revised Directive 305.1. The DPD remains in Phase 1 compliance with this paragraph.

Comments:

During previous reporting periods, we found that the detention personnel were generally familiar with where the appropriate clothing items, such as paper gowns or suicide smocks, were stored. Our inspections revealed ample inventory of appropriate clothing.

During the current inspections, we found that the four districts and precincts we visited had sufficient inventory of paper gowns or suicide smocks. The staff we interviewed were well-informed regarding the use of the clothing and where the appropriate clothing was stored. In addition, we observed several detainees who were placed on suicide watch were wearing the suicide smocks.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

We find the DPD in Phase 2 compliance with this paragraph.

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.

Policy:

Our previous and current reviews determined that DPD does not have a policy on this COC CJ.

Comments:

During all of our previous site visits, we conducted comprehensive inspections of each of the five districts/precincts that maintain holding cells, as well as the Detroit Receiving Hospital cells, and confirmed that the DPD was in full compliance with the requirements of this paragraph.

During the current reporting period, our inspection confirmed that the DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
26	Prisoners' medical/mental health conditions	In Compliance	Not in Compliance
27	Medical/mental health screening program	In Compliance	In Compliance
28	Medical/mental health screening procedures	In Compliance	Not in Compliance
29	Medical protocols	In Compliance	Not in Compliance
30	Infectious disease policy required	In Compliance	Not in Compliance
31	Prisoner health information protocol required	In Compliance	Not in Compliance
32	Prescription medication policy required	In Compliance	Not in Compliance
33	Clothing-suicide prevention	In Compliance	In Compliance
34	Removal of suicide hazards	In Compliance	In Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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.

Policy:

DPD Directive 305.4, Holding Cell Areas, effective February 1, 2008, and revised March 20, 2010, addresses policy requirements relating to the safety of staff and prisoners/detainees. The directive is supplemented by related DPD Directive 305.1, Detainee Intake, effective May 9, 2005, and revised February 5, 2010; Directive 305.2, Detainee Registration; Directive 305.3, Detainee Personal Property; Directive 305.5, Detainee Health Care; Directive 305.7, Transportation of Detainees; all effective May 20, 2010; and Directive 305.8, Detainee Food Service and Hygiene, effective May 9, 2005, and revised March 20, 2010. These directives are in compliance with the requirements of this Consent Judgment paragraph.

Comments:

Phase 2 compliance is related to and contingent upon the implementation of staff and inmate safety measures required by C36-38; accordingly, our compliance finding is deferred.

Compliance Status:

Phase 1: In Compliance

Phase 2: Deferred

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*
- b. require that security screening information is documented and communicated between consecutive shifts.*

Policy:

DPD Directive 305.1, Detainee Intake, effective May 9, 2005, and revised February 5, 2010, sets forth a prisoner security screening program that meets the requirements of this paragraph.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Comments:

DPD Form 659A, revised August 2008, is used to record information on detainees with medical conditions or special needs. We reviewed 68 logs from the Eastern District that contained 645 detainee entries, and found that in two instances, the officer did not enter the time that s/he received the report. In another instance, an officer failed to sign the document. All detainee information was included on the form. The Eastern District's compliance rate with this paragraph is 96%.

We also reviewed 67 logs from the Northeastern District containing 484 detainee entries, and found one lacking a signature and three lacking a date of preparation or receiving by the incoming shift. One supervisor failed to indicate a required comment in the "comments" section of the report on five of the forms. The Northeastern District's compliance rate with this paragraph is 87%.

In the Sixth Precinct, we reviewed 68 logs containing 470 detainee entries. Three of these did not contain a date that the form was prepared or received, and two of the detainee entries did not indicate a comment in the section where it is required. The Sixth Precinct's compliance rate with this paragraph is 93%.

We reviewed 75 logs from the Twelfth Precinct containing 482 detainee entries; of these, there were three that did not indicate receiving times by the member, and one did not contain a supervisory signature. The Twelfth Precinct's compliance rate with this paragraph is 95%.

In the Southwestern District, we reviewed 25 logs containing 141 detainee entries. We found in 90 entries that the reports did not contain any comment referring to the detainee's medical or special needs in the "comments" section of the form. None of the Southwest District's forms were in compliance.

Our review of associated logs revealed significant discrepancies in the Southwestern District. The DPD designed and implemented the Platoon Daily Detainee Summary (Form 659a) to ensure the effective communication of screening information between consecutive shifts. Comments are required under DPD policy 305.5-4.1(2): "The OIC of the desk shall ensure that all complaints and observations are noted on the Detainee Intake Form (DPD 651), Platoon Daily Summary Log (DPD 659) and in the Desk Blotter." It appears the majority of errors occurred in one precinct/district. During our January 2011, site visit, we noted that the forms in the Southwestern District that did not describe detainee complaints or observations in the appropriate boxes. We met with the staff (supervisors) at the Southwestern District during the site visit, and advised them of the deficiencies; they acknowledged that they would rectify the issue.

Two of the five facilities were in compliance, two others were pending, and the Southwestern District is not in compliance. The failure of the Southwestern District to properly complete the required form DPD 659A, Platoon Daily Detainee Summary takes the Department out of compliance for this quarter. The overall compliance rate is 84%.

In the previous reporting period, DPD remained in Phase 2 compliance with this paragraph although the Department's efforts did not meet the required standard. As the Department now has not met the required standard for two successive reporting periods, DPD is now out of Phase 2 compliance with this paragraph.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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.*

Policy:

DPD Directive 305.4, Holding Cell Areas, Sections 4.2 4.3 and 7.4, effective February 1, 2008, and revised March 20, 2010, establishes the duties of the cell block supervisors (CBS) and detention officers relating to well-being checks in compliance with this paragraph. DPD is in Phase 1 compliance with this paragraph.

Comments:

Supervisors are required to walk through the holding cell areas four times per shift to check on the well-being of the detainees. Detention Officers are required to make similar visual checks every 30 minutes (or every 15 minutes for high risk detainees). Their observations are documented on the Detention Cell Check Log (DPD 659).

At the Detroit Receiving Hospital, 15-minute well-being checks are entered on the DPD 659 form when holding cells are occupied. General population well-being checks are entered on the DPD 659 Form every 30 minutes at the districts/precincts. Detainees held in observation cells are monitored every 15 minutes on either the DPD 661 (Mental Health High Risk Monitoring) or the DPD 661a (Medical Health High Risk Monitoring Log). Both forms – DPD 661/661a – have been combined into one single form, DPD 661. This change was implemented on October 13, 2010 and issued through an Administrative Message, Teletype 10-2998.

During the current reporting period, our review of 294 Detention Cell Check Logs (DPD 659) for the general detainee population from the districts with holding cell facilities reflected a 95% compliance rate. This is an increase from the previous reporting period, when the compliance rate was 93%. We attribute the increase to the ability of officers to conduct or document their 30-minute requirement for cell checks on detainees in the general population. There were 11 late cell checks, three by more than an hour, and three supervisors were reprimanded or counseled for their failure to document the required supervisory check of the cell block every two hours. The

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

lowest compliance rate for the five facilities was 93% at the Eastern District, while the highest was for the Twelfth Precinct with a compliance rate of 100%.

We reviewed a total of 144 cases for the period of October 1, through December 21, 2010 that required a 15-minute watch. While the entries were made timely, we found that the date, time, and reason for the removal from the watch were recorded in only 136 of the 144 cases. We attribute the progress to the revised and combined DPD Form 661/661a, and the emphasis placed (DPD Administrative Message, Teletype 10-2998, issued October 7, 2010) on DPD personnel to complete the forms. We also reviewed 14 cases during the reporting period where a detainee was taking medication that was prescribed by DRH. In all cases, the detainee was monitored within 15 minutes; and in 13 cases, the date, time, and reason for the detainee's removal were authorized by the OIC or a supervisor.

DPD's compliance rate with this paragraph for this reporting period is 95%.

Compliance Status:

Phase 1: In Compliance

Phase 2: In 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.

Policy:

DPD Directive 305.4, Holding Cell Areas, Section 4.3, effective February 1, 2008, and revised March 20, 2010, is in compliance with the requirements relating to direct and/or onsite remote observation of occupied observation cells. However, Directive 305.1-3.8, effective May 9, 2005, and revised February 5, 2010, specifies that constant supervision is required when a detoxification/safety cell (observation cell) is used to house a suicidal detainee. Directives 305.1-3.16 authorize the use of any single cell as an observation cell to house a suicidal detainee, and it requires constant supervision. DPD is in Phase 1 compliance with this paragraph.

Comments:

As previously noted, the DPD continues to be out of compliance with its own policies in that detainees on suicide watches are often not placed on constant supervision. Of the 34 DPD 661 and 661a forms that we reviewed during this reporting period (that were maintained on suicide watches), 30 specified "constant supervision," and four specified a 15-minute watch. Even if a detainee is under constant supervision, personnel are required to make notations on the log every 15 minutes. We have noted that in previous reporting periods, officers have marked both constant and 15-minute watches on suicidal detainees. We did not find any reports this quarter where both boxes were marked. DPD's compliance rate with this requirement is 88%.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

We have been advised that the Officer in Charge (OIC) is reluctant to place his/her name on the form indicating the time the detainee is removed from the watch due to personal liability. However, we have found other OICs who follow the policy. DPD Policy 305.1-7.4(8), effective May 20, 2010, states that the cell Block Supervisor at the high risk holding facilities shall review the Patient Discharge Paperwork to confirm classification, and any prescribed medication(s); place a high-risk alert sticker (orange) on the outside of the Detainee File Folder; and ensure the completion of the Mental Health High Risk Monitoring Log (DPD 661).

We have noted previously that DPD personnel have continued to use the 661 and 661a forms interchangeably, even to the point of using both forms on one detainee during the duration of his watch. We were provided with the revised form DPD 661, effective October 20, 2010. This should help alleviate the confusion of duplicate forms utilized for the same purpose.

In addition, the matter of general population detainees being housed in observation (detoxification/safety) cells is still unresolved. We have noted that on occasion, when detainee holding cells are at capacity, DPD has utilized an observation cell as a general population cell. We do not discourage this practice when it is deemed necessary; however, as we noted in our second quarterly report, DPD policy does not provide for such use of those cells. Therefore, a modification of Directive 305.1 is required. Until such time as this issue is resolved, we will continue to find the DPD out of compliance with regard to practice with this paragraph. We have been advised by CRIB that the existing policy will be revised to include this provision.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
35	Security procedures to ensure safety	In Compliance	Deferred
36	Prisoner security screening program	In Compliance	Not in Compliance
37	Procedures for cell checks required	In Compliance	In Compliance
38	On-site remove observation of 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.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Policy:

DPD Directive 305.4, Holding Cell Areas, Section 5, effective February 1, 2008, and revised March 20, 2010, establishes sanitation and cleaning procedures for the district/precinct holding cells. DPD is in Phase 1 compliance with this paragraph.

Comments:

In our third report, we noted that the Twelfth Precinct did not meet the high standard that it set during the previous reporting period. During our fourth and fifth inspections, we found that the Twelfth Precinct once again set the benchmark against which the other districts/precincts can check their progress. Overall, graffiti is almost non-existent throughout the facilities, and we did not observe trash in any cells. The least satisfactory areas were offices in the cell blocks where detainees are not housed. The accumulation of dirt in those spaces is attributable to staff. The Detroit Receiving Hospital was uncharacteristically dirty and cluttered during our fourth site visit; however, it made a significant turnaround during our fifth and sixth site visit, as the cells and office areas were clean and tidy.

During this reporting period, we reviewed 90 Holding Cell Cleaning logs – 18 from each of the five facilities, and seven days on each log, for a total of 630 days. We found them to be in order with the cleaning officers' names, dates of cleaning, and the Cell Block Supervisors approval designated. In almost every instance, the cleaning officer checked the box in the appropriate place; however, in 12 instances in the Northeastern District, and five in the Sixth Precinct, the officers simply drew a line through the first entry to the last. The same supervisor approved these documents without advising his personnel that they were in error. This method is not sound practice and leaves the reviewer unclear regarding whether or not the cell was cleaned. At the top of DPD form 701, Holding Cell Cleaning Log, revised August 2008, the form clearly indicates "place a check mark under the duty performed". Three of the entries did not contain a Cell Block Supervisor's signature, and six did not contain a time the form was approved by the CBS. DPD's compliance rate for this quarter is 96%.

During our January 2011 site visit, two of our team inspected all vacant cells at four different facilities on two separate days. We found that in the Eastern District and the Twelfth Precinct the cleanliness of the cells were satisfactory. The Northeastern District was not quite up to standard, and at the Southwest District we found what appeared to be paint that had been peeled up from power-washing and had adhered to the floor in the cells and walkways. The CBS accompanied us during the inspection and indicated that he would take action to resolve the issue. Throughout the holding cell area in this facility, there was an obnoxious odor that permeated every space. We were advised that the odor had lingered in the area all week. The cleanliness of the cells and common areas in the Southwestern District was also poor, and the failure of the Eastern Precinct to follow and complete the instructions in the Holding Cell Cleaning Log is critical to DPD's ability to be in compliance with this paragraph.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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.

Policy:

DPD Directive 305.4, Holding Cell Areas, Section 5, effective February 1, 2008, and revised March 20, 2010, establishes cleaning and inspection standards for holding cell areas. DPD is in Phase 1 compliance with this paragraph.

Comments:

Cell block supervisors are required to conduct inspections at the beginning of their shifts and to correct any noted discrepancies. Holding cell areas must be cleaned daily and documented in the Holding Cell Cleaning Log (DPD 701). Detention officers must clean cells immediately after they are vacated (DPD 305.4(4)); however, it was difficult to locate those instances on the logs where a cell was vacated and immediate cleaning took place.

During the current reporting period, we found that 96% of the DPD 701 Forms were in compliance. We are finding that some facilities take pride in their ability to maintain a safe environment for detainees, while others have made significant progress and are now in compliance. The only discrepancy that we noted in our previous report on the forms was a sergeant's repeatedly stamped name instead of his actual signature. We noted that while the Sergeant continues to stamp his name, he does place his signature on the form. Sanitation appears to be satisfactory on paper, but our inspection revealed that while the previous conditions we noted have improved considerably, the cleanliness of some of the cells and common areas remain at unacceptable levels.

DPD is not in Phase 2 compliance with this paragraph.

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.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Policy:

DPD Directive 305.4, Holding Cell Areas, Section 6.6, effective February 1, 2008, and revised March 20, 2010 establishes procedures for the maintenance of the holding cells. DPD is in Phase 1 compliance with this paragraph.

Comments:

The Platoon 1 Cell Block Supervisor is responsible for conducting a weekly maintenance inspection and for documenting discrepancies in the Facilities Maintenance Log (DPD 702). The Platoon 1 Cell Block Supervisor is required to submit repair orders via e-mail to the Maintenance Department.

During the last reporting period, our review of DPD 702 Forms for the period of July 1, through September 30, 2010, found them to be out of compliance, due either to the construction of the form, or the failure to indicate when critical holding cell repairs were completed. As noted previously, the new form, DPD 702, will likely resolve problems with documentation. Through conversations with DPD personnel we had indicated the above noted problem with completion dates of necessary repairs to the facilities being documented. The new form contains a section on the report for listing when the repair is completed.

As a result of those conversations and a subsequent meeting on January 28, 2011, OCR will now prepare a spreadsheet specifying all currently outstanding repairs and their status at all DPD holding cell facilities. The listed items are derived from each HC facility logs which are currently submitted to the Monitor and OCR. Following that, the OCR/HCCC will include all outstanding repairs as an agenda item for discussion at each monthly HCCC meeting.

During our evaluation of this quarter's Facility Maintenance Logs, we reviewed all logs from each of the five district/precincts that maintain holding facilities. There were a total of 492 entries, of which only four had not been reconciled. The repairs that had not yet been completed are listed on the spreadsheet with a repair date. The spreadsheet prepared by OCR containing completed or outstanding repairs is a tool that should serve DPD well. During the next reporting period, we will review the December 2010 OCR spreadsheet to ensure that the projected dates for completion of the repairs have been achieved.

During our January 2011 site visit, we observed in the facilities that personnel placed visible signs, indicating not to use them, on the doors of cells that required maintenance. DPD's compliance in this area is 99%. Full compliance requires DPD to amend their current policy to include the changes noted above. We were notified on February 8, 2011 that the necessary changes to policy will be forthcoming.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

CJ Requirement C42

The DPD shall provide adequate heating and ventilation for all buildings containing holding cells.

Policy:

DPD Directive 305.4, Holding Cell Areas, Section 6.6, effective February 1, 2008, and revised March 20, 2010, establishes the policy regarding heating and ventilation (temperature ranges) within the holding cells.

Comments:

During our inspections of the facilities, we found the temperature in each cell block well within established limits (between 66 and 80 degrees). Our interviews with cell block supervisors and inspection of the facilities revealed that they checked the temperature upon assuming the shift. Based on our review of the above-referenced directive and our observations, the DPD is in Phase 2 compliance with the requirements of this Consent Judgment paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C43

The DPD shall repair all broken or malfunctioning lighting, toilets, sinks and windows in holding cells and observation cells.

Policy:

DPD Directive 305.4, Holding Cell Areas, Section 6.6, effective February 1, 2008, and revised March 20, 2010, sets forth Departmental policy with regard to the repairs as required. DPD is in Phase 1 compliance with this paragraph.

Comments:

We have found critical repairs to cells noted on the Maintenance Log, but the logs did not note when or if they were completed. As we noted previously, the DPD was in the process of implementing a more effective maintenance repair tracking system, and effective June 8, 2010, this system became functional.

Accordingly, the DPD remains in Phase 1 compliance, but we will not be able to determine Phase 2 compliance with this paragraph until the DPD amends its current policy.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending 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.

Policy:

Directive 305.4 Holding Cell Areas, Section 6.6, effective February 1, 2008, and revised March 26, 2010, requires sufficient lighting to ensure the safety of all persons shall be provided at all times. DPD is in Phase 1 compliance with this paragraph.

Comments:

We inspected three district/precinct holding cells, and found that supplemental lighting has been retrofitted at each location. The DPD Facilities Management Staff conducted light level tests in the five districts/precincts that maintain holding cells, and at the Detroit Receiving Hospital. In each case, the light levels in the cells and adjacent areas exceeded 20-foot candles at desk level. The DPD is in continued full compliance with the requirements of this Consent Judgment paragraph.

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.

Policy:

Directive 305.4, Holding Cell Areas, Section 7, effective February 1, 2008, and revised March 26, 2010, requires that detainees have access to toilets and potable drinking water 24 hours per day.

Comments:

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Our inspection of the district/precinct holding cells during this reporting period determined that all prisoners had access to toilets and potable water at all times. Based on the published directive and our observations of conditions of the physical plant in the district/precinct holding cells, the DPD is in full compliance with the requirements of this paragraph.

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.

Policy:

Directive 305.4, Holding Cell Areas, Section 6.6, effective February 1, 2008, and revised March 26, 2010, Security, Heating, Lighting, Ventilation and Conditions, requires that weekly security and maintenance inspections shall be conducted in the following areas: holding cell bars, locks; windows; walls; floors, ventilator covers, protective screens, doors, toilets; sinks; and lighting.

Comments:

The DPD staff advised, and our inspections of the district/precinct holding cells confirmed, the removal of all Hepa-Aire purifiers. The DPD is in full compliance with the requirements of this Consent Judgment paragraph.

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	Holding cell cleaning policy required	In Compliance	Not in Compliance
41	Holding cell maintenance policy required	In Compliance	Pending Compliance
42	Provide adequate heating and ventilation	In Compliance	In Compliance
43	Repair broken/malfunctioning cell elements	In Compliance	Pending Compliance
44	Insure sufficient cell lighting	In Compliance	In Compliance
45	Provide reasonable access to toilets and water	In Compliance	In Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

46	Hepa-Aire purifiers comply with standards	In Compliance	In Compliance
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VIII. POLICIES CONCERNING PERSONS WITH DISABILITIES

CJ Requirement C47

The DPD shall ensure that persons with disabilities are provided with reasonable accommodations.

Policy:

The DPD developed a Comprehensive Medical and Mental Health Screening Program (CMMHSP) effective May 9, 2005. Policy 305.1, Detainee Intake and Assessment, and Policy 305.5, Detainee Health Care, were updated and approved in writing by a qualified medical and mental health professional on February 5, 2010. However, during our previous site visit, we noted a variance between the requirements of Section 7.3-5 and actual practice pertaining to Telecommunications Devices for the Deaf (TDD). We advised the DPD that they must update this policy for this review period in order to avoid a Phase 1 non-compliance finding. The DPD completed the appropriate revisions during this reporting period. The revised policy states, "Each precinct with a holding cell is equipped with a Telecommunications Devices for the Deaf (TDD). In the event that a precinct has a device that is inoperable any deaf or hearing impaired detainee shall be transferred to a precinct that has a functioning TDD. In such instances, the Cell Block Supervisors (CBS) shall document this information in the blotter." Accordingly, we find the DPD in Phase 1 compliance with this paragraph.

Comments:

Phase 2 compliance is related to and contingent upon the implementation of C48; accordingly, our compliance finding is deferred.

Compliance Status:

Phase 1: In Compliance

Phase 2: Deferred

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.

Policy:

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

DPD Directive 305.1, Detainee Intake/Assessment, effective May 9, 2005, was last revised February 5, 2010 in consultation with a qualified medical and mental health professional from the Detroit Department of Health and Wellness Promotion (DHWP). Accordingly, the DPD is in Phase 1 compliance with this requirement.

Comments:

We reviewed the Department's practices concerning the use of Telecommunications Devices for the Deaf (TDD) in the third reporting period, and informed the DPD that we would find the Department out of compliance in this area if the problems with training and practice were not improved. In the fifth reporting period, as these disparities continued, we found DPD not in Phase 2 compliance with this paragraph.

During the current reporting period, we visited the four districts/precincts that maintain holding cells, and continued to find a number of disparities between practice and policy regarding the TDD equipment.

The October 27, 2010, Holding Cell Compliance Meeting minutes document recommendations by the attendees to institute a facility to facility communication with the TDD system check on a monthly basis. The training sergeant acknowledged that currently there is not training on TDD incorporated into the PDO lesson plans. In order to be in compliance with this paragraph, the aforementioned must be corrected.

This change in procedure should be required in the field, and detention staff needs to be trained on a uniform procedure to test the TDD system.

We find the DPD not in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 – Implementation
47	Reasonable accommodation for disabled	In Compliance	Deferred
48	Detention of persons with disabilities	In Compliance	Not in 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.

Policy:

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

DPD Directive 305.8, Detainee Food Service, effective May 9, 2005 and revised March 20, 2010, requires that detainee meals are stored properly and served in a sanitary manner in accordance with state and local health codes. This directive was developed in consultation with a dietician and sanitation specialist from the Detroit Department of Health and Wellness Promotion (DHWP). DPD Directive 305.8, Detainee Food Service and Hygiene Items log, was last reviewed and signed by DHWP on February 4, 2010. We found the DPD Phase 1 compliance with this paragraph.

Comments:

Phase 2 compliance is related to and contingent upon the implementation of C50; accordingly, the DPD is also in Phase 2 compliance.

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.*

Policy:

DPD Directive 305.8, Detainee Food Service Hygiene Items, effective May 9, 2005, and revised June 12, 2010, requires that a registered dietician and sanitation specialist approve and review annually the food services policy for detainee meal service. This directive was developed in consultation with a dietician and sanitation specialist from the Detroit Department of Health and Wellness Promotion (DHWP). During the current reporting period, the DPD implemented a revised Detainee Meal and Hygiene Items Log, DPD 663, effective July 5, 2010. We received documentation of this revision, Administrative Message, Teletype 10-02497.

DPD is in Phase 1 compliance with this paragraph.

Comments:

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

During the current reporting period, we reviewed a random sample of 1,939 entries on DPD form 663 Daily Detainee Meal and Hygiene Items Log DPD 663. Our review indicated that 1,845 of these entries were in compliance and 94 were not. The most common failures occurred when the supervisor failed to document the date and/or time. Most of the districts/precincts indicated on the form in the comments section when the detainee was released, bonded, or transferred or in the next available meal column listed on the form. This is a sound practice and should be continued. The other errors were due to officers' failures to indicate when the detainee was released. In these cases, we do not know the status of the detainees, and question if personnel in the facility know. We found the DPD was 95% in compliance, an improvement from the 87% we found in the previous reporting period.

We also reviewed 31 Refrigeration Logs during this reporting period. Although we found that twice, the Sixth Precinct and the Northeastern District did not clean their refrigerators, the overall compliance rate of 95% showed a slight increase from the 94% noted during the last reporting period. The refrigerator temperatures and expiration dates on the food were up to standard. We also observed meal distribution is several of the districts/precincts, and found that the PDOs distributed food to detainees in a sanitary manner.

In addition, we verified that three out of the four districts/precincts that maintain holding cells that we inspected had an adequate number of alternative meals available for detainees with religious or dietary needs. The Twelfth District did not have onsite any alternative meals.

DPD remains in Phase 2 compliance with this paragraph. DPD must ensure that the detention staff has an adequate number of alternative meals onsite, and that the meals are stored in a clean and sanitary environment to maintain this status.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
49	Ensure sanitary food storage and service	In Compliance	In Compliance
50	Food service policies and practices	In Compliance	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.

Policy:

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

DPD Directive 305.8, Detainee Food Service and Hygiene Items, effective May 9, 2005, requires that detainees be provided with hygiene items on a daily basis. DPD Directive 305.8 was last updated on March 15, 2010. In addition, the DPD developed and employs the Daily Detainee Meal and Hygiene Items Log (DPD log 663) to document that hygiene items are provided to each detainee. During the current reporting period, the DPD revised DPD log 663. We received documentation of the revision, Administrative Message, Teletype 10-02497, effective July 5, 2010, and a copy of the revised log.

DPD remains in Phase 1 compliance with this paragraph.

Comments:

During the third, fourth, and fifth reporting periods, we found the DPD logs 663, Detainee Meal and Hygiene Logs, in compliance with this paragraph.

During the current reporting period, our review of DPD log 663, Detainee Meal and Hygiene Logs, revealed that, for the most part, detention officers are providing each detainee with a towelette when distributing each meal.

Our interviews with the PDOs show that they appear to understand the importance of providing personal hygiene items to the detainees on a daily basis. Our inspection of four districts/precincts that maintain holdings cells revealed that the Twelfth Precinct did not have onsite hygiene kits.

However, during our most recent site visit, we noted that more recently, reporting in this area by the Twelfth Precinct and the Northeastern District was exemplary; these facilities also distributed more hygiene kits than other facilities. The Sixth Precinct did not distribute any hygiene kits, although we do not know if any were requested.

For the current reporting period, DPD's compliance rate is 95%. Therefore, we find DPD in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
51	Make available personal hygiene items	In Compliance	In Compliance

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.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Policy:

DPD Directives 305.4, Holding Cell Areas, Section 6.2, effective March 2010; and Directive 304.2, Use of Force, effective June 2006, and revised November 2010; set forth the required use of force guidelines. We found the DPD in Phase 1 compliance with this paragraph in all previous reporting periods; the Department maintains that status during this reporting period.

Comments:

We found the DPD in deferred Phase 2 compliance with this paragraph in the first reporting period, and not in compliance in subsequent reporting periods.

We reviewed nine events involving uses of force that occurred during this reporting period: three in the Eastern District; two in the Northeastern District, two in the Twelfth Precinct, and one in the Sixth Precinct. We also reviewed one case that occurred in the 36th District Courthouse, which probably does not meet the intent of the requirement, but it was a good investigation nonetheless. While the investigations of these incidents were generally complete, we continue to note timeliness issues. The preliminary investigations were completed within the prescribed timeline in only three of the nine cases, and the final investigations were completed in a timely fashion in five cases. While videos should be available given the settings of these incidents, their use and consideration are inconsistent. In two of the cases, investigating supervisors made requests for video, but there was no indication that the video was received, reviewed, or of any value. In two other investigations, to their credit, reviewing supervisors returned investigations that were initially lacking reference to video evidence. In another investigation, video was available but was of such poor quality as to be unusable.

During our most recent site visit, we asked supervisors in the Northeastern District and Schaefer Annex to outline their duties as it relates to use of force incidents in detention facilities. All knew their responsibilities.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

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*

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

- c. the supervisor assesses 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.*

Policy:

DPD Directive 305.4, Holding Cell Areas, Sections 6.2 and 6.3, effective March 2010, establishes the required procedures for this paragraph. We found the DPD in Phase 1 compliance with this paragraph in all previous reporting periods.

Comments:

We found the DPD in deferred Phase 2 compliance with this paragraph in the first reporting period, and not in compliance in subsequent reporting periods.

All districts/precincts that maintain holding cells are equipped with videotaping/digital recording equipment that is linked to an extensive camera system that monitors hallways and common areas as well as most, but not all, cells. DPD has not, as of yet, required handheld video cameras in all of its detention facilities. We will report on the acquisition of this equipment when it occurs.

Of the uses of force reviewed during this reporting period, it appeared that two cases met the criteria for this paragraph. Neither was in compliance. In one case, the reviewing Commander caught the violation of policy. In the other, two sergeants participated in the use of force. They cited the spontaneity of the event as a reason to not treat it as a preplanned use of force, but we note that one officer had time to acquire a riot shield which was used in the incident.

As mentioned above, detention facility supervisors randomly questioned regarding their duties knew their responsibilities, including the requirement to videotape preplanned uses of force. They indicated, however, that they have not as of yet been provided with the means to do so.

DPD remains not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C54

The DPD shall not handcuff prisoners to benches for longer periods of time than are necessary.

Policy:

DPD Directive 305.4, Holding Cell Areas, Section 6.1, effective March 2010, provides that detainees will not be handcuffed to benches or fixed objects longer than is necessary (no longer than three hours). We found the DPD in Phase 1 compliance during the previous reporting periods.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Comments:

We found the DPD in deferred Phase 2 compliance status during the first reporting period, and in Phase 2 compliance during subsequent reporting periods.

During our visits to detention facilities during the most recent site visit, we did not observe any detainees handcuffed to fixed objects. Additionally, our review of DPD 715 forms (Evaluation of the Operation of Holding Cells) for the reporting period did not reveal any affirmative responses to question 22 (Were any detainees observed handcuffed to an object?).

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
52	Use of force policies	In Compliance	Not in Compliance
53	Revise policy re use of force with prisoners	In Compliance	Not in Compliance
54	Handcuffing of prisoners to benches	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.

Policy:

DPD Directive 305.4, Holding Cell Areas, Section 6.6, effective March 2010, requires the appropriate thorough investigation of all uses of force, injuries to detainees, and in-custody deaths that occur in holding cells. We found the DPD in Phase 1 compliance with this paragraph during the previous reporting periods.

Comments:

We found the DPD out of Phase 2 compliance with this paragraph during the previous reporting periods.

We reviewed nine incidents involving uses of force in holding cells that occurred during this reporting period. As mentioned above, we found that adherence to timelines was an issue. Only 33% of the preliminary investigations were completed on time, and only 55% of the final

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

investigations were timely. We did not review any cases of prisoner injuries or in-custody deaths.

DPD is not in Phase 2 compliance with this paragraph.

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.

Policy:

DPD Directive 305.4, Holding Cell Areas, Section 6.2, effective March 2010, requires the reporting of all uses of force. We found the DPD in Phase 1 compliance during the previous reporting periods.

Comments:

We found the DPD in deferred Phase 2 compliance status during the first reporting period, and not in Phase 2 compliance during subsequent reporting periods.

We reviewed nine incidents involving uses of force that occurred during this reporting period. As mentioned above, we discovered issues with timelines, appropriate reviews of video, and supervisors participating in, rather than directing, preplanned uses of force. All of the actual uses of force were evaluated for effectiveness and compliance with policy. Reviewing supervisors appropriately pointed out non-tactics related deficiencies or asked clarifying questions in three of the investigations.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

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.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Policy:

DPD Directive 305.4, Holding Cell Areas, Section 6.2, effective March 2010, requires the reporting and investigation of all injuries occurring within detention facilities. We found the DPD in Phase 1 compliance with this paragraph during the previous reporting periods.

Comments:

There were no injury reports submitted for review during this reporting period. One detainee was treated and released after a use of force incident, but the treatment was for psychological issues (he was described as bi-polar). Medical/treatment documentation was included in this case file.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
55	Use of force investigations	In Compliance	Not in Compliance
56	Use of force investigations	In Compliance	Not in Compliance
57	Injury to prisoner investigations	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.

Policy:

DPD Directives 305.4, Holding Cell Areas, Section 6.2, effective March 2010; and Directive 102.6, Citizen Complaints, effective July 1, 2008, and revised November 2010; require the acceptance and processing of external complaints regarding incidents occurring in the holding cells. The DPD is Phase 1 compliance with this paragraph.

Comments:

We found the DPD in Phase 2 compliance during the previous reporting periods.

The Department closed 11 complaints originating from detention facilities during the reporting period: three in October; three in November; and five in December. All complaints were

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

accepted and processed in accordance with DPD policy. The majority of the complaints were received via walk-in to OCI. One complaint was taken from the complainant while he was still in custody. OCI retained investigation of all of the complaints except one, which was appropriately transferred to the Force Investigation Unit. While there were issues associated with the investigation of these complaints (see C59), DPD is in Phase 2 compliance with this Consent Judgment paragraph.

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.

Policy:

DPD Directive 305.4, Holding Cell Areas, Section 6.2, effective March 2010; and Directive 102.6, Citizen Complaints, effective July 1, 2008, and revised November 2010; require the investigation and review of all external complaints regarding incidents occurring in the holding cells. The DPD is in Phase 1 compliance with this paragraph.

Comments:

We found the DPD in Phase 2 compliance with this paragraph during the first reporting period, but not in compliance during successive reporting periods.

The Department closed 11 complaints originating from detention facilities during the reporting period. One was appropriately transferred to the Force Investigation Unit. Of the remaining 10 cases, only one was completed within 90 days. None contained requests for extensions. Five of these cases were reassigned to the Backlog Squad. In one case, it appeared that leading questions were used in the interview of a supervisor. The findings were appropriate, and one investigation resulted in a sustained charge for failure to take a complaint. In seven of the cases, supervising investigators did not document specific deficiencies or corrective actions when returning cases to the investigators. In summary, the detention cases exhibited many of the issues delineated in CJ requirements U27-33, impacting DPD's compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Phase 2: Not in Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
58	Receipt of external complaints	In Compliance	In Compliance
59	Investigation of external complaints	In Compliance	Not in Compliance

Critical Issues:

- The issues that impact the quality of use of force investigations and OCI investigations, as outlined in CJ requirements U27–33 and U61–69, are also evident in the cases reviewed for requirements C52–59. As these issues are addressed Department-wide, we hope to see a positive impact on the subset of cases originating from detention facilities.

Next Steps:

During the next reporting period, we will:

- Continue to review all force, injury, and complaint incidents originating from detention facilities.
- Monitor the acquisition of handheld cameras for deployment in each detention facility.
- Conduct field visits to various detention facilities to verify the Department’s adherence to policy requirements.

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:

We found the DPD in Phase 2 compliance in all of the previous reporting periods. That status continues in this reporting period.

DPD Directive 404.1, Definitions, effective July 1, 2008, clearly explains frequently used terms, as required. The DPD has incorporated these terms in various directives and other official documents throughout the term of this Agreement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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.

Policy:

DPD Directive 101.1, Written Directive System, effective July 1, 2008, sets forth the procedure for developing, publishing, distributing, and updating policy and procedures within the DPD (Also see U-71).

DPD is in Phase 1 compliance with this paragraph.

Comments:

To assess Phase 2 compliance with this requirement for this reporting period, we again examined the process for the implementation of policies and reviewed comments contained in the DPD 29th Quarter Status Report, dated December 31, 2010. The comments contained in the status report indicate the DPD's continued effort to make proposed policy changes available to the community, but also note that the Department has not received any citizen comments.

During our most recent site visit, we inquired regarding any changes to DPD policies since our last site visit. We were provided a list of 25 directives identified as revised. We determined that the majority of them do not contain substantive or procedural changes and are, in fact, revised in name only. The majority of "revisions" are simply annual reviews required by DPD (Also see U-71).

The DPD is in Phase 2 compliance.

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

SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT

April 15, 2011

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.

Policy:

DPD Directive 305.4, Holding Cell Areas, effective May 9, 2005, requires routine evaluation of the operations of holding cells to minimize harm to staff and prisoners.

The DPD is in Phase 1 compliance with this paragraph.

Comments:

During the previous reporting period, the DPD provided us with our requested sample of 715 forms for our evaluation of the five districts/precincts that maintain holding cells. All 715 forms received were signed by the Compliance Liaison Officers (CLO). However, we did not receive any documents for the DRH. During the previous reporting periods, CRIB was determining whether it is beneficial for the CLO to fill out the 715 form daily or monthly.

During the current reporting period, we followed up on the issue of whether it was beneficial for the CLOs to fill out daily 715 forms. We learned that CRIB implemented a new procedure for completing the 715 forms. The CLOs are now responsible for completing the forms once per month. This was approved by the Holding Cell Committee and was documented in the minutes of the Holding Cell Compliance Committee that met in October 2010.

In addition during this reporting period, the DPD provided us with our requested sample of 715 forms for our evaluation of the five districts/precincts that maintain holding cells. All 715 forms received were signed by the Compliance Liaison Officers (CLO). However, we still are not receiving any documents for the DRH. We continue to have discussions with CRIB on this issue. The holding cell operations at DRH fall under the requirements of this paragraph. To avoid a finding of non-compliance during the next reporting period, the DPD must require DRH staff to fulfill the requirements of this paragraph by evaluating the operations of the holding cell area at DRH.

We find the DPD in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C63

The DPD shall operate the holding cells in compliance with DPD's comprehensive risk management plan including implementation of:

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

- a) *the risk management database;*
- b) *the performance evaluation system;*
- c) *the auditing protocol;*
- d) *regular and periodic review of all DPD policies; and*
- e) *regular meetings of the DPD management to share information and evaluate patterns of conduct by DPD that potentially increase the DPD's liability.*

Policy:

Phase 1 compliance with this requirement is governed by policies related to the use of force requirements relating to the risk management system (U78-90), personnel evaluations (U90), and audits (U92-99). Each of these requirements is in Phase 1 compliance for this reporting period. Findings regarding those requirements, therefore, also apply here. In addition, the DPD developed an auditing tool that follows the generally accepted government auditing standards (GAGAS). The DPD Audit Protocol was updated and approved by the Chief of Police on October 31, 2010.

DPD is in Phase 1 compliance with this paragraph.

Comments:

With regard to personnel evaluations, requirements to sustain Phase 2 findings in U90 are also relevant here. Evaluations of detention personnel are included in our sample drawn for regular review. Procedures requiring audits of holding facilities are also included under the general audit requirements (U92-99). Findings of Phase 2 compliance in these areas, therefore, apply to the related subsections of this requirement (sections b, c).

Under the Consent Judgment, U78-90 establish the standards for the Phase 2 requirements of the risk management system. As was true with regard to Phase 1, our findings regarding those requirements are also relevant here. Although progress with MAS is noted in this report, the current status of the system does not yet support a finding of Phase 2 compliance (see U79). DPD continues to conduct reviews of holding cell issues as part of its regular Command Compliance Review Meeting.

As noted, DPD meets the requirements for full compliance on some parts of this paragraph, but full compliance with the whole requirement depends on successful implementation of the risk management system. Although we note progress on that system, it does not yet support a finding of full or pending compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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 prisoner 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.*

Policy:

DPD is required to revise and augment its Policy 305.4-6.3, Video-Taping Use of Force, on video cameras as outlined in the requirements of this paragraph. In all previous reporting periods, we found the DPD in Phase 1 compliance with this paragraph. That status remains for the current reporting period.

Comments:

During our previous inspections of holding cells, we observed the operation of video cameras in all processing areas. However, DPD did not provide us with documentation to confirm that video cameras were in continuous operation in all holding cell areas. In addition, we noted evidence indicating the supervisory reviews of videotapes, but only when a use of force incident occurred.

During our January 2011 site visit, the Parties met, and determined that video cameras were not required outside of the processing areas. In accordance with this determination, our inspection of four districts/precincts that maintain holding cells revealed that the video cameras were working in three out of the four districts/precincts' processing areas. In the Twelfth Precinct, we asked the detention staff to pull up the screens, but they could not. When we returned to CRIB that same afternoon, we asked the staff to try to pull up the camera screens, and they were able to pull the screens.

The DPD also advised that handheld video cameras will be obtained to achieve and/or enhance compliance with Departmental policy regarding the documentation of incidents involving injuries to a prisoner or an officer, uses of force and external complaints.

We found the DPD at 75% compliance with this paragraph.

Compliance Status:

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C65

The DPD shall conduct regularly scheduled semiannual 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 statistically valid 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.⁷⁹*

Policy:

During the previous reporting periods, we found that the DPD, using generally accepted government auditing standards (GAGAS), developed an Audit Protocol in accordance with the requirements of U92. The protocol, effective August 31, 2008, established an audit schedule; described the audit terms; specified the roles and responsibilities of Audit Team members; described the various audits, including the one required by this paragraph; and described the reports required. This protocol was reviewed and updated, effective October 31, 2010. As a result, DPD remains in Phase 1 compliance with this paragraph.

Comments:

⁷⁹ 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.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

For the previous periods ending July 31, 2009, and January 31, 2010, the Civil Rights Integrity Bureau (CRIB) Audit Team conducted the required Combined Uses of Force Investigations Audits.⁸⁰

During the last reporting period, the CRIB Audit Team completed and issued its Combined Use of Force Investigations Audit on July 31, 2010.

We will review the next Combined Use of Force Investigations audit to be released on January 31, 2011 during our next quarterly review.

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.*

Policy:

The DPD has established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph. The DPD Audit Protocol sets forth requirements for conducting the audits. This protocol was reviewed and updated, effective February 5, 2010. As a result, DPD remains in Phase 1 compliance with this paragraph.

Comments:

We previously reviewed the Fire Safety Practices and Policies audits conducted by the HCCC and the CRIB Audit Team for the periods ending July 31, 2009, and January 31, 2010, and found that the DPD was in Phase 2 compliance with this paragraph.

⁸⁰ The Civil Rights Integrity Bureau (CRIB), headed by a Deputy Chief was established in 2003. Upon the retirement of the Deputy Chief holding that position, the command was changed to the Office of Civil rights (OCR) headed by a Commander. In November 2009, CRIB was re-established, again headed by a Deputy Chief. OCR is presently a sub-unit within CRIB. The acronyms CRIB and OCR are used interchangeably in this report.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

During our previous visit to the various districts/precincts that maintain holding cells, we conducted an examination of the policies and practices related to the Fire Safety Practices and Policies. The CRIB Audit Team completed and issued its audit of the Fire Safety Practices and Policies, covering the period ending July 31, 2010; we reviewed the audit and found it to be an ample and robust document.

During the current reporting period, we received and reviewed the Fire Marshal's annual report which was conducted on November 29, 2010. The Fire Marshal also conducts regular and periodic (annual) inspections of holding cells; the most recent review was conducted in November 2010. In addition, we conducted site visits to the various districts/precincts that maintain holding cells, and examined the policies and practices related to the Fire Safety Practices and Policies. (See C14-22.)

We will review the next Fire Safety Practices and Policies audits to be released on January 31, 2011, during our next quarterly review.

Accordingly, we find the DPD in continued Phase 2 compliance with this paragraph.

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; 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*
- b. issuing a written report regarding the findings of the audit.*

Policy:

The DPD has established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph. The DPD Audit Protocol sets forth requirements for conducting the audits. This protocol was reviewed and updated, effective February 5, 2010. As a result, DPD remains in Phase 1 compliance with this paragraph.

Comments:

We previously reviewed the Comprehensive Emergency Preparedness Program audit conducted by the HCCC and the CRIB Audit Team for the period ending January 31, 2010. We found the

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

audit to be a detailed document that determined that the DPD met the requirements for performance and documentation of requirements of this paragraph.

The DPD developed and published a Comprehensive Emergency Preparedness Program (CEPP) addressing safety and security, as required. The CEPP includes an emergency response plan for each district/precinct (see C24) and a key control system requirement (see C25).

During our most recent visit to the various precincts/districts that maintain holding cells, we separately examined the policies and practices related to the Emergency Preparedness Program. Our findings are discussed above in C23-25.

The DPD has conducted and documented fire drills, as required. During this current reporting period, we reviewed the Fire Drill Documentation logs, DPD 703, for each of the five districts/precincts and found that two or more were conducted on each shift in each district/precinct as required. In addition, our inspection revealed that the number of key sets has been increased from three to a minimum of five at each district/precinct.

We will review the next Comprehensive Emergency Preparedness Program (CEPP) audits to be released on January 31, 2011, during our next quarterly review.

Accordingly, we find the DPD in compliance with these requirements of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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.*

Policy:

The DPD has established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph. The DPD Audit Protocol sets forth requirements for conducting the audits. This protocol was reviewed and updated, effective February 5, 2010. As a result, DPD remains in Phase 1 compliance with this paragraph.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Comments:

We previously reviewed the Medical and Mental Health Program and Policies Audits conducted by the HCCC and the CRIB Audit Team for the periods ending July 31, 2009, to January 31, 2010, and July 31, 2010. The audits contained detailed accountings of the Audit Team's findings. The latter audit was command-specific, identified specific deficiencies, and made recommendations for corrective action and accountability at the command level. We found these audits to be thorough and note that the identification of specific deficiencies and the inclusion of recommended corrective action are positive steps.

During the last reporting period, we visited the various precincts/districts that maintain holding cells, and examined the policies and operational practices related to the Medical and Mental Health Program. Our findings are discussed above in C26-34.

The CRIB Audit Team completed and issued its audit results for the Medical and Mental Health Program and Policies on July 31, 2010.

During the current reporting period, we reviewed the Medical and Mental Health Program and Policies Audits conducted by the HCCC and the CRIB Audit Team for the periods ending January 31, 2011. The audit was command-specific, which identified in detail deficiencies and made recommendations for corrective action and accountability at the command level. We found these audits to be thorough in the detection of specific deficiencies. The command-specific audits and corrective action plans assist the DPD towards achieving compliance.

We will review the next Medical and Mental Health Program and Policies Audits to be released on January 31, 2011 during our next quarterly review.

The DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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.*

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Policy:

The DPD has established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph. The DPD Audit Protocol sets forth requirements for conducting the audits. DPD remains in Phase 1 compliance with this paragraph.

Comments:

We previously reviewed the Detainee Safety Program and Policies Audits for the periods ending July 31, 2009, and January 31, 2010. The January 31, 2010, audit was command-specific, which identified specific deficiencies, and made recommendations for corrective action and accountability at the command level. We found these audits to be thorough, and note that the identification of specific deficiencies and the inclusion of recommended corrective action are positive developments.

The CRIB Audit Team during the previous reporting period completed and issued its audit results for the Detainee Safety Program on July 31, 2010. We also separately reviewed the operational implementation of policies and practices related to the Detainee Safety Program during our visits to all five districts/precincts that maintain holding cells and the DRH.

During this current reporting period, we independently reviewed the operational implementation of policies and practices related to the Detainee Safety Program during our visits to all five districts/precincts that maintain holding cells and the DRH. Our findings are discussed in C35-38.

We will review the next Detainee Safety Program and Policies Audits to be released on January 31, 2011 during our next quarterly review.

Accordingly, we find the DPD in Phase 2 compliance with 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;*

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

- b. reviewing a sampling of cleanings and maintenance logs to ensure they are properly 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.*

Policy:

The DPD has established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph. The DPD Audit Protocol sets forth requirements for conducting the audits. DPD remains in Phase 1 compliance with this paragraph.

Comments:

We previously reviewed the Environmental Health and Safety Program Audit for the period ending January 31, 2010. This audit was command-specific and focused on identifying deficiencies within commands and outlining recommended corrective action. At that time, we also independently reviewed the operational implementation of policies and practices at the various districts/precincts.

During the previous reporting period, the CRIB Audit Team completed its audit of the Environmental Health and Safety Program and issued its finding on July 31, 2010. We reviewed the team's finding. In addition, we conducted an inspection separately on operational implementation of policies and practices of the five districts/precincts with holding cells and the DRH.

During the current reporting period, we separately inspected operational implementation of policies and practices of various districts/precincts with holding cells and the DRH. Our findings are discussed above in C39-46.

We will review the next Environmental Health and Safety Program Audits, to be released on January 31, 2011, during our next quarterly review.

The DPD is in compliance with requirements of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

CJ Requirement C71

The Holding cell Compliance Committee shall conduct regularly scheduled semiannual audits of all building containing holding cells to evaluate the food service program, including:

- a. reviewing a statistically valid 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*
- c. issuing a written report regarding the findings of the audit.*

Policy:

The DPD has established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph. The DPD Audit Protocol sets forth requirements for conducting the audits. DPD remains in Phase 1 compliance with this paragraph.

Comments:

The CRIB Audit Team completed and issued its command-specific audit on the DPD food service program and hygiene practices on July 31, 2010. We found the audit reports to be complete and thorough.

During current reporting period, we visited four precincts/districts that maintain holding cells. We examined the implementation of the policies and practices related to the food service program and hygiene practices. Our findings are discussed in C49-50.

We will review the next Food Services Program and Hygiene Practices Audits to be released on January 31, 2011 during our next quarterly review.

The DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C72

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

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

*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 non-disciplinary corrective action or disciplinary action.*⁸¹

Policy:

The DPD developed an Audit Protocol, effective August 31, 2008, that established an audit schedule; described the audit terms; specified the roles and responsibilities of Audit Team members; described the various audits, including the one required by this paragraph; and specified the reports required. The protocol was in accordance with the requirements of U92, and was consistent with generally accepted government auditing standards (GAGAS). This protocol was reviewed and updated effective October 31, 2010, and now requires that commanders take disciplinary or non-disciplinary action where appropriate. Accordingly, DPD remains in Phase 1 compliance with this paragraph.

Comments:

The CRIB is required under this Consent Judgment paragraph to provide written reports for the Chief of Police and specified commanders; however, during our previous site visits, we found that the various reports and field responses were not acceptable in that these reports did not receive sufficient attention. The CRIB conducted a review of the audit process. Following the review, CRIB changed the audit process to focus on individual commands. These command-specific audits were anticipated to result in clearer command accountability and increased awareness to issues that are identified through the audit process.

During the previous reporting periods, the CRIB completed the required audits for the period ending July 31, 2010. We reviewed the efficiency of the revised process to ensure that appropriate corrective action was taken in response to the deficiencies identified during the audits. We received the command-specific Corrective Action Plans (CAP) from the five districts/precincts and DRH for all of the audits except two (DRH, Environmental Health and Safety; and Southwest District, Detainee Food Service and Personal Hygiene Practices). We did not receive CAPs for the following semiannual audits: Fire Safety Practices and Policies; Allegations of Misconduct in Holding Cells and Uses of Force in Holding Cells Combined; and Comprehensive Emergency Preparedness Program. In the CAPs we received our finding revealed deficiencies; missing signatures on employee reprimands; inconsistency in the format of a CAP; and we found it difficult to ascertain the course of action taken by the commander in correcting the findings in the audits. We recommended that CRIB develop a standardized Correction Action Plan template created to assist the commanders in more expansively addressing the deficiencies/issues identified in the command-specific audits.

During the last reporting period, we reviewed the audits that were completed on July 31, 2010. We did not receive the individual command-specific corrective action plans, because it is our

⁸¹ Consent Judgment amendment, April 15, 2009.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

understanding that CRIB made changes on how the commands respond to the audit reports and communicated this to the commands at the Holding Cell Compliance meeting on September 20, 2010. CRIB is now providing the audits to the field in an electronic format so that the commanders/inspectors can respond within the audit report timeframe. In our meeting with CRIB there was miscommunication on our understanding the way the new process will work.

During the current reporting period, we met with CRIB to discuss and get clarification on the new process of providing the audits to the field in an electronic format. This was implemented so that the commanders/inspectors can respond within the audit report timeframe. We now have a clear understanding of how the process works and in theory this process could be more efficient.

During the next reporting period, we will review the command-specific audits (including Medical and Mental Health Program and Policies; Environmental Health and Safety; Detainee Food Service and Personal Hygiene Practices; Fire Safety Practices and Policies; Allegations of Misconduct in Holding Cells and Uses of Force in Holding Cells Combined; and Comprehensive Emergency Preparedness Program; all for the reporting period, January 31, 2011). At that time, we will evaluate the new process. In addition, we will review the command-specific corrective action plans (CAP) and how they draw a parallel with the new reporting process. Until we assess the new process, the DPD remains out of Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
62	Evaluation of holding cell operation	In Compliance	In Compliance
63	Operate cells in compliance with risk plan	In Compliance	Not in Compliance
64	Augment policy regarding video cameras	In Compliance	Not in Compliance
65	Quarterly audits required	In Compliance	In Compliance
66	Fire safety audits required	In Compliance	In Compliance
67	Emergency preparedness audits required	In Compliance	In Compliance
68	Medical/mental health program audit	In Compliance	In Compliance
69	Detainee safety audits required	In Compliance	In Compliance
70	Environmental health/safety audits	In Compliance	In Compliance
71	Food service program audits required	In Compliance	In Compliance
72	Audit results to Chief and Commanders	In Compliance	Not in Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

XVI. TRAINING***CJ Requirement C73***

The DPD shall provide comprehensive pre-service and in-service training to all detention officers.

Policy:

The DPD developed Special Order 10-02, Training, effective January 16, 2010, which specifically provided that *before* “performing duties relative to detainees in DPD holding cells, a DPD member must have attended and successfully completed the Detention Officer Course” (emphasis added). The policy also requires that “Sworn members of the DPD assigned to perform detention duties, Senior Detention Facility Officers (SDFO), Detention Facility Officers (DFO) and Holding Cell Compliance Committee members must attend the annual Detention Officer training course.” Additionally, on September 24, 2009, DPD issued Teletype 09-3481, which declared, “[E]ffective immediately, only those members that have attended and completed the annual Prisoner Detention Officer Training shall be assigned to perform prisoner detention duties.”

DPD is in Phase 1 compliance with this paragraph.

Comments:

During our past site visits, we have conducted surveys to evaluate the comprehensiveness of training provided to detention officers, and determine the Department's compliance with its policies requiring that officers who are assigned detention duties have been afforded detention training. In April 2010, we found that only 78% of the 111 supervisors and officers who served in detention duties were trained as required. In July 2010 and October 2010, we conducted the same survey for randomly selected days and found better results; the October survey revealed that 91% of the officers who worked detention on the randomly selected days had received the detention training.

During our most recent site visit, we again presented the Department with two randomly selected days during the quarter under review and identified the officers who worked in detention duties on these days. We found that all 89 officers and 24 supervisors (100%) had received detention training.

The Department is in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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.

Policy:

DPD Special Order 10-02, Training, effective January 16, 2010, requires that the Training Section “maintain a record of all training participated in by each individual DPD officer, senior detention facility officer, and detention facility officer.” The DPD is in Phase 1 compliance with the requirements of this paragraph.

Comments:

During this past site visit, as in our past reviews, we noted that the DPD has made progress in capturing and automating training information. Since the effective date of the Consent Judgments, all years except 2003, 2004, and 2008 have been entered into the Michigan MITN system.

DPD is not in compliance with this paragraph.

Compliance Status:

Phase 1: 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.*

Policy:

DPD Special Order 10-02, Training, effective January 16, 2010, addresses the requirements of this Consent Judgment paragraph. The DPD is in Phase 1 compliance with this paragraph.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Comments:

Although DPD detention training adequately addresses the requirements of C75, we found in our previous reviews that the Department continued to use officers and supervisors who have not been trained in detention duties. In October 2010, our review found that 99% of the officers who were assigned to detention duties had received detention training on our randomly selected days.

During the current reporting period, we found that 100% of DPD officers serving in detention duties had attended the required detention training. The DPD remains in Phase 2 compliance with C75.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.*

Policy:

DPD Special Order 10-02, Training, effective January 16, 2010, fully addresses the requirements of this Consent Judgment paragraph. The DPD is in Phase 1 compliance with this paragraph.

Comments:

During our previous reviews, we found that this requirement addresses training to be afforded to “all detention officers, supervisors and members of the Holding Cell Compliance Committee.”

Since detention training addresses the requirements of C76 and greater than 94% of officers serving in detention duties have received this training, we find DPD in Phase 2 compliance with C76.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.*

Policy:

DPD Special Order 10-02, Training, effective January 16, 2010, fully addresses the requirements of this Consent Judgment paragraph. The DPD is in Phase 1 compliance with this paragraph.

Comments:

DPD detention training addresses the requirements of C77. Fully 100% of officers serving in detention duties on the randomly selected days of our sample were found to have received this training.

DPD continues in Phase 2 compliance with C77.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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.*

Policy:

DPD Special Order 10-02, Training, effective January 16, 2010, fully addressed this requirement. DPD is in Phase 1 compliance with this paragraph.

Comments:

This requirement addresses training to be afforded to “all detention officers, supervisors and members of the Holding Cell Compliance Committee.” Since our random review of training files during the past quarter showed that 100% of the officers serving in detention duties received this training, we find DPD in Phase 2 compliance with C78.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 – Implementation
73	Pre-service/in-service training required	In Compliance	In Compliance
74	Maintenance of individual training records	In Compliance	Not in Compliance
75	Emergency preparedness training required	In Compliance	In Compliance
76	Medical/mental health training required	In Compliance	In Compliance
77	Detainee safety screening training required	In Compliance	In Compliance
78	Environmental health/safety training required	In Compliance	In Compliance

Critical Issues:

- The DPD is in the process of improving its directives, policies, and forms on annual basis. We continue to find that when CRIB makes changes on directives and policies, the implementation of the updates and changes lags behind in practice. Training on updated, directives, policies, and forms is still an issue.
- We continue to find that new or revised policies changes and updates have not been posted on the agency’s website for public input.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

- Overall, the DPD has improved the sanitation levels in all districts/precincts with holding cells, but the Department's efforts are not consistent, both among the districts/precincts and over time.
- Our quarterly review of detainee file folders continues to expose major issues. The DPD regressed during this reporting period. The deficiencies include clerical mistakes; the lack of documentation for medical referrals; medication logs not filled out correctly or missing; appropriate staff signatures missing; supervisory reviews that did not take place; and the lack of health information being exchanged between consecutive shifts. This last issue is particularly problematic in the Platoon Daily Detainee Summary.

Next Steps:

During the next reporting period, we will:

- Continue to review the DPD's updated Departmental directives, policies, and forms.
- Discuss with CRIB ways to improve compliance on critical detainee information exchange from shift to shift. The primary reason that the DPD continues to be out of compliance with the requirements related to the form 659a, Platoon Daily Detainee Summary Form, continues to be that supervisors fail to include pertinent information about detainee health issues or in some cases have not recorded detainees that should have been placed on the form. In addition, we find supervisors regularly neglect to sign for receipt of the document that was completed by the preceding shift.
- Verify standardization of the key set issuance and accountability system, and request that staff at each district/precinct demonstrate familiarity with the TDD hearing impaired telephone system by physically communicating among DPD facilities.
- Discuss with relevant Department personnel the possibility of implementing a comprehensive risk management plan for holding cell compliance, as the Management Awareness System is not efficient for this purpose.
- Examine ways that DPD can resolve the issues surrounding unsanitary conditions in the holding cell areas that can place staff and detainees at risk for exposure to infectious diseases.
- Discuss with CRIB the issues around updating detainee medical and mental health information in the Livescan system.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

Appendix A: History and Methods

An historical overview and methodological review will be repeated as an appendix in all of our reports.

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. 03-72258). I, along with my distinguished colleagues, am honored by the trust and confidence that the Court has vested in us.

Our assembled Team consists of exceptional law enforcement, corrections, consulting, and research expertise. The full Team conducted its first site visit from November 16, through November 20, 2009; our second visit from January 25, through January 29, 2010; our third site visit from April 19, through April 23, 2010; our fourth site visit from July 18, through July 23, 2010; and our fifth site visit from October 18, through October 22, 2010. Our sixth site visit, connected with this report, took place between January 24, through January 28, 2011.

Our compliance review 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. The Detroit Police Department's staff, especially the men and women of the Civil Rights Integrity Bureau, has contributed greatly to our understanding of the Department as we complete our assessments. With regard to the requirements of the Consent Judgments, our plan for our quarterly reports is 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 protocols and instead focus special attention on particular areas of the Judgments.

As with our earlier reports, the body of our 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 the Department achieves and maintains Phase 1 and Phase 2 compliance, we will move a description of the requirement 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 site 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.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

The major task of the Monitor is to 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 Civil Rights Integrity Bureau (CRIB), and other staff of the agency, in their field offices, on the streets, or at the offices that the Monitoring Team occupies when onsite in the City. We use these visits to collect and evaluate material, prepare for work to be done between visits, and 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 review agency policies and procedures, and collect and analyze data using appropriate sampling and analytic procedures. The results of the compliance examinations are reported quarterly to the Court and the Parties.

Our Team determines 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

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

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, we may report a finding of "Pending Compliance" 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 ensure 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 our 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.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

APPENDIX B: Acronyms

The following is a listing of acronyms frequently used in our quarterly reports.

ACRONYM	DEFINITION
AT	Audit Team
BOPC	Board of Police Commissioners
CAM	Command Accountability Meeting
CBS	Cell Block Supervisor
CCR	Citizen Complaint Report
CDDT	Curriculum Design and Development Team
CEPP	Comprehensive Emergency Preparedness Program
CFD	Critical Firearm Discharge
CI	Chief Investigator
City	City of Detroit
CJ	Consent Judgment
CLBR	Command Level Board of Review
CLFRT	Command Level Force Review Team
CLO	Compliance Liaison Officer
CLI	Command Level Investigation
CME	Confidential Medical Envelope
CMMHSP	Comprehensive Medical and Mental Health Screening Program
CO	Commanding Officer
COC CJ	Conditions of Confinement Consent Judgment
CRIB	Civil Rights Integrity Bureau
DCCL	Detention Cell Check Log
DDHWP	Detroit Department of Health and Wellness Program
DDMHIL	Daily Detainee Meal and Hygiene Items Log
DFD	Detroit Fire Department
DFF	Detainee File Folders
DFO/PDO	Detention Facility Officer

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

DHWP	Detroit Department of Health and Wellness Promotion
DIF	Detainee Intake Form
DOJ	Department of Justice
DPD	Detroit Police Department
DRH	Detroit Receiving Hospital
EPP	Emergency Preparedness Program
ERP	Emergency Response Plan
FI	Force Investigation (<i>interchangeable with</i> FIS)
FIS	Force Investigation Section
FSP	Fire Safety Program
FSPP	Fire Safety Practices and Policies
FY	Fiscal Year
GAS	Government Auditing Standards
HCCC	Holding Cell Compliance Committee
IA	Internal Affairs
IAD	Internal Affairs Division
IMAS	Interim Management Awareness System
ITS	Information Technology Services
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
PDDSL	Platoon Daily Detainee Summary Log
PDO	Police Detention Officer
PEERS	Performance Evaluation and Enhancement Review Session
PFC	Policy Focus Committee
PI	Performance Indicator
PSA	Public Service Announcement
RFP	Request for Proposals

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

RMB	Risk Management Bureau
SIR	Supervisor's Investigation Report
SME	Subject Matter Expert
SMT	Senior Management Team
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
WCPO	Wayne County Prosecutor's Office
WCJ	Wayne County Jail

SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT

April 15, 2011

APPENDIX C: Monitoring Team

Robert S. Warshaw, *Monitor*

Chief (Ret.) Charles D. Reynolds, *Deputy Monitor*

Lieutenant Colonel (Ret.) J. Rick Brown

Evaluates compliance with U37-41, Review of Critical Firearm Discharges and In-Custody Deaths.

Division Chief (Ret.) Rachel M. Burgess

Evaluates compliance with U27-33, General Investigations of Police Action; U34, Use of Force and Prisoner Injury Investigations; U61-63, External Complaints; U64-66, Intake and Tracking; and U67-69, External Complaint Investigations; C14-22, Fire Safety Policies; C23-25, Emergency Preparedness Policies; and C60-61, General Policies.

Commander (ret.) John M. Girvin

Evaluates compliance with U27-33, General Investigations of Police Action; U34, Use of Force and Prisoner Injury Investigations; U61-63, External Complaints; U64-66, Intake and Tracking; U67-69, External Complaint Investigations; C52-54, Use of Force and Restraints Policies; C55-57, Incident Documentation, Investigation, and Review; and C58-59, External Complaints.

Elizabeth F. Gondles, Ph.D.

Evaluates compliance with C26-34, Medical and Mental Health Care Policies; C47-48, Policies Concerning Persons with Disabilities; C49-50, Food Service Policies; C51, Personal Hygiene Policies; C62-72, Management and Supervision; and C73-78, Training.

Chief (Ret.) Eduardo Gonzalez

Evaluates compliance with U14-19, General Use of Force Policy; U22, Use of Firearms Policy; U24, Intermediate Force Device Policy; U25-26, Chemical Spray Policy; U27-33, General Investigations of Police Action; U34-36, Use of Force and Prisoner Injury Investigations; and U70-72 and U74-77, General Policies.

Chief (Ret.) Melvin C. High

Evaluates compliance with U20-21 and U23, Use of Firearms Policy; U98-99, Oversight; U100-102, Use of Video Cameras; U106-111, Oversight and Development; U112, Use of Force Training; U113, Firearms Training; U114, Arrest and Police-Citizen Interaction Training; U115-117, Custodial Detention Training; U118-120, Supervisory Training; U121-122, Investigator Training; and U123, Field Training.

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

John M. Klofas, Ph.D.

Evaluates compliance with U78-90, Risk Management Database; U91, Performance Evaluation System; U92-97, Oversight; and U103-105, Discipline.

Chief (Ret.) Billy R. Riggs

Evaluates compliance with U42-43, Arrest Policies; U44-45, Investigatory Stop Policies; U46-48, Witness Identification and Questioning Policies; U49-51, Prompt Judicial Review Policies; U52-53, Hold Policies; U54-55, Restriction Policies; U56-57, Material Witness Policies; U58, Documentation of Custodial Detention; U59-60, Command Notification; C35-38, Prisoner Safety Policies; C39-46, Environmental Health and Safety Policies.

Asst. Director (Ret.) Joseph R. Wolfinger

Evaluates compliance with U20-21 and U23, Use of Firearms Policy; U98-99, Oversight; U100-102, Use of Video Cameras; U106-111, Oversight and Development; U112, Use of Force Training; U113, Firearms Training; U114, Arrest and Police-Citizen Interaction Training; U115-117, Custodial Detention Training; U118-120, Supervisory Training; U121-122, Investigator Training; and U123, Field Training.

Robin Busch-Wheaton, *Editor*

**SIXTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

April 15, 2011

APPENDIX D: Detroit Police Department Management Dashboard Data

The table below presents data on measures relevant to the requirements set forth in the Consent Judgments. The data were compiled by the Detroit Police Department and displayed for presentation by the Monitor. These data are presented here with the consent of the Police Department and serve simply as a means to provide information relevant to issues raised in the Judgments. The presentation of these data is not required by the Consent Judgments.

	Dashboard Data: Detroit Police Department 2010												
	Jan	Feb	March	April	May	June	July	August	Sept	Oct	Nov	Dec	Graph
Total Arrests	3108	2751	3074	3052	3012	2937	2634	2629	2397	2309	2115	1871	
					Number of Events per 1000 Arrests								
Uses of Force	33.78	35.26	33.51	32.77	35.52	39.50	28.85	29.29	47.98	33.78	41.61	43.83	
Firearms Discharge	1.93	1.09	0.00	0.33	0.00	0.00	2.28	0.00	5.01	1.73	0.95	0.53	
Citizen Complaints	52.45	49.07	58.23	50.79	44.16	49.03	51.25	63.90	57.57	19.92	60.05	57.72	
Traffic Crashes	4.83	6.91	2.60	2.62	3.32	4.43	3.04	8.37	3.75	3.03	6.15	7.48	
Civil Litigation	3.54	8.36	2.60	2.62	2.66	6.47	0.76	3.80	0.00	0.00	5.20	6.41	
Vehicle Chases	2.57	1.82	4.88	3.60	1.99	2.04	1.52	3.80	4.17	2.60	5.20	11.76	
Disciplinary Action Closed Date	29.28	12.00	23.42	22.28	30.21	35.75	18.22	22.44	53.40	19.49	8.51	22.98	
Arrests for Assault and Battery on a PO	5.79	7.63	7.16	4.59	5.98	6.13	4.94	6.85	6.26	3.90	9.46	8.55	
Resisting or Obstructing Arrests	10.30	12.36	14.64	9.17	13.61	16.00	7.97	10.27	15.02	15.16	9.46	18.17	
Disorderly Conduct Arrests	7.72	1.82	6.83	4.59	3.98	5.45	1.90	4.56	7.93	1.73	5.67	2.14	
Interfering Arrests	0.97	1.45	2.28	0.98	3.65	2.38	0.38	1.90	2.92	0.43	0.95	0.53	
Total Consent Judgment noted Arrests (above 4)	24.77	23.26	30.90	19.33	27.22	29.96	15.19	23.58	32.12	21.22	25.53	29.40	

