

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.

_____ /

EIGHTH QUARTERLY REPORT OF THE NEW INDEPENDENT MONITOR FOR THE
DETROIT POLICE DEPARTMENT ISSUED SEPTEMBER 23, 2011

Eighth Quarterly Report

Independent Monitor for the Detroit Police Department



Robert S. Warshaw
Independent Monitor

Office of the Independent Monitor
Police Performance Solutions, LLC

September 23, 2011



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FOR THE DETROIT POLICE DEPARTMENT**

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SECTION ONE: INTRODUCTION

This is the eighth 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 July 18, through July 22, 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 now in Phase 1 (policy) compliance with all (100%) of the 110 requirements. This is the first quarter in which Phase 1 compliance has been 100%, and the agency can be proud of this accomplishment. We found the Department in Phase 1 and Phase 2 compliance (full compliance) with 87 (79%) of the 110 Use of Force requirements, an increase of five from the last reporting period. This too shows that there is positive momentum that, if sustained, will be a major turning point in this long process towards reform.

Based on our review of the Conditions of Confinement requirements, the Department remains in Phase 1 compliance with all 65 (100%) of the requirements, as it was during the last four reporting periods. We found the Department in Phase 1 and Phase 2 compliance (full compliance) with 49 (75%) of the 65 requirements, an increase of five from the last reporting period. The efforts that the Department has put into this component of the reform process are noteworthy as well.

Overall, for this report, the Detroit Police Department is now in Phase 1 compliance with all (100%) of the 175 monitored requirements; this represents an increase of one from the last report. The Department is in full compliance (that is, both Phase 1 and Phase 2 compliance) with 136 (78%) of the 175 monitored requirements of the applicable paragraphs of both Consent Judgments, an increase of 10 requirements, and up from 72% during the seventh reporting period. Four requirements are currently pending Phase 2 compliance, and four findings are deferred for this reporting period. The leadership of Chief Ralph Godbee as a driving force, has, in our view, inspired subordinate executives, command, and supervisory personnel; and the many men and women who deliver essential services to begin to better embrace the new policies and procedures that were brought about by these two Decrees.

Executive Summary

This is our eighth 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 July 18, through July 22, 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

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what the Monitoring Team believes are some of the more significant findings, trends, patterns, and concerns that arose as a result of our evaluation.

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 all (100%) of the 110 requirements. We found the Department in Phase 1 and Phase 2 compliance (full compliance) with 87 (79%) of the 110 Use of Force requirements, an increase of five requirements since the last reporting period. Four 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 again in Phase 1 compliance with all (100%) of the 65 requirements, as it has been since the fourth reporting period. We found the Department in Phase 1 and Phase 2 compliance (full compliance) with 49 (75%) of the 65 requirements. The current figures are presented in the table below.

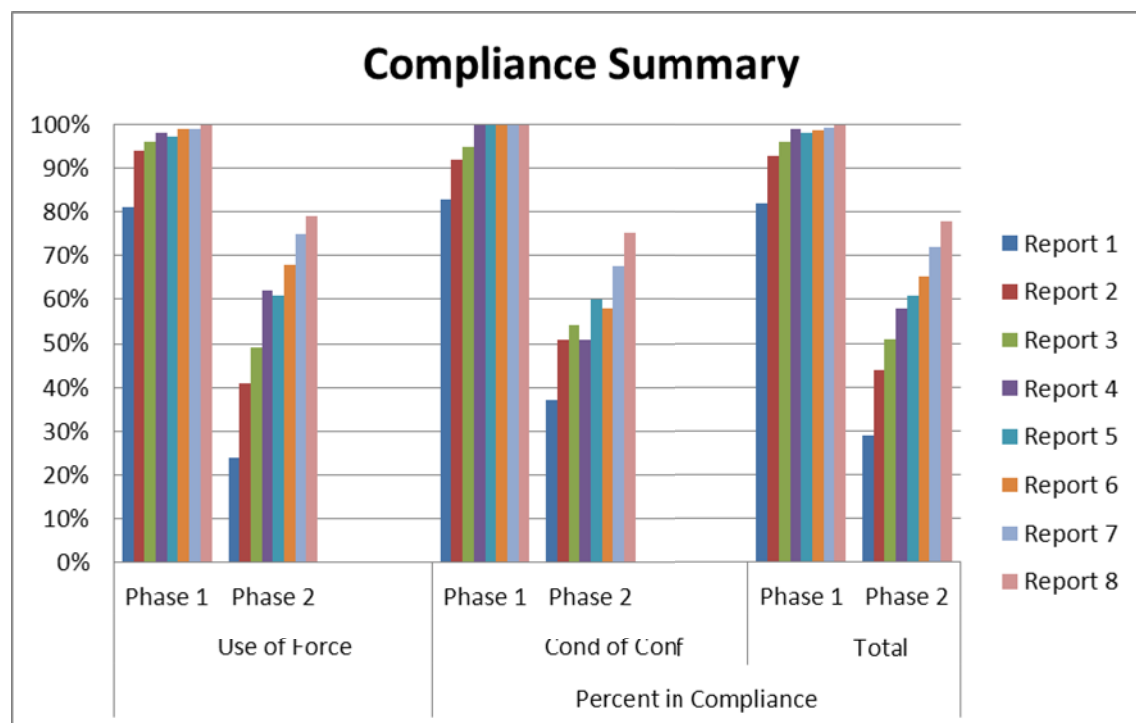
	Eighth Quarterly Report Summary					
	Use of Force		Cond of Conf		Total	
	Phase 1	Phase 2	Phase 1	Phase 2	Phase 1	Phase 2
Paragraph Numbers	14-123		14-78			
Number of Requirements	110	110	65	65	175	175
Pending Compliance	0	3	0	0	0	3
Not in Compliance	0	18	0	14	0	32
Deferred	0	2	0	2	0	4
In Compliance	110	87	65	49	175	136
Percent in Compliance	100%	79%	100%	75%	100%	78%

Overall, DPD is, for the first time, in Phase 1 compliance with all (100%) of the 175 monitored requirements. We found the Department to be in full compliance (that is, both Phase 1 and Phase 2 compliance) with 136 (78%) of the 175 monitored requirements of the applicable paragraphs of both Consent Judgments, up from 72% during the seventh reporting period. We also found the Department to be in pending Phase 2 compliance with an additional three requirements, or 1.7% of the total. Four compliance assessments (2%) are deferred.

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

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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 eighth report, we saw an increase of ten requirements in Phase 2 compliance.

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

Quarterly Report	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%
Report 7	99%	75%	100%	68%	99%	72%
Report 8	100%	79%	100%	75%	100%	78%

The chart above summarizes improvement in compliance levels across our quarterly reports. The most notable finding is that, for the first time the Department is in Phase 1 compliance with all of the 175 requirements in the Consent Decrees. This is an important milestone. It not only caps continued progress, but it signals that the necessary policy foundation is in place and related training has occurred, so that the road is clear for additional progress in implementation of the reforms called for in the Decrees.

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Despite the policy-related progress, however, several clusters of problems have limited implementation related compliance and need to be addressed more aggressively. In the Use of Force requirements, investigations, which are the bulwark against continuing problematic behavior, continue to raise concerns. Problems continue with nearly all aspects of them, from their timely and thorough completion, to their review up the chain of command. The Department has asked for technical assistance, and it is our hope that the provision of technical assistance, coupled with an organizational commitment, in both the Department and OCI, shall culminate in greater efficiencies in the investigative and review processes. Regarding the Conditions of Confinement requirements, medical issues remain problematic in the holding cells, and special efforts should be made to address them. In both areas covered by the Decrees, adequate reporting and documentation have slowed progress.

For this report, as with our previous seven 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 DPD's efforts to achieve compliance.

While we are pleased to note increased compliance across the time period covered in our reports, we believe DPD's current progress is best seen as evidence that now is the time for the Department to redouble its efforts, to fully address the continuing problems that impede progress, and to aggressively move forward toward excellence in policing.

The progress we have noted for this reporting period is a testament to the Department's ability to bring about the changes essential to meeting the mandates of the Consent Judgments and to better service the community. There should be no doubt about the Department's technical and professional capabilities to advance its service deliveries and administrative oversight to the level of professionalism expected by the City leadership, the Parties in this matter, and the citizens of Detroit. I encourage the Department to seize this momentum and assert the requisite leadership essential to reform.

Chief (Ret.) Robert S. Warshaw

Monitor

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**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 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 DPD has both developed the required policy and effectively implemented the policy, including providing any necessary and appropriate training.

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. DPD also selected an intermediate impact device, developed guidelines on its use, and provided the required training. The chemical spray policy requires, when appropriate, a verbal warning prior to the deployment of chemical spray; sets forth requirements for decontamination, medical assistance, and requires supervisory approval if the chemical spray is to be used against a crowd. It 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 DPD needs to strengthen its command staff review and oversight of the uses or force. We have previously urged DPD to remain vigilant in this area to meet the requirements regarding thorough and timely use of force investigations, and continue to do so; however, it may well be that DPD needs to also review its case management systems for the use of force reports.

In our seventh status report, we discussed the MAS system's ability to notify commands when a Command Level Investigation has not been submitted within the required 10-day timeframe, but we remain unaware of any document that requires the command to react to that notice. We have since been informed that the information was incorrect, and that there is no case management system in place for Command Level Investigations.¹ Given that the Command Level

¹ These are also referred to as SIR reports.

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Investigations submitted within the 10-day time limit dropped – from 25% of the cases last quarter to 20% during this reporting period – we strongly recommend that DPD develop a case management system requiring the command to take documented appropriate actions that will ensure that they comply with the 30-day time limit. 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; instead, both clearly prohibit the firing at or from moving vehicles. 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; this will be operationally implemented during the next reporting period. There was one instance during this reporting period where an officer fired at a moving vehicle. In this case, DPD determined that extenuating circumstances existed, and therefore imposed no discipline for the policy violation.

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 that included no critical firearm discharges.

The DPD selected the PR-24 collapsible baton as its impact device and has provided training on its use to 1,943 (72%) of its personnel during the third quarter of this Fiscal Year. There were no strikes to the head noted in use of force reports during this reporting period; however, there were two Force Investigations involving strikes to the head.

We also reviewed instances of chemical spray deployments during this and previous reporting periods. The Department's status 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, we find that officers are not consistently adhering to the time requirements on contamination or indicating how the decontamination was accomplished.

During this reporting period, there were no cases in which chemical spray was utilized and a warning was not articulated prior to its use due to the exigent circumstances of the officer being assaulted.

Once again, there were no reported instances of an officer spraying an unruly crowd. There was one instance where an officer sprayed a handcuffed individual in a police car. No individuals were placed/kept 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.

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Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; and Training Directive 04-7, Use of Force Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005. DPD remains 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 generated 318 use of force numbers during the previous reporting period, and 401 during this reporting period. We will continue to monitor these numbers in subsequent visits. 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.*

Policy:

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The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; and Training Directive 04-3, Use of Force Continuum, effective May 5th, 2005. 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.²

To assess compliance during this reporting period, we reviewed reports to determine the extent to which the policy requirements noted above are reflected in practice. We sampled 104 Command Level Investigations, and verified that they described the conduct of individuals against whom force was used, and described some efforts at de-escalation employed by the officers.³ In 62 of the 100 (62%) cases we reviewed, we were able to identify some actions on the part of the officers at implementing some of the disengagement responses suggested in U15c.⁴ This is a significant improvement from the 39% registered in the previous report. We continue to encourage DPD to emphasize the importance of de-escalation techniques as a means of avoiding violent confrontations between citizens and police, and to emphasize the importance of adequately documenting the steps taken by the officers to minimize the use of force. It is possible that there are more efforts being made and that officers are simply not *documenting* them; however, absent the documentation, we have no way of establishing the Department's compliance.

DPD is not in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

² Report of the Independent Monitor, issued April 15, 2011.

³ Command Level Investigations are also referred to as Supervisory Investigative Reports (SIRs)

⁴ The number was reduced from 104 to 100 in this category, due to attempt suicide and detainee injury cases which are not appropriate for de-escalation efforts.

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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:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; and Training Directive 04-3, Use of Force Continuum, effective May 5th, 2005. DPD remains in Phase 1 compliance with this requirement.

Comments:

Use of Force Reports: To assess compliance for this reporting period, we reviewed 227 use of force reports. We found that 215 (97%) included verbal commands and an opportunity to submit to arrest prior to the use of force; or provided a reason why the verbal command was not given. DPD is in Phase 2 compliance with this portion of this paragraph.

Force Investigations: We reviewed seven force investigations conducted by DPD. We found that two of the seven 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. In these two cases, exigent circumstances that involved vehicular collisions were present, and opportunities for giving verbal commands were not present; therefore, we found them not applicable to this paragraph. A third case involved off-duty conduct by officers, so the provisions of this Consent Judgment paragraph were also not applicable. The four remaining cases required a verbal command or an opportunity for a subject to submit to arrest prior to the use of force; therefore, we found them all in compliance with this requirement. This represents a 100% compliance rate. DPD is in Phase 2 compliance with the Force Investigations portion of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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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:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; and Training Directive 04-7, Use of Force Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005. DPD remains in Phase 1 compliance with this requirement.

Comments:

To assess compliance with this requirement for this reporting period, we reviewed 227 use of force reports, 104 completed Supervisory Investigation Reports (SIRs), and seven investigations completed by Force Investigations. There were two uses of choke holds, one which was assumed by FI and one which was not.

The SIR investigation regarding the use of a choke hold which was not assumed by FI does not fully articulate the justification for that level of use of force. An unresolved conflict exists between the SIR and the Use of Force Form 002. The 002 states that the subject was reaching for the officer's flashlight when the officer applied the choke hold; the SIR states the subject was reaching for the officer's handgun. Neither of the officers was sufficiently questioned to allow this issue to be resolved. FI was not notified regarding this use of a choke hold.

In the second instance, the initial report is clear that the subject grabbed an officer's gun, at which time the officer applied the choke hold. FI assumed the investigation.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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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:

The policy relevant to this requirement is DPD Directive 304.2, Use of Force, approved by DOJ April 14, 2005, effective June 27, 2005, and revised November 1, 2010. DPD remains in Phase 1 compliance with this requirement.

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 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

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:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; and Training Directive 04-7, Use of Force Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005. DPD remains in Phase 1 compliance with this requirement.

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Comments:

Use of Force Reports: Our review of 227 use of force reports found no instances of any strikes to the head.

Force Investigations: Our review of seven investigations completed by Force Investigations revealed two instances where DPD officers used their Department-issued PR-24s to strike a subject in the head. The FI investigations determined that the force used in these cases was justified; the Department initiated formal disciplinary action in one case – not for the head strike, but for the other force used by the officer.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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:

The policies relevant to this requirement are found in DPD Directive 304.1, Firearms, effective November 2010 and Directive 304.5, Training, issued and effective May 13, 2011. Previously, policies were found in Special Order 11-07, Training, issued January 1, 2011, effective January 1, 2011. DPD is in Phase 1 compliance with this requirement.

Comments:

The newly revised policy directive, 304.5, contains a section, 305-4.2, which enunciates the policy that “sworn members of the DPD of all ranks” are required to attend and successfully complete the firearms training and qualification course on a bi-annual basis. Accordingly, the

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Department requires its officers to attend and qualify at firearms training sessions in the six-month periods ending on December 31 and on June 30 of each year.

During this reporting period, we found that on June 30, 2011, 2,539 (97%) of the 2,612 officers available to train had attended firearms and qualified during the first six months of 2011. 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:

The policies relevant to this requirement are found in DPD Directive 304.1, Firearms, effective November 2010, and Directive 304.5, Training, issued and effective May 13, 2011. Previously, policies were found in Special Order 11-07, Training, issued January 1, 2011, effective January 1, 2011, which was replaced by Directive 304.5. DPD remains in Phase 1 compliance with this paragraph.

Comments:

Policy directive 304.5-5.4, captioned “Failure to Qualify While Attending Firearms Training,” requires that DPD members who fail to qualify shall be scheduled for a remedial training session and that the member’s firearm shall be seized, and the member is to be relieved of police powers and to relinquish all Department-issued firearms. Officers placed in the “no-gun” status are limited to a total of four remedial training sessions within 45 days. Officers who fail to qualify after two remedial training sessions are medically reviewed.

At the conclusion of the second six-month training period during Fiscal Year 2011 (January 1, through June 30, 2011), DPD removed firearms and police powers from the officers who failed to qualify. During the six months, 2,539 (97%) of the 2,612 officers available to train had

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attended firearms training and qualified. Throughout the training, officers who failed to qualify were given remedial training and an opportunity to qualify. Those who did not qualify were placed in “no-gun” status until they qualified; in addition, some were placed in medical or other administrative “no-gun” status. At the end of the six-month training period, three members were required to attend additional remedial firearms training. One member qualified at a remedial training session; the other two were placed in medical “no-gun” status. At the end of the training year (following June 30, 2011), a total of 121 DPD officers were in medical “no-gun” status or some other administrative “no-gun” status.

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 shooting at or from a moving vehicle except in exceptional circumstances. The policy shall also prohibit officers from intentionally placing themselves in the path of a moving vehicle⁵.

Policy:

The policy relevant to this requirement is DPD Directive 304.1, Firearms, effective May 2, 2005 and revised November 1, 2010. DPD remains in Phase 1 compliance with this paragraph.

Comments:

Use of Force Reports: During this reporting period, we reviewed 227 use of force reports and 104 Supervisory Investigation Reports (SIRs), and found no incidents involving officers firing at or from moving vehicles.

⁵ Amended by Court Order dated June 1, 2011.

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Force Investigations: Our previous reviews of cases closed by Force Investigations found instances where officers fired at moving vehicles contrary to the prohibition in this paragraph and the above-cited directive; however, DPD found the officers' actions justified due to the presence of exigent circumstances. During this reporting period, we reviewed seven FI investigations for this requirement, and found no incidents involving an officer firing at a moving vehicle. DPD and DOJ proposed an amendment to this paragraph to allow the firing at or from moving vehicles under specified conditions. The Court approved the proposed amendment on June 1, 2011; it has been incorporated in the requirements of this paragraph (above), and will be operationally implemented during the next reporting period. DPD is seeking BOPC approval of the revised policy, which will be implemented during the next reporting period. Accordingly, DPD is in pending Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending 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:

The policies relevant to this requirement are DPD Directive 304.1, Firearms, effective May 25, 2005, and revised February 1, 2008; and Directive 304.5, Training, effective May 13, 2011. Previously, policies were found in Special Order 11-07, Training, effective January 1, 2011, which was replaced by Directive 304.5. DPD remains in Phase 1 compliance with this paragraph.

Comments:

During previous site visits, we found officers to be carrying authorized weapons and ammunition, and that the Department had implemented a procedure requiring the inspection of officers' weapons and ammunition as part of its required biannual firearms training program which officers are required to attend.

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During firearms training, officers fire the ammunition they are carrying and are issued a new supply of approved ammunition. Standard ammunition carried by DPD officers is 40 Cal S&W, 165 grain, Federal Expanding Full Metal Jacket. On April 9, 2010, the Chief of Police approved the use of additional ammunition as follows:

- 40 Cal S&W, Winchester Ranger bonded 180 grain, JHP
- 40 Cal S&W, CCI-Speer Gold Dot, 180 grain (optional)

The authority to use the new ammunition was communicated to DPD officers by an administrative message sent on April 9, 2010. The Department has not had funds to buy the newly authorized ammunition, but has approved its use if officers wish to personally purchase the ammunition.

Since 97% of the officers participated in the biannual qualifications (as noted in U20) and were issued a limited selection of authorized ammunition, we found DPD in Phase 2 compliance with this paragraph.

During this reporting period, we observed that 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 and replaced their ammunition during the training session. Accordingly, DPD remains in Phase 2 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.

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Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; DPD Directive 304.4, PR 24 Collapsible Baton, effective July 1, 2008 and revised November 1, 2010; and Training Directive 04-3, Use of Force Continuum, effective May 5, 2005. 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. DPD remains in Phase 1 compliance with this requirement.

Comments:

Use of Force Reports: During this reporting period, we reviewed 227 use of force reports and found no strikes to the head with the designated intermediate force device (PR-24). We note that DPD is currently at the conclusion of the present Fiscal Year training cycle, and has trained 2,567 (98%) of DPD members. DPD remains in Phase 2 compliance with this requirement.

Force Investigations: During this reporting period, we reviewed seven cases completed by FI, and found two cases where an intermediate force device (PR-24) was used.

DPD is 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*

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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:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; DPD Directive 304.3, Chemical Spray Device, effective July 2, 2008, revised November 1, 2010; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005. DPD is in Phase 1 compliance with this paragraph.

Comments:

Use of Force Reports: To assess compliance for this reporting period, we reviewed 227 use of force reports and 104 Command Level Investigations. We found eight deployments of chemical spray, with warnings or danger articulated in seven of the eight cases (88%). This is a reduction from the 100% registered in our last report.

During our evaluation of decontamination requirements, we found that six (75%) of the eight cases provided details of decontamination within 20 minutes of spraying or capture. While this is an increase from the 62% previously noted, it still remains far below the >94% level needed to maintain Phase 2 compliance.

In all cases, officers noted that windows were rolled down to allow for proper ventilation during the transport of subjects. Medical assistance was offered to five of the subjects requiring it, and all five were transported to a hospital; three subjects did not require medical attention.

There were no reported instances of an officer spraying an unruly crowd.

There was one instance of an officer being ordered by a supervisor to spray a handcuffed individual attempting to crawl out of a unit through a broken window. This spraying occurred in the garage of one of the precincts. Given that there were sufficient officers present to deal with the subject, the spraying appears to be unwarranted. No sprayed individuals were placed face-down.

The use of chemical spray by DPD officers is very limited; consequently, the Department's compliance numbers are affected by the failure of one or two officers to document their actions when using chemical spray. It is critical that supervisors discuss the documentation of the decontamination times with their subordinates, as well as how and where the decontamination was conducted. In our previous report, we allowed DPD to retain its Phase 2 compliance status with this portion of the requirement, pending its achievement of a >94% level of compliance in

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this reporting period. DPD failed to do so, and therefore, is not in Phase 2 compliance with this paragraph.

Force Investigations: During this reporting period, we reviewed seven cases completed by FI, and there were no cases of chemical spray being used during the arrest of a subject. DPD remains in Phase 2 compliance with the reporting of the use of chemical spray in the use of Force Investigations.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not In Compliance

CJ Requirement U26

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

Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; DPD Directive 304.3, Chemical Spray Device, effective July 2, 2008, revised November 1, 2010; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005. DPD remains in Phase 1 compliance with this requirement.

Comments:

To assess compliance with these requirements for this reporting period, we reviewed 227 use of force reports, 104 use of force Command Level Investigations, and seven cases completed by Force Investigations. We found one use of force report where chemical spray was used on a handcuffed individual in a police vehicle. An officer was ordered by a supervisor to spray a handcuffed individual attempting to crawl out of a unit through a broken window. This spraying occurred in the garage of one of the precincts. Given that there were sufficient officers present to deal with the subject, the spraying appears to be unwarranted. No sprayed individuals were placed face-down.

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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.

DPD has now fallen below the >94% level in this requirement (88%).⁶ DPD will maintain its Phase 2 compliance status pending our review of this requirement in the next reporting period. If the Department returns to its previous level, it will retain its Phase 2 compliance status; if DPD drops below the >94% level, it will not.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

- In our last report, we requested the number of use of force case numbers issued for the first quarter of the year (January 1, through March 31, 2011), and were provided a MAS document listing 318 cases. During our most recent site visit, we requested the number of use of force case numbers issued for the second quarter of the year (April 1, through June 30, 2011), and were provided a MAS document listing 401 cases. We will continue to monitor the numbers during subsequent 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 that affects DPD's compliance with several of the requirements. We continue to recommend that the Department improve its documentation of its de-escalation strategies, or to document the fact that none were used due to the particular circumstances. This quarterly report notes an improvement in documentation, and we encourage DPD to continue to emphasize that officers articulate the actions they took before they used force. 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 both Departmental policy and the Consent 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 eyes. DPD must also reemphasize the prohibition on spraying handcuffed subjects in police vehicles. There are no exceptions to this prohibition, in policy or the Consent Judgment.

⁶ In one of the eight cases, a handcuffed individual was sprayed while in a police vehicle, resulting in an 88% compliance rate for not spraying handcuffed individuals in a police vehicle.

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- It is critical that DPD develop an effective case management process to track Force Investigations timelines and task completion benchmarks. There is a new tracking program being developed and tested by FI. This program needs to be completed and fully implemented to assist in tracking and ensuring completion of more timely investigations and accountability for investigators who fail to meet prescribed deadlines.

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 sound methodology for measuring the effort.
- Continue to work with FI on case management issues, including its new case-tracking program, to address the timeliness of FI's investigations.
- Discuss with FI measures to ensure that investigators comply with DPD policy mandates and are completing more complete and thorough force investigations since many are deficient of relevant information.
- Monitor the use of force and PR-24 training to ensure 100% compliance for the training Fiscal Year.

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¶	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	Pending Compliance
23	Selection of ammunition	In Compliance	In Compliance
24	Intermediate force device	In Compliance	In Compliance
25	Chemical spray policy	In Compliance	Not 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.

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Policy:

The policies relevant to this requirement are 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 January 2011.

DPD is in Phase 1 compliance with this paragraph.

Comments:

To assess compliance with these requirements, we meet on a quarterly basis with Command, Internal Affairs, Force Investigations, OCI and other staff. We also reviewed relevant investigative and other reports, and the DPD 31th Quarter Status Report, dated June 30, 2011, which sets forth some of the corrective measures initiated by DPD to achieve compliance with this paragraph.

Command Level Investigations: During the seventh reporting period, we reviewed 180 use of force reports resulting in 87 SIRs (Command Level Investigations), and found DPD to be in Phase 2 compliance with requirements.⁷ To assess DPD's Phase 2 compliance with this paragraph for this reporting period, we again met with relevant staff and reviewed 227 use of force reports resulting in 104 SIRs.⁸ 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 also found sufficient justification for officers' conduct in 100 (98%) of the assessed investigations and SIRs.⁹ We found no investigations that were closed prematurely. DPD is in Phase 2 compliance with 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, 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

⁷ The term Command Level Investigations, and SIR Investigations, are used interchangeably throughout the report.

⁸ 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.

⁹ The base number for this computation was reduced from 104 to 102 SIRs because two of the investigations were of attempted suicides, in which force was not used.

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overdue, impacting DPD's ability to reach appropriate conclusions many months after the alleged occurrence.

To assess Phase 2 compliance with this paragraph for this reporting period, we reviewed 100 randomly sampled cases from the 316 cases that were closed in April, May, and June, 2011. (This represents a 41% decrease in closed cases over the previous quarter, and is apparently due to the high number of cases cleared by the previously mentioned Backlog Squad in the last quarter.) With the exception of five 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.¹⁰ In one case, a third party who complained about the force used in an arrest was not interviewed. While the arrestee was contacted, the complainant should have been, as well. In another case involving a traffic stop, the complainant alleged that he was pushed into a snow bank while being searched. Both involved officers contend that the subject fell, but each claimed the other was performing the pat-down search. The case was closed without this discrepancy being explored, or even documented. We learned about it by listening to interviews.

In still another case involving alleged rudeness during a domestic dispute, one of the parties – a 15-year old son – was not interviewed. The witness section of the investigative report indicated “N/A.” In another force investigation, the complainant did not respond to requests for an interview. However, late in the investigation, the investigator learned that the subject was in the Wayne County Jail, most likely explaining his lack of response. No further outreach was attempted. In the last case, we learned by listening to interviews that a sergeant advised the investigator that the incident being investigated occurred prior to his reporting for duty. Rather than attempt to locate the correct supervisor on the proper shift, the investigator simply indicated that the sergeant did not recall the incident.

However, with a 95% compliance rate, DPD is in compliance with the OCI portion of this paragraph.

Internal Affairs Division Investigations: To assess Phase 2 compliance with this paragraph, we reviewed the 22 cases that were closed by IAD in April, May, and June 2011. We assessed them 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.

We found that all of the cases were sufficiently investigated – including those where the complainants and/or witnesses failed to respond to requests to be interviewed. In addition, all cases met the requirements, with the exception of timeliness, of this paragraph.

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

¹⁰ 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.

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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 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.

During this reporting period, we reviewed seven 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:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005, revised November 1, 2010; 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. DPD is in Phase 1 compliance with this paragraph.

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Comments:

Command Level Investigations: During the last reporting period, our review of SIRs noted that the investigations were in compliance with the provisions that: (1) prohibit the conducting of investigations by supervisors who authorized, witnessed, or participated in the force that was used; (2) require that the cases contained the names of all of the officers involved or on the scene during the incident in the report; (3) require the investigating supervisor to conduct a canvass to identify civilian witnesses or explain why a canvass was not conducted; and (4) require the documentation of medical care for the subjects of the use of force.

Also, during the last reporting period, we found that DPD was not in compliance with the requirements dealing with the thorough and complete interviews of all witnesses; and in resolving material inconsistencies; the ordering of photos of officer or subject injuries.

To assess compliance for this reporting period, we reviewed 104 SIRs and found the following:

- There were four instances in which the supervisor conducting the investigation authorized, witnessed, or participated in the incident (4%). One hundred (94%) of the cases contained the names of all of the officers involved or on the scene during the incident in the report, down from the 96% noted in our last report. In 96 (92%) of the cases, the investigating supervisor conducted a canvass to identify civilian witnesses or explained why a canvass was not conducted. This represents another slight drop from our previous finding of 94%. We caution DPD that this decrease marks the third report in which we note a drop in the conduct of canvasses, down from 98% in our fifth quarterly report to 95% in our sixth quarterly report to 94% in our seventh quarterly report.
- We have previously noted that the thoroughness and completeness of interviews of all witnesses continues to be an issue for DPD. In our last report, we noted that thorough and complete interviews were conducted in 59 (68%) of the cases. This was a significant drop from the 78% registered in our sixth quarterly report, reflecting the Department's continuing problems in this area. During this reporting period, we found that thorough and complete interviews were conducted in 73 of the cases (70%).
- Issues that continue to plague 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. The thoroughness issues involve the failure to follow up on answers provided by witnesses and the acceptance of general statements, either mirroring those of partner officers or regurgitating Crisnet reports. We have discussed with DPD the importance of providing training in the interview process for supervisors engaged in SIR investigations, and we continue to strongly encourage DPD to provide that training as soon as possible. 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.

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- Forty-eight of the cases we reviewed contained material inconsistencies; supervisors attempted to resolve the inconsistencies in 18 (38%) of these. We reiterate that it is incumbent on individuals involved in the command-level review to question material inconsistencies that are not addressed by the investigator, and to take the appropriate corrective actions. First-line supervisors must conduct more critical reviews.
- Thirty-six cases might have included photos taken of officer or subject injuries. The reports noted that photos were ordered in 31 (86%) of the cases. This is an increase from the 59% previously registered. Sixty-one cases included documentation of medical care in the file. Not all of the administered medical care was related to police actions. Twenty-seven of the cases involved care ranging from psychiatric evaluations to asthma to a need for medications. All subjects who should have received medical attention were provided it.
- We encourage DPD to conduct a critical review of its performance with this requirement. While we previously commented on the progress the Department had made in this area, we recently observed a decline in performance. We previously suggested that the decline might well be a bump in the road to compliance, but it is a continuing bump that DPD must address.

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

Office of the Chief Investigator: During this reporting period, we reviewed 100 randomly sampled OCI investigations. In 16 of these, involved officers were not identified by both name and badge number. In all but one case, diligent steps were taken to identify involved personnel. The remaining case involved a complaint against the Firearms Unit, in which the complainant indicated that it was illegal to require that his paperwork be notarized in that unit. He was correct, and while his complaint was sustained, it was a policy failure and not attributable to an individual employee. Canvasses were generally deficient, as outlined in CJ requirement U32. In three cases, potential witnesses were identified, but not interviewed. These are three of the cases listed in CJ Requirement U27.

In four force cases – two originating from detention facilities – the investigation did not include a reference to photographs as required. While photographs may not have been available in all of these cases, their existence should have been explored.

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

Internal Affairs Division Investigations: We reviewed all 22 IAD cases that were completed during this reporting period. The investigations consistently included the names and badge numbers 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 within a 90-day period. We also found in the cases we reviewed that witnesses

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were interviewed or gave written statements, and that the investigators made an effort to resolve inconsistencies between witness statements.

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

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 any medical care provided.

To assess compliance for this reporting period, we reviewed seven force investigations.¹¹ 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. In one case, however, a suspect was not provided medical treatment after being stuck in the head with a PR-24. The supervisor responsible for this violation of DPD policy is facing formal disciplinary action. The policy violations being imposed against the supervisor are for failure to notify FI for the required internal investigation and not ensuring that the suspect received proper medical treatment, as required.

The investigations also contained witness interviews, both written and recorded. However, in three investigations, the interviews were deficient and incomplete. Material inconsistencies between officers' statements were not adequately addressed. DPD investigators are not requiring subject officers to articulate the details of incidents and address conflicting information already provided by the officers, police and non-police witnesses, and existing physical evidence. In one case, a subject officer involved in an off-duty incident that resulted in a formal complaint by a citizen was notified of the complaint by the officer's station co-workers before any investigative action was initiated by DPD Internal Controls. This breach of confidentiality is very troubling. Even more troubling, DPD has no formal policy in place to ensure the confidentiality of citizen complaints. Within minutes of a citizen filing a complaint at a DPD station, its contents can be bantered about by uninvolved persons at the station and subject officers can be warned of the pending action. This breach of confidentiality can allow officers involved in misconduct to alter or destroy evidence, concoct stories, and in general interfere with the investigatory process. We recommend that the Department issue a policy that protects the confidentiality of all complaints, and metes out severe discipline for DPD officers or employees who are made aware of a complaint and "tip off" subject personnel. The failure to ensure the confidentiality of all complaints weakens officer accountability and contributes to poor risk management.

Our review also identified four investigations that contained no photographs of the subject's injuries as required by DPD policy. Two investigations contained no photographs of the injured subject. In two other cases, the FI report indicated that photographs were taken of the injured subjects, but that the photographs were not processed prior to the completion of the internal investigation. This is troubling because the photographs are evidence of injury and are not being

¹¹ These investigations included no critical firearm discharge events.

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reviewed by investigators as part of their formal investigation. In one case, the subject left the DPD station to avoid being charged with the ambulance transportation financial responsibility. The subject received a broken nose. DPD made no documented effort to track down the subject and photograph the injuries, even though the supervisor who took the complaint documented in the report that the subject had visible facial injuries. The documentation submitted by DPD does not explain why it takes months to process photographs of injured subjects as part of their formal internal process. The compliance rate for this section is 43%.

DPD is not in Phase 2 compliance with 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:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005, revised November 1, 2010; Training Directive 04-4, Garrity Protocol, effective February 9, 2006, and revised October 24, 2009; 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

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Affairs Standard Operating Procedure, revised January 2011; and Office of the Chief Investigator Standard Operating Procedure, revised July 1, 2010.

DPD is in Phase 1 compliance with this paragraph.

Comments:

Command Level Investigations: During the last reporting period, we found that in 84 (96%) of the 87 cases we reviewed, timely statements were taken from officers who were involved or who witnessed the incident, an improvement over the 86% 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 85 (98%) of the 87 cases we reviewed, a percentage consistent with that registered during the last quarter. During this reporting period, we determined that in 90 (87%) of the 104 cases we reviewed, timely statements were taken from officers who were involved in or who witnessed the incident. This represents a decline from the 96% noted in our last report, and reverses a trend of continuing improvement in this area. Delays in interviews ranged from seven to 16 to 22 days. In one instance, a supervisor noted that interviews were not necessary, as there was video of the incident. In few of these delayed interviews was there any explanation provided for the delay.

The interviews of complainants and witnesses were conducted at sites and times convenient for them in 103 (99%) of the 104 cases we reviewed, a slight increase in the percentage registered during the previous reporting period.

The DPD Command Level Investigations remain in Phase 2 compliance with this paragraph; however, if the numbers do not achieve >94% next quarter, DPD will be found to be not in Phase 2 compliance with this portion of this paragraph.

Office of the Chief Investigator: During previous reporting periods, we noted ongoing issues 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. Timely interviews of involved parties, particularly officers, continue to be an issue. In 31 of the cases we reviewed, employee interviews were untimely. In several cases, investigators cited difficulty in scheduling employee interviews as a reason for requesting an extension. However, a review of the Significant Event Logs often revealed that attempts to schedule interviews were not made until well into the 90-day timeframe allowed for investigations (and sometimes after the 90-day mark had passed).

Complainants were identified as uncooperative in 42 of the investigations we reviewed, at 16% increase from the last review period. We believe that figure is high, and have advised the Chief Investigator that emphasizing contacting complainants early in an investigation may mitigate

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this. OCI investigators relied on the synopsis contained in the Citizen Complaint Report in most of these cases. When complainants and witnesses were available for interviews, they were recorded, either over the telephone or in person. Timeliness issues notwithstanding, when interviews were conducted, they were administered and recorded in accordance with requirements. We found no instances of complainants or witnesses refusing to allow their statements to be recorded.

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

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 U36b, which requires that IAD investigations be completed within 90 days of an incident. Of the 22 cases we reviewed in this reporting period, timely statements were not taken in two cases.

When the Internal Affairs Alert Teams, who are available 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. In one case, a witness refused to be audio-recorded, but allowed the interview and signed the appropriate refusal statement.

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 unnecessarily delayed, or that investigators instead relied on the officer's Crisnet report. We noted that there were significant delays in taking Garrity statements due to the practice of awaiting prosecution declinations from the District Attorney. We also noted our concerns regarding the variance in practice between FI and Homicide members of the Joint Incident Shooting Team (JIST) when interviewing witnesses and taking statements. Specifically, we were concerned with the practice adopted by Homicide members of JIST to take written, rather than recorded, statements.

To assess compliance with these requirements for this reporting period, we reviewed seven closed FI cases, and continued 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

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the event; however, in three cases, statements that were taken from involved and witness officers under the provisions of Garrity were unnecessarily delayed. In one case, in the recorded Garrity interview, the investigator asked the witness officer if he had any additional information to add because it has been over a month since the incident occurred. This interview demonstrates how unexplained delays can adversely affect the quality of an investigation.

Delays with the Garrity interviews of the involved officers in these cases ranged from 123 to 275 days from the date of the incident. In the last reporting period, we found that the Garrity interview delays of involved officers fell between 41 and 288 days from the date of the incident. Garrity interviews of witness officers ranged from 33 to 65 days from the date of the event. This is a significant decrease from the last reporting period, when the Garrity interview delays of witness officers fell between 127 to 345 days from the date of the event. We have discussed with FI 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.

FI investigators take officers' statements consistent with the provisions of Garrity (U31). In one case we reviewed, no recorded Garrity statements were taken from the involved or witness officers. DPD has initiated formal disciplinary action against the supervisor responsible for this violation of policy. All such statements relating to the remaining six cases reviewed during this reporting period were appropriately recorded. Accordingly, DPD remains out of Phase 2 compliance with these requirements.

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.*

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Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005, revised November 1, 2010; Training Directive 04-4, Garrity Protocol, effective February 9, 2006, and revised October 24, 2009; 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 January 2011; and Office of the Chief Investigator Standard Operating Procedure, revised July 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

Command-Level Investigations: During the last reporting period, we found 36 cases in which the question-and-answer format was used to document officer interviews in the SIR; in 13 of these, investigators had asked improper leading questions. During this reporting period, we found 90 cases in which the question-and-answer format was used to document officer interviews in the SIR. In seven (8%) of these cases, we found that the investigator had asked improper leading questions. This is a significant improvement over the past quarter. There were no interviews via written questions contrary to appropriate law enforcement techniques.

DPD remains out of Phase 2 compliance with the Command Level portion of this paragraph.

Office of the Chief Investigator: In January 2011, OCI began supplying digitally recorded interviews for both sworn and civilian interviewees for a randomly selected subset of our review sample. During this reporting period, we listened to multiple interviews associated with 27 cases, each case typically involving several interviews. Generally, investigators are employing proper interviewing techniques, using open-ended rather than leading questions. We noted three cases, however, in which leading questions were used. In one, a complaint of failing to make an arrest, the investigator actually finished sentences for the interviewed officer. Some investigators will also begin the interview by reading the complaint form (often poorly, depending on how they are written) to complainants and witnesses. This practice may insure that complainants' concerns are accurately captured, but may also serve to suggest answers. We suggest that, if done, this be reserved for the end of the interview. Written questions were included in six cases. In each, the questions were appropriate and not contrary to accepted law enforcement practices.

We note a wide disparity in the interviewing skills of OCI's investigators, and we suggest that supervising investigators either sit in on the interviews conducted by their investigators or listen to the recordings, in order to identify training needs and provide appropriate, individualized corrective measures.

DPD and the City are in compliance with the OCI portion of this requirement.

Internal Affairs Division Investigations: In all of the previous reporting periods since the first

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reporting period, we found no evidence of the use of leading questions during interviews. To assess compliance with requirements for this reporting period, we reviewed all 22 investigations that were completed by IAD during this reporting period. We did not find any evidence in the case files that investigators conducted interviews via the use of written questions. In all cases, we looked for evidence in the case summary that the investigators had asked particular questions to clarify complainants' and witnesses statements, and or physical evidence. In one case, we looked for evidence that the investigator had probed witness officers sufficiently to identify the unknown subject officer. The IAD administration is in transition with the retirements and promotions of several investigators. We continue to recommend that IAD provide appropriate training to current and incoming staff. We will also continue to review the audiotapes of interviews to determine if the probative quality of the questions is sufficient to elicit the necessary information to resolve the allegations.

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 that the interviews varied in thoroughness and were generally brief.

To assess compliance for this reporting period, we listened to eight randomly selected recorded statements taken from police officers, and found that two interviews involved the occasional use of leading questions, which is an improvement from the interview being based on leading questions as a whole. We are particularly concerned with the prevalent prefacing of questions with the phrase "do you remember" or "if you remember" or "do you have any remembrance of" or "do you recall," which prompts an answer of "no" or "I do not remember" or "I do not recall." We recognize that it can be difficult for interviewing investigators to refrain from asking questions that suggest answers, and we recognize the efforts of DPD to address this issue through supervision and training. However, we urge that DPD continue these efforts, and include a careful review and critique of all interviews in order to improve performance in this important area.

We have also found that investigators refrain from confronting officers with conflicting information that they provide during an investigation. Routinely, investigators fail to ask appropriate follow-up questions. The interviews revolve around *reporting* – not *investigating*. We are also concerned with investigators' lack of preparation to conduct Garrity interviews. In one case, four Garrity interviews were conducted with the subject officer over a 30-day period. The last interview contained questions about the basis for the complainant's allegations the investigator had already obtained close to the time of the incident. Investigators need to prepare for interviews by reviewing all evidence, documentation, and interviews already completed before conducting detailed and thorough Garrity interviews.

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

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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:

The policy relevant to this paragraph is DPD Training Directive 04-4, Garrity Protocol, dated February 9, 2006, and revised October 24, 2009. 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, IAD, and OCI investigations found supervisors and investigators consistently and meticulously compliant with applicable Garrity requirements.

To assess Phase 2 compliance with this paragraph, we reviewed seven completed FI cases. In one case, the report indicates a criminal investigation was ongoing. The investigator sought assistance from one of the investigators who responded to the scene on the day of the incident and was involved in the criminal investigation. The officers from another investigative agency secured the search warrants for the DPD officer's residences. During the compelled Garrity interview, the DPD investigator ordered the subject officer to answer the questions of the officer involved in the criminal investigation. Even more troubling, several months later, the investigating agency indicated that it would not bring criminal charges against the DPD officers; several months after that determination, FI sought criminal charges against the officers themselves and the prosecutor appropriately declined.

DPD is in Phase 2 compliance with this paragraph.

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Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U32

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

- a. a precise description of the facts and circumstances of the incident, including a detailed account of the subject's(s') or complainant's(s') and officer's(s') actions and an evaluation of the initial stop or seizure;*
- b. a review of all relevant evidence, including circumstantial, direct and physical evidence;*
- 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:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005, revised November 1, 2010; Training Directive 04-4, Garrity Protocol, effective February 9, 2006, and revised October 24, 2009; Training Directive 04-7, Use of Force/Detainee

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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 January 2011; and Office of the Chief Investigator Standard Operating Procedure, revised July 1, 2010. DPD is in Phase 1 compliance with this paragraph.

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.¹²

Command Level Investigations: 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. None of the cases we reviewed during this reporting period 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 Consent 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 officers' 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 104 SIRs and found that 81 (78%) contained a precise description of the facts and circumstances of the incidents, as required by U32a, to include a detailed account of the actions of the subject(s), complainant(s), and officer(s). This is a slight reduction from the previous reporting period's 80% compliance rate. In 99 (95%) of 104 cases, investigators evaluated the initial stop, again a decrease from the 98% noted in the last reporting period. In 66 (69%) of the cases, all relevant evidence, including circumstantial, direct and

¹² See U27 for all directives applicable to the requirements of this paragraph.

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physical evidence, was reviewed.¹³ This is a drop from the 73% in the previous reporting period. In evaluating the review of physical evidence by the investigators, the Monitoring Team is placing greater emphasis on the review of video/audio evidence from the mobile video system because we are finding that in far too many investigations, the supervisors are unable to download video evidence for review. Though they are making requests to the Technical Support Unit for recordings of the stops, the recordings seldom arrive prior to the completion of the investigation. The review of both video and audio recordings of citizen contacts with DPD members is essential to use of force investigations; we recommend, in the strongest of terms, that DPD initiate the corrective actions necessary to ensure that recording are reviewed, and commented on in detail, prior to the conclusion and submission of investigations.

None of the 104 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.

Ninety-seven (93%) of the 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, a decrease from the 95% registered during the last reporting period. There was no evidence of any discounting of a witnesses statement merely because the witness had some connection to the subject or complainants.

Eighty-seven (84%) investigations contained evidence of an evaluation of whether or not an officer(s) complied with DPD policy. This is a slight reduction from the 85% 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 continue to assert that in this context, the Consent 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 DPD 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. Examples of violations not noted include the failure of officers to prepare Use of Force 002 Forms prior to the end of the shift; and the failures to make force notifications from the scene. The use of force was evaluated in 96 of the 98 (98%) cases reviewed, a slight increase from last quarter's 96%.¹⁴ As previously noted, some of the evaluations were better than others. 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.

¹³ The base number was reduced from 104 to 95 for this requirement, as 12 of the scout cars had no video installed, which precluded their video or audio recording of the incident.

¹⁴ Six of the cases were detainee injuries in which force was not used.

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There were 93 (95%) instances in which an investigating supervisor made an effort to evaluate an officer's tactics, a slight increase from the 94% we found in the last reporting period.¹⁵ There were two allegations of misconduct uncovered in the investigations we reviewed.

Of the 104 cases we reviewed, 101 reflected a reliance on the preponderance of evidence standard to reach a determination (97%), an increase from the 89% noted in our last quarterly report. Many of the issues identified affecting this standard involve the failure to review scout car or business videos; failure to interview witnesses; and missing interview details. In 30 of the 46 cases that required extensions, we found written documentation of the basis for extending the deadline of a report, to include notations regarding corrections to reports, problems with inputting information into MAS, and witnesses being on furlough. There was one case where the extension was a result of an investigator's vacation, furlough, or problems with workloads.

We found non-disciplinary/disciplinary corrective actions documented in 27 of the investigations we reviewed that required corrective actions. These corrective actions ranged from re-instruction to a negative Administrative Counseling Register (ACR) to a verbal counseling's to a written reprimand. In one instance, the investigator found so many issues that misconduct investigations have been ordered to address the issues. Infractions included the late submission of SIR reports, the need to reinstruct on tactics, and a failure to note a use of force in the Crisnet report.

DPD is not in Phase 2 compliance with the Command Level Investigations portion of this requirement.

Office of the Chief Investigator: We noted in our first seven 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. Twenty-three of the complaints were lodged in 2010, with the remainder being received in this calendar year. In all of the cases, there was a precise description of the facts and circumstances of the incident complained of. However, we noted two cases in which additional allegations were raised during interviews, and not documented or addressed. In one, a citizen complained that an officer entered her house with his firearm drawn during a domestic dispute investigation. The officer denied that this occurred, contrary to the assertions of his partner and the complainant. This was never mentioned in the investigation summary. In another case involving a traffic stop, a citizen mentioned in his interview that he was pulled over for the same infraction an hour before the stop resulting in the complaint. He indicated that in the first encounter, the officer refused to provide his name and badge number. This was not referenced or addressed.

¹⁵ Six of the cases were detainee injuries in which force was not used.

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In two cases, relevant evidence was not considered. The first involved an alleged improper handling of a custody dispute. A sergeant advised the investigator that she was interviewing personnel on the wrong shift, based on the time the incident occurred, and this information was apparently disregarded. In another – an allegation of failing to take a report – possible officers were identified based on their descriptions (the only African-American male/female team working that day), but were not interviewed because their log sheet did not show them in the area of the complaint. Had they failed to take a report, they most likely would not have documented the interaction; they should have been interviewed, if for no other reason than to definitively rule out their involvement. We note that investigators generally explore the availability of video evidence in cases where it is appropriate. More often than not, no video evidence is available, but investigators are inquiring about it. We recommend that they try to do so as early in the investigation as possible, as retention times for both DPD and private sources can result in the deletion of the video before it can be acquired.

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.

In all of the cases we reviewed, we noted appropriate evaluation of whether officers complied with DPD policy.¹⁶ In four cases, misconduct was appropriately discovered during the course of the investigation and ultimately sustained. One case involved truthfulness, and while the officer was sustained for a procedural violation instead of the truthfulness, the investigator noted that she "gave a false oral statement." Two other cases involved failures to make DWI arrests, and one of these also resulted in a sustained charge of untruthfulness. In the final case, the investigator identified a failure to complete an activity log.

In three cases, potential misconduct was not discovered. One case involved the allegation referenced above, in which an unknown officer allegedly failed to provide his name and badge number during a traffic stop. In another, an officer responded to a possible burglary call and conveyed the suspect from the scene without obtaining any pedigree information other than his first name. In the third case, an officer admitted in an interview to forcing a complainant to discard a "dime bag" of marijuana. While this was not the topic of the complaint (it concerned his demeanor), the investigator should have noted the improper disposal of narcotics.

In seven 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. For example, allegations that were unfounded or exonerated by investigators would more appropriately be classified as not sustained based on the information in the case file.

Fifty-six of the cases we reviewed were not completed within the prescribed 90-day time period. Given that the timeliness of investigations has been the focus of the Court and the Monitoring Team, this was disappointing. Written requests for extension were submitted in 26 of these

¹⁶ 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.

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cases, frequently after the investigations were already overdue. One request mentioned furlough as a reason for the extension in contradiction of policy and this paragraph. As a rule, the extension requests do not adequately identify why the extensions are required, nor do they explain long periods of investigative inactivity leading up to the requests. They appear to be approved *pro forma*.

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. During our May site visit, the Chief Investigator indicated that she instituted a policy that certain investigative steps such as complainant contact and canvassing be conducted within the first two weeks of an investigation being assigned. We are hopeful that these changes, if followed, will have an impact on the quality of the investigations, but most of the cases we reviewed during this reporting period were assigned well before that policy was implemented.

In summary, although appropriate directives are in place, our analysis of OCI investigations does not support a Phase 2 compliance finding with this paragraph.

Internal Affairs Division Investigations: We found that the IAD investigative packages are well organized, and elements of the investigation are easy to locate. We found that the IAD investigations were conducted in a professional manner. With few exceptions, they were thorough. IAD command staff continue to accept constructive criticism after reviewers discuss concerns with them. The supervisor is now in the process of developing better methods of case management by meeting with the investigators every two weeks. During this review of 22 completed investigations, we found that there were precise descriptions of the incidents and reviews of all relevant evidence.

We continue to have concerns not only with the extensions of investigation deadlines, but with the discovery, during this reporting period and the last, of investigations that are grossly overdue and where extensions have not been requested. There is written documentation found in the Case Supervision Sheets when an extension is requested, but the new deadline date is still frequently missed. We have recommended the development of a case-tracking system to assist IAD in the timely management of the investigations. The IAD Standard Operating Procedures, Section 5-26, Supervisory Review and Monthly Reviews, contains provisions for reporting and tracking the progress of cases. Recently, IAD management adopted 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. The absence of a computerized system does not prohibit the supervisors and managers from managing the caseloads of the investigators manually and through regular case review conferences. We will continue to monitor this effort by IAD.

There was one recommendation for non-disciplinary corrective action or disciplinary action in the 22 cases we reviewed during this reporting period. DPD is not in compliance with the IAD portion of this requirement.

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Force Investigations: Our review of completed FI cases for previous reporting periods found them to be in overall compliance, but noted cases wherein there was no evaluation of the initial stop and/or seizure; no reference to the presence or absence of circumstantial evidence; and a lack of reference to the conducting of credibility determinations. To assess compliance for this reporting period, we examined seven completed case files and noted the continued inclusion of a detailed account of the facts of the event.¹⁷ Investigators evaluated the initial stop/contact in each case and evaluated direct and physical evidence, and generally did better evaluating the presence or absence of any circumstantial evidence in a small number of cases but need to do much better. In one case, overwhelming direct physical evidence was not considered in rendering a not sustained disposition; however, the report also indicated that policy violations were substantiated and misconduct was proven. The involved officers received no formal discipline for the misconduct, even though the investigation deemed the officers were not credible. There were no instances where a subject's court-related appearances had any effect on the outcome of investigations. The files documented some reasonable credibility determinations, but demonstrated the need for FI to provide additional training on this issue, and we will follow up with FI on the status of this training.

In two completed investigations, we were troubled that the subject officers were given the benefit of the doubt over the citizens' versions of events. In one case – although the subject officer had prior discipline for providing false information in a force investigation report and for being untruthful in the Garrity interview – the allegation of excessive force was not sustained. The subject of the force was deemed not credible merely because of the subject's criminal history, despite the evidence of injury, and the available information provided in the case. In the second case, the subject exercised his Constitutional right to remain silent, and the automatic credibility determination went to the subject officers despite the questionable legal justification for the detention, deficiencies in the investigation, and conflicts relating to the officer's reports compared to the force investigation report.

We found that investigations contained reviews of tactics and identified officers' unrelated conduct violations. Findings were based mostly on a preponderance of evidence standard, and recommended referrals for disciplinary intervention were documented. In two cases, the preponderance of the evidence standard was negatively impacted by deficient investigations where conflicts were not addressed and additional available evidence was not gathered.

We note that requested extensions of deadlines for reports were documented; and when they were approved, there was a new deadline, usually within 15-30 days, specified. This is a positive development; however, the practice of granting multiple extensions remains problematic and tends to circumvent the intent of this requirement. Four of the investigations we reviewed were untimely. One other investigation was timely, but the investigation was not thorough or complete. No extensions were requested for six of the seven investigations that were late. In the remaining investigation multiple extensions were authorized, totaling 14 separate requests; despite their approval, the completed work product was very late in this case.

¹⁷ These investigations included no critical firearm discharge events.

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We were also concerned with the confusion associated with the reason for the numerous extension requests. In most instances, the requests referred to the pending criminal investigations, but the lines between the criminal investigation and the administrative investigation of this case were blurred. The reports were unclear on when the actual criminal investigation was ongoing and when it was completed. While conducting concurrent criminal and administrative investigations is a recognized professional practice, it is of the utmost importance that any intermixing of investigative initiatives comports with applicable guidelines.

We recognize the challenges inherent with effective case management, and recognize the continued efforts of DPD, particularly IAD and FI staff, to address them. Regardless, it is difficult to justify the approval of deadline extensions to conduct interviews, obtain an officer's discipline history, obtain videotapes relating to an event, or locate complainants or 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.*

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Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005, revised November 1, 2010; Training Directive 04-4, Garrity Protocol, effective February 9, 2006, and revised October 24, 2009; 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 January 2011; and Office of the Chief Investigator Standard Operating Procedure, revised July 1, 2010. DPD is in Phase 1 compliance with this paragraph.

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.¹⁸

Command Level Investigations: Our assessment for the previous reporting period found that in 86 (99%) of the 87 investigations, there was a chain of command review above the investigator. Deficiencies were identified in 13 of the cases, with eight (61%) requiring corrections within seven days of submission. In three of the cases, recommendations were made that training, policy, or procedural issues be referred to the appropriate DPD unit. These included re-issuing a policy regarding Crisnet preparation and sending a supervisor to SIR preparation training. We found six instances of corrective action being taken for investigations that were not conducted properly, to include re-instruction and training and the issuance of corrective memos and references to the SIR preparation guide. 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.

During this reporting period, we found that in 101 (97%) of the 104 investigations we reviewed, there was a chain of command review above the investigator. Deficiencies were identified in 29 of the cases, with 16 (55%) requiring corrections within seven days of submission. In six of the cases, recommendations were made that training, policy, or procedural issues be referred to the appropriate DPD unit. The final reviewing authority referred issues to the appropriate DPD unit in 4 instances. We also found five instances of corrective action being taken for investigations that were not conducted properly, to include re-instruction and training and the issuance of corrective memos and references to the SIR preparation guide. Chain of command reviews are a critical element in improving the quality of the SIR investigations. We find all too frequently that the chain of command seems to be rubberstamping recommendations from investigators and

¹⁸ See U27 for all directives applicable to the requirements of this paragraph.

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first endorsers and not providing the critical reviews originally envisioned in this requirement. We continue to believe that command level reviewers would benefit from a special training program to assist the involved personnel in the conduct of these reviews; we recommend that DPD schedule such a training session. DPD has not achieved Phase 2 compliance for the Command Level Investigations.

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 were usually not documented. Glaring deficiencies such as chronic timeliness issues, which would warrant counseling and/or discipline, were not addressed in writing.

For the current reporting period, we reviewed a random sample of 100 closed investigations. In our last three reports, 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.” We found only two such cases during this review; this was a noticeable improvement.

During this reporting period, 51 cases were returned for deficiencies. We saw an increase in the identification of investigative deficiencies, along with the usual returns for typographical errors and formatting issues. As in past reviews, there is little evidence that a failure to adhere to investigative timelines is addressed as an investigative deficiency. We found only one case in which the supervising investigator indicated that a “negative Administrative Counseling Registrar” would be issued to an investigator because of a late case. At least 15 other cases contained large gaps of inactivity that were not addressed in the material we reviewed. Both investigators and supervisors must be held accountable for this occurring, per the Consent Judgment requirements.

We reviewed one case where a reviewer disagreed with the recommended findings of the investigator. In this case, the Board of Police Commissioners appropriately changed a demeanor finding from unfounded to sustained based on the officer’s extensive history of similar complaints (over 150 allegations contained in 80 complaints over the last 12 years). The reasons were documented in writing in accord with the paragraph requirements.

DPD is not in compliance with the OCI portion of this requirement.

Internal Affairs Division Investigations: 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, IAD changed this process; as a result, documentation had improved considerably. However, there were still incidents of cases not submitted in a timely manner after due dates were given. During this reporting period, we reviewed the 22 cases completed during the quarter, and found that the supervisors had missed or lost track of at

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least three cases where the cases had been returned to the investigator for correction. In only one case, a recommendation was made to issue a corrective notice to the investigator.

DPD is not in compliance with the IAD portion of this requirement.

Force Investigations: In our previous reviews of FI cases for compliance with these requirements, we 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.

To assess compliance for this reporting period, we reviewed seven completed FI cases. Although we are sufficiently satisfied, based on our discussions with FI staff, that supervisory reviews and evaluations are occurring, we were unable to find supporting documentation of such. We recommend that these reviews be more thoroughly documented. In one case, a supervisor was disciplined for failing to properly evaluate a case. All seven cases included documentation confirming that investigators corrected deficiencies within the required seven-day period. DPD is not in Phase 2 compliance with this portion of this paragraph.

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:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005. DPD remains in Phase 1 compliance with this paragraph.

Comments:

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In our previous reports, we also discussed the findings of our review of auditable forms (UF002). We noted that 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 227 auditable forms (UF002), and found that 175 of the forms (77%) were prepared correctly, and documented the prisoner injuries, uses of force, and allegations of uses of force. The forms include seven cases that were referred to FI/IAD.

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 investigation¹⁹*

Policy:

¹⁹ Consent Judgment amendment, September 15, 2008.

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The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005.

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.

During the previous reporting period, we found that in 98% of the cases we reviewed, a supervisor was notified following a use of force or a prisoner injury. There were 13 instances in which the use of force involved a firearms discharge, a visible injury or a complaint of injury and a supervisor responded to all 13 (100%). We also found that supervisors responded to other uses of force on a priority basis in 93% of the cases we reviewed.²⁰ In 93% of the cases investigated, supervisors attempted to interview the subject on the scene or at the precinct/district. In 92% of these cases, the supervisor examined the subject on the scene or at the district/precinct for injuries, and ensured that the subjects received the needed medical attention. IAD was notified in seven cases, and assumed responsibility for those cases.

During this reporting period, we reviewed 104 cases and found that in 98 (94%) cases, a supervisor was notified following a use of force or a prisoner injury. There were 19 cases in which the use of force involved a firearms discharge, a visible injury or a complaint of injury and a supervisor responded to all 19. Supervisors responded to other uses of force on a priority basis in 73 (86%) of the remaining 85 cases.²¹ The main reason for not responding was a failure on the part of officers to make the appropriate notification. When questioned, some of the officers stated that they did not believe they had used force. Supervisors are providing training to address this shortcoming; however, additional emphasis may need to be placed on this issue at training sessions. As previously noted, the failure to respond often affects the ability to interview subjects and witnesses who may not be located at a later time. Ninety (87%) of the cases reflect supervisory efforts to interview the subject, at the scene or at the district, a reduction from the 93% registered last quarter. In 97 (93%) of the cases, the supervisor examined the subject on the scene or at the district/precinct for injuries, and ensured that the subjects received the needed medical attention, a continued improvement over the 92% that we found last quarter. IAD was notified in seven cases, and assumed responsibility for those cases.

²⁰ Reasons for not responding on a priority basis varied or are unknown, but in at least one case the reason given was that there had been no injury, which is not a criterion for responding to uses of force.

²¹ In combination, the supervisors' response to all uses of force in 92 of the 104 cases, a combined 89%.

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Force Investigations: It is troubling that a supervisor in a deadly force incident where a subject was struck in the head with a PR-24 failed to report the incident to FI for investigation. Even more troubling, the same supervisor did not ensure that the subject received the appropriate medical attention. Fortunately, the subject was not injured severely.

In another case, while listening to a recorded Garrity interview, we discovered that the witness officer who was at the scene and participated in taking the subject into custody was informed by the subject that the involved officer booted (kicked) him in the face. When interviewed by FI, the witness officer was asked if he informed his supervisor of the allegations. After a noticeable pause, the officer said, "No." The officer was then asked why he did not report the incident to a supervisor. The officer responded, "I don't recall?" The officer then stated that he did not know that the incident would require a use of force report – even though he observed a slight cut to the subject's nose. The subject in this case allegedly received a broken nose from the involved officer's kick to the face. This interview is also further evidence of FI investigators failing to follow up with an appropriate line of questioning when such types of answers are presented by subject officers.

Our review of cases relevant to this requirement shows that, taken together, the majority of these reports did not meet these requirements. Though DPD is still not in compliance with these requirements, it is making progress in some of the areas, with some of the components of this requirement exceeding the 90% level. Closer attention to details could move the Command Level Investigations portion of this requirement into compliance.

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

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Policy:

The policies relevant to this requirement are DPD Directive 304.2, Use of Force, effective June 27, 2005 and revised November 1, 2010; and Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005. DPD is in Phase 1 compliance with this paragraph.

Comments:

Command Level Investigations: To assess compliance for this report, we reviewed the 104 completed Command Level Investigations, and found that 21 (20%) preliminary investigations were completed within 10 days of the event. This is a decrease from the 25% registered in our last report. All 104 of the investigations contained the required synopsis of the event. There were no photographs of injuries in the files.

In 97 (93%) of the cases, the canvass and witness information was included in the file, a slight decrease from the 94% reported in our last report. Officers' prior uses of force and allegations of misconduct were included in 97 of the cases (93%). All but one of the cases reflected first-line supervisor evaluations (99%); this is the same percentage registered in our last report. The final command use of force investigations were completed within 30 days in 80 (77%) of the cases, an improvement from the 62% in our last report. Copies of completed Command Level Investigations were transmitted to IAD within seven days of completion of the investigations in 97 (93%) of the 104 cases.

We recommend that DPD develop a more sophisticated system of tracking these cases. We recognize that some cases may be quite complex, but we find it difficult to understand why cases such as detainee injury cases don't meet the time requirements. 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 documentation of canvasses for civilian witnesses; although we noted that the 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.

To assess compliance for this reporting period, we reviewed seven completed FI cases.²² Each included officers' prior histories/profiles and a synopsis of the event and applicable witness statements; however, four files contained no photographs of subject injuries. Four of the seven

²² These investigations included no critical firearm discharges.

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cases we reviewed were untimely. Notably, of the seven cases, one case was from 2009. The remaining cases were from 2010 and 2011.

None of the cases reviewed for this report involved critical firearm discharges. During our most recent site visit, we conducted a random audit of 11 open IAD (three), FI (four), and OCI (four) cases. In several cases, the majority of the legwork was already completed, and the investigative reports still took months to complete. There was no reasonable explanation for the delays, and these cases will be untimely when we review them in future reporting periods. Untimely delays for the scheduling of Garrity witness and involved officer interviews already exist in the open cases that we reviewed, causing them to be completed very late. Deficient case management is also problematic in granting extensions and establishing new due dates by supervisory personnel.

We continue to recommend that 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 Compliance

Phase 2: Not in Compliance

Critical Issues:

- The failure to conduct quality investigations within prescribed timelines remains a critical issue. To improve Command Level and Force Investigations reports, we recommend that the Department implement relevant training programs and a more sophisticated case management system that alerts commanders to expiring due dates. We again emphasize the need to provide formal documentation of reasons for delays in the completion of investigations. Many cases indicate that they are returned for corrections, but do not explain what is needed to be corrected, nor what new time limits have been established for re-submission.
- As previously noted, the most vital component to the Command Level investigative process is a critical review of the work product by the supervisory personnel, beginning with the first-line supervisors. We have found that in instances where corrective action is recommended due to the quality of the investigations, the recommendations have originated with inspectors or commanders, rather than the first-line supervisor. In addition, DPD should consider the practice of forwarding complex investigations to the Training Division and or the Policy Section to ensure that both units are aware of the situations officers are confronting in the streets. The review of these cases by those specialized units could result in enhanced training curricula or improved DPD policies.

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- The Department must emphasize to officers that they are required to notify supervisors when force is used; 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 or injury, which is not the case.
- The Chief Investigator has restructured its office into four teams and emphasized the accountability of the team leaders/supervising investigators for the work performed by their personnel. As previously noted, the most vital component to the investigative process is a critical review of the work product by the supervisory personnel. In OCI and FI, 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.
- OCI has been improving its case management system, and we encourage OCI 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.

Next Steps:

During the next reporting period, we will:

- Continue to assess compliance, paying 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 the impact of the Chief Investigator's systemic and structural changes within OCI.
- Review progress on OCI and FI's case management systems and the results of current field-testing.

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- Discuss specific OCI cases from the quarter under review with the Chief Investigator and OCI supervising investigators.
- Discuss with IAD managers case management methods, adherence to IAD Standard Operating Procedures, and investigative interviewing techniques.
- Discuss specific FI cases from the quarter under review with the FI Commander and randomly selected investigators.

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.

Policy:

The policies relevant to this requirement are 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. DPD is in Phase 1 compliance with this paragraph.

Comments:

Previously, we found that the JIST did not appropriately respond to critical firearm discharge events; accordingly, we found DPD not in Phase 2 compliance with this requirement. There were no critical firearm discharge investigations completed during this reporting period; therefore, we have no basis upon which to change our previous finding. However, DPD should ensure that the appropriate JIST notifications and responses are made and included in future investigative reports.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

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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 Garrrity 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:

The policies relevant to this paragraph are 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. DPD is in Phase 1 compliance with this paragraph.

Comments:

There were no critical firearm discharge investigations completed and submitted for review during this reporting period. Accordingly, we have no basis to change our previous finding. 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.

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Policy:

The policy relevant to this paragraph is DPD Special Order 09-13, issued March 2, 2009. This policy established the Command-Level Force Review Team (CLFRT) to evaluate all critical firearm discharges and in-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 11-02, effective January 1, 2011. 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 did not convene because there were no critical firearm discharge investigations completed for review.

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*

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

Policy:

The policy relevant to this paragraph is DPD Special Order 09-13 (March 2, 2009), which was replaced with DPD Special Order 11-02, effective January 1, 2011. DPD is in Phase 1 compliance with this paragraph.

Comments:

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.

There were no critical firearm discharge investigations completed and submitted for review during this reporting period. Accordingly, we have no basis upon which to change our previous finding.

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.

Policy:

DPD revised Directive 101.9, Special Purposes Committees, which covers the Command Level Force Review Team (CLFRT), to address this Consent Judgment paragraph; the revision is pending approval. The revision addresses the previous policy that was deficient and did not adequately address the requirements of U41.

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DPD is in Phase 1 compliance with this paragraph.

Comments:

The CLFRT Chair previously prepared an annual report and critique of critical firearm discharges and in-custody deaths and was found in compliance with this paragraph. These reports are due by May of the year following the year under review.²³

We received the CLFRT annual report during the current reporting period, as required. The report, prepared by Force Investigations, included a description of investigative processes; case summaries; and various analyses of fatal and non-fatal firearm discharges, in-custody deaths, and pursuits. As we noted, the report indicated a downward trend in critical firearm discharges during the latest five-year period. After peaking at 59 in 2006, DPD recorded 33 critical firearm discharges in 2010. There were seven fatal shootings in 2010, after peaking at nine in 2006. The most common encounter involved armed subjects; however, two subjects were unarmed.

Although the report was comprehensive, it did not include an analysis of the data to detect additional patterns or problems, or the absence thereof. Accordingly, we find DPD in continued compliance, pending receipt of a supplemental report containing the above-described analysis. We anticipate a supplemental report by the end of the next reporting period.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

- The failure to conduct quality investigations within prescribed timelines remains a critical issue. Some recommended methods for improvement of Command Level and Force Investigations reports include the implementation of the various training programs previously mentioned and the implementation of a more sophisticated case management system that will alert commanders to expiring suspense dates. The formal documentation of reasons for delays in the completion of timely investigations could also assist the Department in identifying problem areas requiring its attention.

²³ 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.

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As previously noted, the most vital component to the Command Level investigative process is a critical review of the work product by the supervisory personnel. Our reviews of the investigations found that first-line supervisors need to perform more critical reviews. In instances where corrective action is recommended regarding the quality of the investigations, the recommendations have originated with inspectors or commanders rather than the first-line supervisor.

- The Chief Investigator has restructured its office into four teams and emphasized the accountability of the team leaders/supervising investigators for the work performed by its personnel. Again, the most vital component to the investigative process is a critical review of the work product by the supervisory personnel. In OCI and FI, supervising investigators must hold their personnel accountable not only to timelines, but also to conducting thorough investigations. Case deficiencies must be clearly identified, and the full range of corrective measures should be available depending on the circumstances.
- OCI and FI have been improving its case management systems, and we encourage OCI and FI 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.
- The Department must emphasize to officers that they are required to notify supervisors when force is used; 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 assess compliance, paying 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 the impact of the Chief Investigator's systemic and structural changes within OCI.

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- Review progress on OCI and FI's case management systems and the results of current field-testing. Conduct a random audit of FI's open or pending investigations.
- Discuss specific OCI cases from this reporting period with the Chief Investigator and OCI supervising investigators.
- Discuss with IAD managers case management methods, adherence to IAD Standard Operating Procedures, and investigative interviewing techniques.
- Discuss specific FI cases from this reporting period with the FI Commander and randomly selected 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
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

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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 and supported this effort by frequent Roll Call Training and two Administrative Messages issued in January and April 2011. DPD also revised its witness identification policies to comply with the revised arrest and investigatory policies. Policy 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, holds/warrants, 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 had been problematic, in that the failure to do so caused other violations of policy. (See U50, U51, and U53.) 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. Supervisory and command review continues to be lacking in some areas, and that documentation of violations should be a Departmental priority.

In the fifth reporting period, DPD assigned a commanding officer (lieutenant) to coordinate the efforts of the different districts/precincts and other investigative operational units in their reviews of witness identification and questioning policies. This strategy has been successful and should be continued, as we found the applicable CJ paragraph in compliance for the previous three reporting periods.

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:

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The policy relevant to this requirement is DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010. The DPD is in Phase 1 compliance with 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:

See U42 above.

Comments:

To assess compliance with these requirements for this reporting period, we reviewed a random sample of 106 arrest case files. The review included Crisnet reports, Detainee Input Sheets, DPD Warrant Verification Logs, officers' Daily Activity Logs, Arraignment Verification Logs, and detainee file folders. In all cases, 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). Of the 106 arrest cases we reviewed, the Department did not seek a warrant in 21. In all cases, the required auditable form was completed. In three cases, although the auditable form was completed, the officers who

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completed the forms did not indicate the date or time the arraignment warrant was not sought or the form was not submitted timely. DPD policy requires that an auditable form be completed within 12 hours of the event.

In one instance, probable cause did not exist for the arrest, and an auditable form was not generated. In another arrest, we could not determine the time of the probable cause review, as the Crisnet report did not document it and the Detainee Input Sheet did not indicate the time.

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

The policy relevant to these requirements is DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 20, 2011. In addition, the DPD issued Administrative Message 11-0151, Roll Call Training Stop and Frisk, on January 28, 2011, with instructions that it be read at roll calls. 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. The DPD is in Phase 1 compliance with this paragraph.

Comments:

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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:

See U44 above.

Comments:

In all of our previous reports, we determined that DPD was not in compliance with the provisions of this paragraph. DPD has come into compliance with traffic and investigatory stops, and is making some progress with Terry stops (frisks). In the last reporting period, DPD's compliance rate for frisks was 87%. 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 found that some supervisors, when reviewing officers Daily Activity Logs, checked off each frisk on their subordinate's logs or completed an auditable form when the frisk was not articulated. This sound accountability practice by DPD supervisory personnel should be continued.

To assess compliance for this reporting period, we reviewed 401 officers' Daily Activity Logs completed on three randomly selected dates.²⁴ Each district provided the logs requested, which included traffic stops and other situations where officers made investigatory stops of individuals who were not in vehicles.

²⁴ For this review, we randomly selected Daily Activity Logs completed on April 7, May 11, and June 14, 2011.

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Our review yielded 66 investigatory stops, of which 65 indicated a lawful purpose and the remaining one failed to describe the reasons for the investigatory stop. An auditable form was not completed for the stop that did not articulate a purpose for the stop. In all but two instances, supervisors reviewed all stops within the required timeframe. In the one case, a supervisor did not review the Daily Activity Log. DPD's compliance rate for investigatory stops only (excluding frisks, traffic stops, and required auditable forms) this reporting period is 96%, a slight decrease from the previous quarter.

The logs included 246 traffic stops, and our review indicated that 11 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 242 traffic stops in a timely fashion, marking their signatures, and dates and times of review. In four cases, the supervisor signed, dated, and timed the log more than 24 hours after submission by the officer and all these violations were by the same supervisor. This particular supervisor was responsible for reviewing some of the Daily Activity Logs in the previous quarter that were late. DPD's compliance rate for traffic stops remains at 95%.

During this reporting period, we also reviewed the 79 frisks appearing on officers' Daily Activity Logs. We found that 67 of the frisks met the requirement or the supervisor completed an auditable form for those not articulating reasonable suspicion, and six failed to describe the rationale for 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. This is a tool for the supervisor to locate and review the frisks that occur by their subordinates. However, this tool is not being used by supervisors, as we occasionally note frisks listed under "Recap of Activity," but cannot locate them in the narratives. We are also finding instances where the officer properly conducts a frisk but does not mark either of the appropriate boxes and the supervisors are failing to discover the omissions.

Of the six frisks that failed to articulate reasonable suspicion, four were by officers who asked the detainee for verbal consent to search (pat down) 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 two instances where the officer used the term "furtive gestures" as the reason for the frisk without any other descriptive language. There were six instances where a frisk was indicated on the face sheet of the officer's log but they failed to mark the frisk box in the narrative and we could not locate them. The officer's supervisor should have more thoroughly checked the log as we found these omissions easy to identify. During our previous site visit, the Parties held a meeting to discuss DPD's request that consent searches (frisks) met the legal requirements of the Consent Judgment.

During this reporting period, we found that all frisks were documented by the end of the officers' shifts. Although there is evidence of much progress as it relates to supervisors completing auditable forms for the violations, the Department's compliance rate for frisks during this reporting period decreased slightly from 87% to 85%.

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In previous audits, 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. A review of in-car video of frisks by the training staff and commanders may be helpful in ensuring legal authority exists for the frisks. It does not appear that commanding officers review the investigatory stops, as we have not reviewed an officer's activity log 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.

This is the first quarter we reviewed 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. As noted above, Administrative Message 11-0151, issued on January 28, 2011, and a subsequent Administrative Message, 11-0477, issued on April 22, 2011, emphasizes recording of investigatory stops/frisks by officers and supervisory review. We note that the Department has taken corrective action as a response to previous audits, including an audit for June 2011, and that supervisors or command officers need to complete an auditable form or take action when the violations occur.

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 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:

The policy relevant to this paragraph is DPD Directive 203.9, Custodial Questioning, effective July 1, 2008, and revised November 20, 2010. DPD is in Phase 1 compliance with this paragraph.

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Comments:

Full compliance with this paragraph is dependent upon the successful implementation of U48; accordingly, 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:

The policy relevant to this paragraph is DPD Directive 203.9, Custodial Questioning, effective July 1, 2008, and revised November 20, 2010. The DPD is in Phase 1 compliance with this paragraph.

Comments:

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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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 24 hours of the interview, interrogation or conveyance.*²⁵

Policy:

The policy relevant to this paragraph is DPD Directive 203.9, Custodial Questioning, effective July 1, 2008, and revised November 20, 2010. The DPD is in Phase 1 compliance with this paragraph.

Comments:

During the previous reporting period, we reviewed interviews and interrogations from the Twelfth, Tenth, Eighth and Sixth Precincts, and DPD's Central Investigative Operations function, and found them in Phase 2 compliance with these requirements.

On June 1, 2011, the Court issued an order relevant to a DOJ letter dated May 1, 2010, where an agreement was accepted for timelines required for the review of all interviews, interrogations and conveyances. The Court order permits that the review period for supervisors can occur within 24 hours, compared to the 12 hours previously mandated by the paragraph.

To assess compliance with the requirements for this reporting period, we expanded our review to include the Domestic Violence Unit, Child Abuse Unit, Commercial Auto Theft Unit, and Narcotics Unit.

We reviewed the Domestic Violence Unit's IOU case files, which contained a random sample of 68 witness/interview interviews. Sixty-five interviews/interviews met the requirement, and contained the proper documentation and supervisory review within prescribed timeframes. In one case, the supervisory review was dated the day before the interview occurred; in another, the supervisor did not indicate the date or time of the review; in the third instance, the supervisor did not notice that the interviewing officer failed to indicate the ending time of the interview. All commands made adjustments during the previous reporting period to address the lack of timeliness in supervisory review, and progress is evident. During this reporting period, the Domestic Violence Unit achieved a compliance rate of 96% with this paragraph.

We reviewed all 19 cases for the current reporting period from the Child Abuse Unit, for a total of 26 interviews/interviews. Twenty-five of the cases met the requirement. In one case, the

²⁵ Amended by Court Order dated June 1, 2011.

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supervisor failed to conduct a review of the interview. The Child Abuse Unit's compliance rate is 97%.

We also reviewed a random sample of 38 Commercial Auto Thefts case files containing 55 interviews/interrogations conducted on the proper form. Of these 55, one did not contain supervisory approval. In one case, the interview lasted for 40 minutes, with only five questions asked; in another interview that lasted an hour, only eight questions were asked. This may have been excessive for the duration of the interview. Commercial Auto Theft Unit's compliance rate for this paragraph is 95%.

We reviewed a random sample of 37 Narcotics case files that resulted in 37 interviews/interrogations forms being completed. There was a date of interview missing on one of the forms, and in another, the witness's name was omitted. In all cases, supervisory review was timely. The Narcotics Unit's compliance rate for this paragraph is 95%.

We have now reviewed all DPD's Investigative Operational Units, many of them several times during previous site visits. None of them, with the exception of the Homicide Command, were in compliance at the end of 2010. Much progress has been made and should be sustained. The combined compliance rate for Interviews/Interrogations for the four Investigative Operational Units this quarter is 96%.

We reviewed all instances of conveyances to DPD facilities for the purposes of interviews during the current quarter. There were 16 such conveyances, and all were in full compliance with the requirements of the paragraph. DPD's compliance rate for conveyances is 100%.

Since our first (2009) review of interviews, interrogations, and conveyances, we have observed remarkable progress in the documentation of required forms. This is attributable to the leadership and initiative on the part of supervisors and employees in those commands. DPD has sustained the progress it has made in this area; the Department is in Phase 2 compliance with 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.

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Policy:

The policy relevant to this requirement is DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010. The DPD is in Phase 1 compliance with this paragraph.

Comments:

Phase 2 compliance with this paragraph is dependent upon the successful implementation of U50; accordingly, 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:

The policy relevant to this requirement is DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010. The DPD is in Phase 1 compliance with this paragraph.

Comments:

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, Arraignment Sheets, Detainee Input Sheets, and Warrant Tracking Hold Forms. Of the 85 cases we reviewed, all met the 48-hour requirement. In one instance, the warrant request to the prosecutor was presented at the 46th hour. DPD's compliance rate with this requirement is 100%.

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DPD is in Phase 2 compliance with this paragraph.

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:

The policies relevant to this paragraph are DPD Directives 202.1, 202.1-7.2, and 202.1-8.1, Arrest, effective July 1, 2008, and revised November 20, 2010. The DPD is in Phase 1 compliance with this paragraph.

Comments:

To assess Phase 2 compliance with these requirements, we reviewed the same documents referenced in U50. Of the 106 arrest case reports we reviewed, there were 63 that began at the initial arrest and concluded in arraignment. We excluded cases that involved 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 32 cases where the arraignment occurred after 48 hours from the time of the initial arrest. In all cases, an auditable form was completed in a timely fashion. In one case, the delay occurred due to the warrant submittal to the prosecutor being sent back to DPD for corrections and in the other instance additional information was requested. In some cases, this request by the prosecutor is beyond the control of DPD. When the commanding officer reviews the auditable form, s/he must inspect the document to ensure that the OIC is dating or placing the time the

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event was recognized. 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. We have observed that the new form is being utilized properly and the before mentioned issues have been resolved.

DPD's compliance rate with this requirement for the current reporting period is 97%. In our previous reports, 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. Although we are seeing fewer unnecessary delays overall, DPD must strive to submit the documentation to the prosecutor in a more timely fashion. We observed that some entities within DPD have successfully addressed the problem of submitting the warrant request in a timely fashion.

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.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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:

The policy relevant to these requirements is DPD Directive 305.2, Detainee Registration, and effective September 12, 2005. The DPD is in Phase 1 compliance with this paragraph.

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Comments:

Phase 2 compliance with this paragraph is dependent upon the successful implementation of U53; accordingly, 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:

The policy relevant to these requirements is DPD Directive 305.2, Detainee Registration, and effective September 12, 2005. The 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 with this requirement was 95%.

To assess compliance with the requirements, we reviewed 106 Detainee Input Sheets, and found a total of 45 holds/warrants listed on the forms. In one case, the hold exceeded 48 hours prior to being cleared and an auditable form (Warrant Tracking Hold Form, UF004) had not been prepared. In another case, an auditable form had been completed for an arraignment exceeding 48 hours; however, for the same arrest, there was no indication on the form that the hold/warrant had not been cleared timely and the hold box had not been checked. This form was created and contains appropriate indications for officers to identify more than one violation of the Prompt Judicial Review Policies. DPD personnel must be aware that if an arraignment occurs more than 48 hours after an arrest and the detainee has an outstanding hold/warrant, there is a likelihood that the warrant may not be cleared within the requirement and both boxes should be checked.

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Auditable forms for the violations were not included in the case packets in two instances. 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/cleared and generating the required auditable forms for violations continues to be a problematic for the Department. If personnel would properly complete the required information contained on the Detainee Input Sheet the existing problems would be resolved. DPD’s compliance rate for this requirement is 96%, an increase from the previous quarter.

DPD is in Phase 2 compliance with this paragraph.

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:

The policy relevant to this paragraph is DPD Directive 305.2, Detainee Registration, and effective September 12, 2005. The DPD is in Phase 1 compliance with this paragraph.

Comments:

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

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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.

Policy:

The policy relevant to this paragraph is DPD Directive 305.2, Detainee Registration, and effective September 12, 2005. The DPD is in Phase 1 compliance with this paragraph.

Comments:

To assess Phase 2 compliance with these requirements for this reporting period, we reviewed 106 case files and did not find any restrictions. 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 in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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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:

The policy relevant to this requirement is DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010. The DPD is in compliance with this paragraph.

Comments:

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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:

The policy relevant to this requirement is DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010. The DPD is in compliance with this paragraph.

Comments:

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To assess Phase 2 compliance with this paragraph, we reviewed all of DPD's requests to the Court for taking a material witness into custody for the period of April 1, through June 30, 2011. The auditable form, approved by a supervisor, was attached to the Court order in the two cases presented to the Court. The Court order was 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 remains in Phase 2 compliance with this paragraph.

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.*

Policy:

The policy relevant to this requirement is DPD Directive 305.2, Detainee Registration, and effective September 12, 2005. The DPD is in Phase 1 compliance with this paragraph.

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Comments:

DPD has been in compliance with this paragraph in all of the previous reporting periods. To assess Phase 2 compliance during this reporting period, we reviewed a random sample of 106 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 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 one case, the officer failed to include their badge number on the Daily Warrant Verification Log. All relevant detainee personal information under U58a was properly completed. We examined each case for compliance with the eight individual requirements, and found an overall compliance rate of 100%. DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

I. Command Notification***CJ Requirement U59***

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

Policy:

The policy relevant to these requirements is DPD Directive 202.1, Arrests, effective July 1, 2008 revised November 11, 2010. The DPD is in Phase 1 compliance with this paragraph.

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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 106 arrests during this reporting period, we determined that all the arrests, with the exception of one, properly documented probable cause. In those situations where a warrant is not sought on an arrestee, supervisors should scrutinize the arrest packets to ensure the elements required for a valid arrest are documented.

We reviewed 79 frisks, and determined that 57 articulated reasonable suspicion. There were eight that were in violation but had an auditable form attached indicating the supervisor recognized the violation and command review occurred. This is the first reporting period where DPD has generated auditable forms for violations of this paragraph relating to frisks. In six of the instances where a violation occurred, an auditable form had not been prepared. In six other cases, we could not locate the frisk although the frisk box had been marked under "Recap of Activity." 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 s/he 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.

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 11 traffic stops in which a form was required to be completed. Commanders are not receiving the forms because supervisors are not completing them.

There were 66 investigatory stops (excluding frisks and traffic stops), of which 65 were based on a documented investigatory purpose. One 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 21 cases where documentation was completed that indicated an arraignment warrant was not sought and an auditable form completed. In all 20 cases, a commanding officer approved the form and attached his/her signature including the date of review. In one case, a sergeant signed off on the commander's review; in three other instances, the commanding officer's review was late. We have seen significant progress with commanders' oversight as it relates to warrants not served. DPD's compliance rate for commanders' review of warrants not served is 86%.

We reviewed 186 witness/interrogation interviews from Narcotics, Child Abuse, Commercial Auto Theft, and Domestic Violence investigative functions. There were four instances where the

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reviewing supervisors should have generated an auditable form (DPD 103), due to the officers not completing – or omitting information from – the Interview/Interrogation document. It is the commander's responsibility to ensure these forms are completed.

Although the Department has made progress with commanders' reviews of warrants not sought and witness identification and questioning policies, DPD remains not in compliance with investigatory stops due to the lack of auditable forms being forwarded for review. Until DPD personnel comply with the requirement of completing auditable forms and forwarding them to commanders for review, they will continue to have difficulty achieving compliance in this area.

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:

The policies relevant to these requirements are 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. The DPD is in Phase 1 compliance with this paragraph.

Comments:

To assess compliance for this reporting period, we reviewed 106 arrest case reports, of which 85 were submitted to the Prosecutor's Office and 63 went to arraignment. There were 32 cases where the arraignment occurred more than 48 hours after the arrest. In all cases, the request for the warrant was submitted in a timely fashion. In all cases, there was appropriate command review. In one instance, command review occurred but the commander failed to indicate the date or time of the review. We have noted previously that the Department sent Corrective

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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 97%.

Of the 45 hold/warrants we identified, there were two holds that were not cleared within the required 48 hours. An auditable form was not generated for the two 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 personnel under their command. DPD's compliance for this portion of the requirement is 96%.

There were no "restrictions" placed on detainees this quarter.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.
- The delay of warrant request to the prosecutor's office often delays the arraignment for more than 48 hours; and thus, if there is a hold attached to the warrant, both the arraignment and the hold require an auditable form creating additional work for DPD personnel and the opportunity for failure.
- 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 cutoff time, thus creating delays in arraignment.
- We have found that DPD policy requires written documentation of all investigatory stops and frisks, but our review indicated that the officers often fail to articulate "reasonable suspicion." The supervisory monitoring of stops and frisks has been an ongoing issue since the beginning of the Consent Judgments. We have received, for the first time, auditable forms for violations of the investigatory stop policies. Supervisors must

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carefully review officers' Daily Activity Logs and complete auditable forms when they are required.

- Commanders must ensure auditable forms are completed and forwarded promptly for their review.

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 (Northeastern, Eastern, Southwestern, and the Sixth Precinct) 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 procedures for detailing 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 enacted 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. In our reviews, this issue has been and remains a problematic, in that holding cell personnel tend to utilize the time of release on clearing a hold – rather than simply writing in the date and time in the space provided on the form.

	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

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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	In Compliance
52	Revise hold policies	In Compliance	In Compliance
53	Documentation of all holds	In Compliance	In Compliance
54	Policy for restricting telephone access	In Compliance	In Compliance
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	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. The IAD Standard Operating Procedures were revised in January 2011 to include Section 5-8, Case Tracking.

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

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 Chief Investigator and the Supervising Investigators assigned to OCI. We discussed the status of overdue investigations in general, which is unfortunately trending downward – that is, the number of overdue investigations has steadily increased since the Backlog Squad referenced in previous reports has been disbanded. The Chief Investigator provided an update regarding her reorganization of the investigative staff (outlined in the last report) and the progress OCI has made in enhancing OCI's case management system. 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:

The policies relevant to this requirement are 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. These policies 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

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categories: arrest; demeanor; entry; harassment; force, as it relates to threats; property; search; and service. The city and DPD are in Phase 1 compliance with this paragraph.

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 continues to enhance its database. Investigators and supervisors now have the ability to make case notes directly into the database. 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 OCI, the Board of Police Commissioners maintains a community outreach coordinator, who attends meetings and makes presentations at the request of community organizations or public forums. The Board of Police Commissioners website provides access to an OCI fact sheet on external police complaints. The 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;*

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- 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:

The policy relevant to these requirements is the Office of the Chief Investigator Standard Operating Procedures, effective July 24, 2003 (and revised April 29, 2004, and July 1, 2010). This SOP 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 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 Office of the Chief Investigator, the Northeastern and Eastern Districts; Schaefer Annex; and the Sixth and Twelfth Precincts. 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 citizen complaint forms and brochures.

We also inspected two City libraries (Frederick Douglas Branch and Chaney Branch) and one Neighborhood City Hall (Southern Neighborhood). We found the appropriate posters on display and supplies in order. Each location had an adequate supply of complaint forms and informational brochures, and staff was familiar with the process to obtain replenishments.

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:

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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:

The policy relevant to this requirement is DPD Directive 102.6, Citizen Complaints, effective July 1, 2008, and revised November 2010. This policy 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.

During this reporting period, we randomly selected both desk officers and patrol officers in the Northeastern and Eastern Districts; Schaefer Annex; and the Sixth and Twelfth Precincts, and asked to produce complaint forms and brochures. They were able to do so in each case. We also inspected the complaint logbooks in each location. We found a total of three Citizen Complaint Reports (CCRs) unaccounted for in two of the facilities; that is, there was a blank in the ledger book used to record when the CCRs are used. While all inspected facilities keep handwritten records, there is a disparity in the information captured among sites. We recommend that DPD standardize the recordkeeping.

DPD remains in Phase 2 compliance with this paragraph.

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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 policies relevant to DPD's compliance with the Intake and Tracking paragraphs are: 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. DPD is in Phase 1 compliance with 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 22 IAD and 100 OCI investigations for this reporting period 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

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Phase 2: In Compliance

CJ Requirement U65

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

Policy:

The policies relevant to this requirement are 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 22 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 case involving an allegation of rudeness while searching for an escapee, the complainant was described as intoxicated. 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

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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 policies relevant to this paragraph are 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). DPD is in Phase 1 compliance with 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 22 IAD and 100 OCI investigations. All investigations contained 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;*

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- b. *permit the informal resolution of complaints alleging only inadequate service or the complainant's innocence of a charge and require the investigation and formal resolution of all other complaints;*
- c. *refer all complaints to the appropriate agency within five business days of their receipt;*
- d. *require that the complainant shall be periodically kept informed regarding the status of the investigation;*
- e. *develop written criteria for IAD and OCI investigator applicants, including the applicant's complaint and disciplinary history and investigative experience;*
- f. *implement mandatory pre-service and in-service training for all IAD and OCI investigators, including intake, investigations, interviews and resolutions of external complaints;*
- g. *require IAD and OCI to complete all investigations within 90 days of receiving the complaint and*
- h. *require that: (1) upon completion of the investigation by a command other than OCI, the complainant shall be notified of its outcome and, if the complaint is sustained, whether disciplinary or non-disciplinary corrective action has been recommended; and (2) upon completion of an investigation by OCI the complainant shall be notified of its outcome and, if the complaint is sustained, its referral to the Chief of Police for appropriate disciplinary or non-disciplinary corrective action.*²⁶

Policy:

The policies relevant to this requirement are 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). DPD is in Phase 1 compliance with this paragraph.

Comments:

Office of the Chief Investigator: For this reporting period, we reviewed 100 randomly selected OCI cases. Two cases were transferred to IAD and one case was transferred to Force Investigation. The IAD cases alleged theft and cooperation with drug dealers. The Force Investigation case alleged excessive force. One of the IAD cases sat dormant in OCI for 75 days before it was transferred. In the force case, Force Investigation was conducting a parallel

²⁶ Consent Judgment amendment, September 15, 2008.

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investigation to OCI's. OCI was not aware of this until it sent notices to the involved officers requesting interviews. We discovered a similar example of miscommunication – or lack of communication – during last quarter's review. It is apparent that the two investigative units need to better coordinate their activities.

Two cases were resolved informally, and both met the criteria as one involved a service complaint and the other was a claim of innocence. Inexplicably, the innocence of the charge case was not closed within 90 days.

Twenty-four cases in our sample were administrative closed, including those informally resolved and those transferred to other investigative units. We determined that one was inappropriately closed via this process. The complainant alleged that he was almost run over by an officer, who then was rude during a subsequent encounter. Since the complainant refused to cooperate, the case was closed for lack of specificity. However, in his initial complaint, the complainant provided a location, time and description of the officer. There was no documented effort to check activity logs before closing the complaint.

Only 44 of the 100 cases we reviewed were completed within 90 days. As in previous reports, we noted many had long gaps of time in which no apparent activity took place. A supervisor indicated that an investigator would be counseled for failing to adhere to timelines in only one case. Three 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 eight such cases that we identified in our last review.

In all but eight 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 applicable cases, the complainants were notified of the disposition of their 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 two site visits, we confirmed ongoing 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 continue to encourage OCI to explore training specific to their responsibilities, in order to address knowledge and skill gaps that impact the quality of its investigations. During this review period, in addition to the Department-wide in-service training, all personnel were trained in investigation of citizen complaint reports. Training is occasionally offered at staff meetings. Canvassing was covered in one such meeting during the quarter.

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

Internal Affairs Division Investigations: 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

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significant delays in transferring appropriate cases from OCI to IAD. We reviewed 22 IAD cases during the current reporting period, and determined that one had been referred by OCI and arrived at IAD 10 business days after the complaint was filed. Fortunately, the complaint was also filed using another source.

The IAD Standard Operating Procedures contains criteria for investigator applicants and training.

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 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 22 investigations, six exceeded the 90-day time limit. Of those, two were delayed due to awaiting the prosecutor's decision, and one was delayed due to attempts to identify unknown subject officers. The remaining three cases were not managed.

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:

- 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;²⁷ 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.*

²⁷ Consent Judgment amendment July 18, 2003.

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Policy:

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

Comments:

During our past reviews, the external complaint review process was completed within the appropriate timeframes. During this reporting period, we identified 18 cases in which the Chief Investigator did not complete her review within the required seven-day time period. We have serious concerns regarding this, as this has not been a compliance issue in the past and could be indicative of an emerging problem and one that if not remedied during the next reporting period will result in a non compliant finding. We noted several other instances in which one of her supervising investigators reviewed cases on her behalf. This practice is acceptable if, in her absence from the office, she designates a supervising investigator as acting Chief Investigator, but we were not provided with any information that this took place.

All Board of Police Commissioner reviews in our sample were completed in a timely manner. During our site visit, we also reviewed correspondence between OCI and the Chief's Office showing timely transfer of cases once the Board approves them.

DPD remains 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;*

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- b. *“Sustained,” where a preponderance of the evidence shows that the alleged conduct did occur and the actions of the officer violated DPD policies, procedures or training;*
- c. *“Not Sustained,” where there are insufficient facts to decide whether the alleged misconduct occurred; and*
- d. *“Exonerated,” where a preponderance of the evidence shows that the alleged conduct did occur but did not violate DPD policies, procedures or training.*

Policy:

The policies relevant to this requirement are 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 January 2011; OCI Standard Operating Procedures, effective July 24, 2003 (and revised April 29, 2004, and July 1, 2010). DPD is in Phase 1 compliance with this paragraph.

Comments:

In the current reporting period, we reviewed 100 randomly selected OCI cases. For purposes of this paragraph, we evaluated the determination of finding based on the information in each case file. We found three cases in which allegations did not receive appropriate dispositions. In all three, we learned of the additional allegations by listening to the complainants' interviews, as they were not mentioned on the original CCR. The allegations were not identified or addressed in the case summaries. We are concerned with the frequency of this, as we only listen to a small subset of interviews. In one of these cases – a complaint about rudeness during a traffic stop – we also disagree with the finding, and believe a not sustained finding would be more appropriate.

In addition, we reviewed all 22 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

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Critical Issues:

We examined 22 closed IAD cases and 100 closed OCI cases for the period of April 1, through June 30, 2011. Our review disclosed that the following issues continue to require 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. There are cases that could be completed well within the 90-day time requirement, but the case management is inadequate. Also, cases that are submitted to the Prosecuting Attorneys' Office should be tracked and updates requested on a regular basis.
- *Timeliness of Investigations:* As mentioned in previous reports, OCI established a Backlog Squad to address the inordinate number of past due cases. This group was successful in clearing up the backlog, but OCI was advised that systemic changes needed to be made in order to prevent a recurrence of a large number of overdue cases. As outlined in this report, OCI has still not consistently met the 90-day time limit for investigations, and monthly reports indicate that it is trending away from compliance rather than toward it. We will continue to closely monitor OCI's progress in this area.
- *OCI Case Management:* The Office continues to make incremental progress on a reliable case-tracking system, and all investigators and supervisors now have access to and are using the system. During this review period, we observed a transition from paper to electronic records, and many files had both paper and digital Significant Event Logs. The system still lacks alerts for time-sensitive dates. During our site visit, the Chief Investigator indicated that a technology intern assigned for the summer would work on this enhancement. We continue to remind OCI staff that a case management system can never be a substitute for regular supervisor/investigator interaction.
- *Timely case review:* The Chief Investigator must review cases in a timely manner as required by CJ Requirement U68. After several quarters of compliance, the timeline was not met during this review period. OCI risks slipping into non-compliance if it does not address this issue.

Next Steps:

During the next reporting period, we will:

- Review a sample of the cases closed by OCI and IAD for the months of July, August, and September 2011.
- Verify the length and content of in-service training offered to OCI and IAD personnel.
- Review any enhancements to OCI's case management system.

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- Review results and any adjustments to the restructuring and systemic changes implemented by the Chief Investigator during the past two quarters.

¶	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
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 has achieved implementation.

CJ Requirement U70

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

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Policy:

The policies relevant to this requirement are DPD Directive 101.1, Directive System, effective July 1, 2008, and revised November 1, 2010; and DPD Directive 404.1, Definitions, effective July 1, 2008, and revised November 1, 2010.

Comments:

The DPD CRIB Planning Unit is responsible for reviewing and updating all current policies and for ensuring that revisions are consistent with the requirements of the Consent Judgment. With the effective dissemination of Directive 404.1, Definitions, it has ensured that all terms are clearly defined. The 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 policy relevant to this requirement is DPD Directive 101.1, Directive System, effective July 1, 2008, and revised November 1, 2010. DPD also utilizes 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 public review. DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD 31st Quarter Status Report, issued June 30, 2011, notes that during this quarter, the newly created *Training Directive*, 304.6, the *Special Purpose Committees Directive*, 101.9, and

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Awards Directive, 102.5, were submitted for review to the Board of Police Commissioners, posted on the city of Detroit website and subsequently approved by the BOPC on May 12, 2011. The Drug and Alcohol Abuse Directive, 403.5, was submitted for review to the Board of Police Commissioners, posted on the city of Detroit website, and subsequently approved by the BOPC on May 26, 2011. These documents were subsequently disseminated through MAS.

We note DPD's continued adherence to the process and to its integration of special orders into the directive system, allowing for citizen input to the process.

DPD remains in 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:

The policy relevant to this requirement is DPD Directive 102.3, Code of Conduct, effective November 1, 2009, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

To assess Phase 2 compliance for this report, we reviewed the training data for the third fiscal quarter. As of the conclusion of the Fiscal Year, June 30, 2011, 2,582 (99%) of the members have received the use of force training, which incorporates the Code of Conduct. DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

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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:

On November 6, 2007, the DPD agreed to a 1:10 ratio of supervisors to officers in patrol and specialized units.²⁸ The previous monitor found the DPD compliant with the associated policy requirements of this CJ paragraph, but not with the implementation requirements.²⁹

Prior to this reporting period, the DPD policy for U73 was found in Special Order 10-03, effective January 1, 2010, which set forth the ratio requirements and specifically required the assignment of each officer to a specific sergeant; accordingly, sergeants are accountable for and performance of officers assigned to them and for preparing the required performance evaluations.

The DPD issued Policy Directive 101.10, Organization and Management, effective March 30, 2011, which provides all supervisors of the Department with an overview of department expectations and general principles of supervision. Section 101.10 - 3.1 provides that each member of the DPD shall be assigned to a permanent supervisor, "who shall have direct control of and responsibility for the member." Section 101.10 - 3.3 provides that each officer is to be assigned to only one supervisor and that a maximum of ten officers shall be assigned to a supervisor. The DPD is in Phase 1 compliance with U73.

Comments:

During previous reporting periods, we found the DPD staffing levels at the various commands on three days selected at random did not meet the >94% compliance requirement. During our April site visit, we found that five of 128 platoons that worked on these dates had supervisors who were over-assigned. Thus, 123 platoons (96%) were in compliance with the requirement that span of

²⁸Section I, Paragraph of the UOF CJ defines a supervisor as a sworn DPD employee at the rank of sergeant or above and non-sworn employees with oversight responsibility for DPD employees.

²⁹Report of the Independent Monitor for the Detroit Police Department, Quarter Ending February 28, 2009 (Report #22).

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control not exceed one to ten. DPD is in Phase 2 compliance with this requirement. Accordingly, we found the DPD not yet in Phase 2 compliance.

During our July 2011, site visit, we again reviewed Daily Details for the precincts, districts and specialized units for three days selected at random: Tuesday, April 26; Sunday, May 8; and Wednesday, June 1, 2011.

We found that 124 platoons worked on the three randomly selected dates. A total of 121 (98%) of the 124 platoons were in compliance, with the required 1:10 ratio of supervisors to officers in patrol and specialized units on the dates surveyed. DPD remains in compliance with U73.

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:

The policy relevant to this requirement is DPD Directive 102.3, Code of Conduct, effective November 1, 2009, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

During this reporting period, we reviewed the training data for the fourth fiscal quarter. As of the conclusion of the Fiscal Year, June 30, 2011, 2,582 (99%) of the members received the use of force training, which incorporates the Code of Conduct.

There were no cases identified at the SIR investigative level in which an off-duty officer was involved in conduct contrary to the Code of Conduct.

DPD remains in Phase 2 compliance with this paragraph.

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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:

The policy relevant to this requirement is DPD Directive 102.3, Code of Conduct, effective November 1, 2009, and revised November 1, 2010.

DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD 31st Quarter Report notes that the letter to the Michigan Association of Chiefs of Police (MACO) was sent January 19, 2011. There were no cases identified at the SIR investigative level in which an off-duty officer was involved in conduct contrary to the Code of Conduct.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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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:

The policies relevant to this requirement are Directive 305.4, Holding Cell Areas, effective May 9, 2005 and revised effective March 1 2010; and Directive 305.7, Transportation of Detainees, effective May 9, 2005, and revised May 1, 2010. DPD's 31th Quarter Report, dated June 30, 2011, identifies the controlling policies for this requirement.

DPD remains in Phase 1 compliance with this paragraph.

Comments:

During this reporting period, we reviewed the training data for the fourth fiscal quarter. As of the conclusion of the Fiscal Year, June 30, 2011, 2,582 (99%) of the members have received the use of force training, which incorporates the methods for dealing with the enumerated requirements. To assess Phase 2 compliance with this paragraph for this reporting period, we reviewed all 104 Command Level Investigations completed during this reporting period. Each of the cases that we reviewed met the requirements.

DPD remains in continued Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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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:

The policy relevant to this requirement is DPD Directive 202.7, Foot Pursuits, effective July 1, 2008, and revised November 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

During this reporting period, we reviewed the training data for the fourth fiscal quarter. As of the conclusion of the Fiscal Year, June 30, 2011, 2,582 (99%) of the members have received the use of force training, which incorporates the reporting requirements of the Foot Pursuit Policy. We reviewed 13 foot pursuits during this reporting period. There were three cases in which alternatives to foot pursuits were considered. Five of the cases involved foot pursuits on individuals who had been armed, though each of the subjects discarded their weapons during the pursuit. All 13 pursuits were documented on the appropriate Use of Force 002 Form.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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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.
- DPD must continue to adhere to the requirement of allowing citizen input into the directive system by posting proposed directives or revisions to directive to the website.

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

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VIII. MANAGEMENT AND SUPERVISION

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.

A. Risk Management Database***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:

The policies relevant to this requirement are DPD Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010; and the documents that are mandated as part of the Department's risk management plan. DPD remains in Phase 1 compliance with this paragraph.

Comments:

This paragraph provides an overview of the requirements for the development and implementation of the risk management system that is described in detail in paragraphs U79-99. The comprehensive system has progressed through the critical stages of technical development and achieving competence in data collection and management. The progress in these areas is noted in the compliance findings regarding the requirements that follow.

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The Department is now in the third major stage of the risk management process: effective use of the system. This also appears to be progressing well. Our reviews of relevant reports – such as the monthly command reviews and the quarterly Departmental review – and our observations of the use of the system in the context of the command compliance meetings, are encouraging. Additionally, the Department's interest and willingness to continually examine means of monitoring and improving the system are clear indicators of commitment to effective risk management. The Department is currently working on approaches to norming the risk management data based on level of officer activity so that informed comparisons across officers and Departmental units can be made. DPD is also refining ways of monitoring system use and outputs through monthly tracking of system activity – including the number and outcome of risk management reviews, their assessments up the chain of command, their outcomes in terms of intervention strategies, and the ultimate impact on officer performance. As the chart at the end of this report indicates, the Department is also using a data dashboard to track Department-wide impacts on the measures relevant to the Consent Judgments. An effective risk management system should be reflected in changes in those outcomes over time.

The Department continues to make significant progress with regard to the risk management requirements of the Consent Judgments. DPD is now in pending Phase 2 compliance with this paragraph; full compliance will depend on sustained quality in the data-related processes and effectiveness in the application of the system.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending Compliance

CJ Requirement U79

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

Policy:

The policy relevant to this requirement is DPD Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010. DPD remains in Phase 1 compliance with this paragraph.

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Comments:

We first recognized DPD's Phase 2 compliance with this paragraph in our last quarterly report. That followed extensive testing of MAS from which we concluded that the system was capable of meeting the risk management requirements as specified in the Consent Judgment. The Department has continued to make progress on system development, training, and implementation. In the current reporting period, we again examined the use of the system, including the input of data, the use of that data, and the identification and review of officers exceeding thresholds established in the system. In fact, the Department has agreed that it is now at a point in the development and use of this system to begin to refine its methods and to test new approaches. For example, the Department plans to begin examining approaches to norming the data that will allow for more systematic comparisons across officers. The Department is also tracking the risk management process, including regularly reporting the number officers identified for review, the results of those reviews, and the uses of interventions and, eventually, the outcome of interventions. Based on our review of the continued development and use of this system, DPD is in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U80

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

- a. *all use of force reports and use of force investigations;*
- b. *all canine deployments;*³⁰
- c. *all canine apprehensions;*
- d. *all canine bites;*
- e. *all canisters of chemical spray issued to officers;*

³⁰ Court Order dated June 1, 2011 amends the definition of canine deployment to mean "any situation, except in cases involving an on-lease search only, in which a canine is brought to the scene and either: i) the canine is released from the police car in furtherance of the police action and a suspect is apprehended; or ii) the suspect gives up immediately after an announcement is made that if he/she does not surrender the canine will be released."

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- 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;*

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- x. *all awards and commendations received by officers;*
- y. *the assignment, rank, and training history of officers; and*
- z. *firearms qualification information of officers.*

Policy:

The policies relevant to this requirement are DPD Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010; and the Data Input Plan, noted in U82, which has recently been revised. Based on these documents, DPD is in Phase 1 compliance with this paragraph.

Comments:

In our last two reports, we found DPD in pending compliance with this requirement. In those reporting periods, we had refocused our analyses from concern over whether broad categories of information were reflected in MAS to a more focused inquiry in which we examined the specific reports that were available and the detail of the information they contained. Our analyses have found that the expected information was present for all the mandated data categories. Furthermore, our examination of MAS reports supports the fact that these data are consulted and used in the risk management process. We continue to recognize the importance of sound data entry and retention practices, and we anticipate further review of specific data elements each quarter. In fact, based on discussion during our most recent site visit, we have agreed that our regular analysis will begin with summary data provided by the Department. This will provide the total number of records entered from each category of the data requirements outlined in this requirement. That will allow us to consider the stability and completeness of the data collection processes over time.

Based on our interviews and examination of the reporting process during our most recent site visit, we can now recognize DPD as in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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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:

The policies relevant to this requirement are DPD Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010; and the Data Input Plan, noted in U82. Based on these documents, DPD is in Phase 1 compliance with this paragraph.

Comments:

We found DPD in compliance with this requirement for the first time in our last report. Until then, we had concerns about the accuracy of reporting information on citizens connected with reported incidents. After locating relevant data in MAS, we recognized Phase 2 compliance with this paragraph. Our review this quarter supports the same result.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U82

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

- a. detail the specific fields of information to be included and the means for inputting such data (direct entry or otherwise);*
- b. specify the unit responsible for inputting data, the deadlines for inputting the data in a timely, accurate, and complete manner;*
- c. specify the historical time periods for which information is to be input and the deadlines for inputting the data in an accurate and timely fashion; and*
- d. requires that the data be maintained in a secure and confidential manner.*

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Policy:

The policy relevant to this requirement is DPD Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

The Department has revised its Data Input Plan, which had been approved by the Department of Justice under the previous monitor. The revision has been submitted to and approved by DOJ as reflected in a letter dated June 9, 2011. During our most recent site visit, our observations and interviews with DPD supported the conclusion that the provisions of the Data Input Plan are reflected in the practices of the Department.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U83

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

- a. require the automated system to analyze the data according to the following criteria:*
 - i. number of incidents for each data category by individual officer and by all officers in a unit;*
 - ii. average level of activity for each data category by individual officer and by all officers in a unit; and*
 - iii. identification of patterns of activity for each data category by individual officer and by all officers in a unit;*

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- 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:

The policy relevant to this requirement is Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

As is true of the Data Input Plan discussed above, the Report Protocol was originally approved by DOJ under the previous monitor. A revised version of the document was submitted and approved by DOJ as of June 9, 2011. The new version recognizes that, in light of the technological advancements of MAS, some reports are expected to be producible directly from the system at any time, on an as-needed basis. During our most recent site visit, we concluded that the system has the ability to produce the required reports.

This requirement also anticipates that some reports will be generated regularly and used as part of the risk management process. To assess this, we reviewed the monthly Command Review document for the Tenth Precinct and the quarterly Departmental Review, and we observed the Department's Compliance Review meeting. These supported a finding of Phase 2 compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U84

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

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- a. *that when an officer or group of officers pass a threshold established in the Report Protocol the officer's(s') supervisor shall review all information in the risk management database regarding the officer(s), together with other relevant information;*
- b. *the reviewing supervisor to document whether he or she took non-disciplinary corrective action or recommended disciplinary action, the basis for this decision, and what corrective action was taken, if any;*
- c. *supervisors to review, on a regular basis but not less than quarterly, database reports, together with other relevant information, to evaluate individual officer and unit activity for at-risk behavior;*
- d. *precinct and unit commanders to review, on a regular basis but not less than quarterly, database reports, together with other relevant information, to evaluate individual supervisor's assessment and analysis of information in the risk management database and the corrective action taken by supervisors;*
- e. *appropriate DPD supervisors to review and evaluate, on a regular basis but not less than quarterly, police performance citywide, using all relevant information from the risk management database and other relevant information and to evaluate and make appropriate comparisons regarding the performance of all DPD units in order to identify any significant patterns or series of incidents;*
- f. *commanders and supervisors conducting such periodic reviews to take non-disciplinary corrective action when appropriate for individual officers, supervisors or units and document any such action in writing;*
- g. *that the information in the database be accessible to commanders, supervisors and the BPC;*
- h. *that the information in the database is considered when evaluating a DPD employee for transfer or promotion;*
- i. *commanders and supervisors to promptly review records of all officers recently transferred to their sections and units;*
- j. *commanders and supervisors to be evaluated on their ability to use the risk management database to enhance effectiveness and reduce risk;*
- k. *that a designated DPD unit be responsible for managing and administering the database, including conducting quarterly audits of the system to ensure action is taken according to the process described above; and*
- l. *that aggregated information from the risk management database be shared on a regular and periodic basis with training and policy planning staff.*

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Policy:

The policy relevant to this requirement is Policy Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

The Review Protocol is the third major MAS-related document required by the Consent Judgment. This critical document provides an important guide for how the system is to work. Like the Data Input Plan and Report Protocol, this document was originally approved by DOJ under the previous monitor and, like the other documents, a revised version has been submitted and approved by DOJ as of June 9, 2011. The Review Protocol is consistent with the operation of the MAS review processes as they are currently being practiced.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U85

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

Policy:

The policy relevant to this requirement is DPD Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

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The Department continues to be in Phase 2 compliance with this requirement. The Department has continued to make progress on the development of the system over the past year, and during the current reporting period. 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 process as it was envisioned much earlier in the history of this Agreement.

Again during our most recent site visit, we met with key staff, examined data in the system, and followed up with the review of key documents. All of these reviews indicate that full compliance with this requirement is continuing.

DPD is in Phase 2 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:

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

DPD has 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

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incident, the date of the event, and the Crisnet number. DPD also incorporated a box to check to retrieve “related documents” directly on the appropriate MAS computer screens.

During this visit and the preceding one we reviewed the system’s ability to link reports that are connected to a single incident. DPD’s solution to the problem anticipated in this requirement is successful.

For this reporting period, DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U87

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

Policy:

The policy relevant to this requirement is DPD Directive 401.13, Management Awareness System, effective November 6, 2008, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

The Phase 2 compliance finding for this requirement remains unchanged. Previously identified problems of linking personnel data to MAS were resolved prior to our last report. The required data are accessible through MAS, and the five-year retention policy on personal information is in place.

Compliance Status:

Phase 1: In Compliance

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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: 1) 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.³¹*
- e. By May 31, 2004, the DPD shall select the contractor to create the risk management database.*

³¹ Consent Judgment amendments, November 9, 2007, and July 22, 2008.

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- 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:

The policy relevant to this requirement is DPD Directive 401.13 Management Awareness System, effective November 6, 2008, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

All of the timeframes and dates specified in the original Consent Judgment and later extended by the Court have expired. Currently, DPD files MAS update reports on a monthly basis. These reports document continued progress in the development and implementation of the risk management system.

As noted above, the Department has demonstrated clear and continued progress on MAS over the past six reporting periods. Although no firm deadline for the entire system has been established, it appears that this progress will 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: In Compliance

Phase 2: Not in Compliance

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CJ Requirement U89

Prior to implementation of the new risk management database, the DPD shall develop an interim system to identify patterns of conduct by DPD officers or groups of officers. The interim system shall require periodic reviews of relevant information, but no less than monthly, and evaluations of whether an officer or group of officers is engaging in at-risk behavior. This interim system shall collect and analyze the following information: citizen complaint reports and investigations; use of force investigations; shootings; vehicle chases; injured prisoner investigations; traffic collisions; canisters of chemical spray issued to officers; firearms qualifications; training; prompt judicial review; disciplinary action; arrest without probable cause; all reports regarding investigatory stops and/or frisks unsupported by reasonable suspicion; and all reports regarding interviews, interrogations or conveyances in violation of DPD policy in a format that facilitates entry into the final risk management database, to the fullest extent possible.

Policy:

The policy relevant to this requirement is DPD Directive 401.13 Management Awareness System, effective November 6, 2008, and revised November 1, 2010. 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 IMAS has been superseded. Therefore, DPD remains in Phase 2 compliance with this paragraph.

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.

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Policy:

The policy relevant to this requirement is 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.

DPD is in Phase 1 compliance with this paragraph.

Comments:

Compliance with this paragraph is changed from pending compliance to compliance for this reporting period. The Department revised the key documents required for the risk management system. It submitted the revised Data Input Plan, Review Protocol, and Report Protocol to the Department of Justice and the changes were approved as noted in a letter from DOJ dated June 9, 2011. With this, the Department has demonstrated Phase 2 compliance. We will continue to monitor the risk management system to assure that any other significant changes are handled in a manner consistent with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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:*³²

- a. *civil rights integrity;*

³² Consent Judgment amendment, October 4, 2004.

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- 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.*³³

Policy:

The policy relevant to this requirement is Directive 401.2, Performance Evaluation Ratings, effective July 1, 2008, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

DPD has been in Phase 2 compliance with this paragraph for the past six reporting periods. To verify continued compliance for the current reporting period, we examined a random sample of 125 personnel evaluations drawn from employees of DPD's specialized units and assignments. Our review verified that more than 94% of reviews were current and properly completed with original narratives, references to "no change in status," or references to material in MAS. Three evaluations were not completed due to the probationary status of the employees, and two could not be located.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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.

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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.*³⁴

Policy:

The policy relevant to this requirement is the DPD document, Audit Protocol, which was revised, approved, and became effective on October 31, 2010. The protocol specifies the audit calendar established in this requirement. We also verified audit plans through review of the completion schedule for upcoming audits. The new protocol and schedule are due this October. DPD is in Phase 1 compliance with this paragraph.

Comments:

Phase 2 compliance is dependent on compliance with the requirements of U93-97; accordingly, DPD is in Phase 2 compliance with requirements.

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.

³⁴ Consent Judgment amendment, October 4, 2004.

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Policy:

The policy relevant to this requirement is the DPD document, Audit Protocol, which was revised, approved, and became effective on October 31, 2010. The protocol specifies the audit calendar established in this requirement. We also verified audit plans through review of the completion schedule for upcoming audits. DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD is in Phase 2 compliance with this requirement. All audits contain the appropriate sign-offs by unit commanders. We verified the review by the Chief through examination of the summary audit briefing signoff. New documentation is anticipated following the July 2011 schedule; we will review it during the next reporting period.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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.*³⁵

Policy:

The policy relevant to this requirement is the DPD document, Audit Protocol, which was revised, approved, and became effective on October 31, 2010. The protocol specifies the audit calendar established in this requirement. We also verified audit plans through review of the completion

³⁵ Consent Judgment amendment, October 4, 2004.

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schedule for upcoming audits. A new protocol and schedule are due for release this October. DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD is in Phase 2 compliance with this requirement. Audits on use of force, prisoner injuries, and allegation of misconduct were completed last July; and new audits are scheduled for this July and for review next quarter.

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 comparison of the number of arrests for which warrants were sought to judicial findings of probable cause.*³⁶

Police:

The policy relevant to this requirement is the DPD document, Audit Protocol, which was revised, approved, and became effective on October 31, 2010. The protocol specifies the audit calendar established in this requirement. A new protocol and schedule is due this fall. We also verified audit plans through review of the completion schedule for upcoming audits. DPD is in Phase 1 compliance with this paragraph.

Comments:

³⁶ Consent Judgment amendment, October 4, 2004.

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DPD has been in Phase 2 compliance with this requirement since our second quarterly report. Stop and frisk audits were completed last July and new audits are schedule for completion this July for review next quarter. The Department remains in Phase 2 compliance with this requirement.

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.³⁷

Policy:

See U92 – Audit Protocol above. The DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD has been in Phase 2 compliance with this requirement since our second quarterly report. Custodial detention audits of all relevant facilities were completed last July and new audits are schedule for this coming July. The Department remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

³⁷ Consent Judgment amendment, October 4, 2004.

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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.³⁸

Policy:

See U92 – Audit Protocol above. The DPD is in Phase 1 compliance with this paragraph.

Comments:

The city has been in Phase 2 compliance with this requirement since our second quarterly report. A new audit in this area is not due until the fall of this year. This is reflected in the active audit schedule. The Department remains in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U98

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

³⁸ Consent Judgment amendment, October 4, 2004.

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Policy:

The policy relevant to this requirement is DPD Directive 303.3, revised on February 22, 2010, which requires supervisors to review one randomly selected video 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 installed MVS equipment throughout the Department and now has about 303 scout cars equipped. During the current reporting period, we interviewed the Deputy Chief for Technology and reviewed the MAS records. During the current reporting period (April 1, through June 30, 2011), DPD supervisors reviewed 9,516 videos.

We sampled three platoons on three different dates in three precincts (Sixth, Tenth, and Twelfth) to determine how many cars with operational video units had actually been deployed and had random reviews conducted. On each day, since reports were also made on some cars that were not equipped with operational MVS systems, more random reviews were conducted and recorded than required. The following chart reflects the results of our survey.

Date	# Car Patrols Deployed	# Car Patrols Equipped³⁹	# Random Reviews	% Reviewed
Sunday, April 20, 2011	46	41	46	100%+
Wednesday, May 11, 2011	48	40	45	100%+
Friday, June 10, 2011	50	41	46	100%+
Totals	144	122	137	100%+

The Department is in Phase 2 compliance with this paragraph.

³⁹ Counts reflect MVS equipped cars where equipment is operational.

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Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U99

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

Policy:

The policy relevant to this requirement is 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. DPD is in Phase 1 compliance with this paragraph.

Comments:

DPD has been in Phase 2 compliance with this requirement since our second quarterly report. To verify continued compliance with this requirement for this reporting period, we reviewed the minutes of the meeting involving DPD and the members of the Prosecutor's Office.

The Department remains in Phase 2 compliance with this requirement.

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.

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Policy:

The policy relevant to this requirement is DPD Directive 303.3, In-Car Video, effective June 21, 2004, and revised February 22, 2010. This policy requires DPD officers in precincts where operational MVS systems have been placed to check the equipment to ensure that the audio/video equipment is working properly at the beginning of their shift and record the results of their inspection on the Officer's Daily Activity Log. The Department remains in Phase 1 compliance with this paragraph.

Comments:

MVS equipment, particularly older units, is subject to breaking down and requiring repair. As a result, the total number of operational units at any one time varies. As of the second quarter of 2011, the DPD estimated that it had 303 MVS units operational. New units were being installed in another 46 cars.

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 during the three-month period ending on June 30, 2011, the DPD IT Bureau responded to 461 requests for service. Thirty-three repairs were initially recorded as "unresolved," but we found that 18 of these were resolved later. A total of 446 (97%) of the 461 requests for service were successfully resolved. A total of 416 (90%) were resolved with two hours or less of service time, and 440 (95%) were resolved in four hours or less.

During the last reporting period, we learned that DPD ordered and received the new MVS equipment, which it expects will be more durable and provide enhanced management support to enable DPD supervisors to monitor the use of the equipment more effectively. The older equipment currently in service is more prone to break and is more difficult to repair. The new equipment will be installed in the new 2010 and 2011 year cars.

We noted in our last report that DPD expects to upgrade its wireless transmission system at its local precincts and districts from 54 MB to 300 MB, about a 600% increase. The upgrade is now being installed in the Northwest District and in the Lyndon garage facility. The purchase order has been issued for the wireless components. According to DPD, it is expected that the contractor will set up and configure the wireless systems at their facility the first week of August, where it will test the system for two weeks. DPD anticipates installing the system in the third week of August.

The Department is in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

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Phase 2: In Compliance

CJ Requirement U101

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

- a. activation of scout car video cameras at all times the officer is on patrol;*
- b. supervisors to review videotapes of all incidents involving injuries to a prisoner or an officer, uses of force, vehicle pursuits and external complaints; and*
- c. that the DPD retain and preserve videotapes for at least 90 days, or as long as necessary for incidents to be fully investigated.*

Policy:

The policy relevant to this requirement is Directive 303.3, In Car Video, effective June 21, 2004, and revised February 22, 2010. DPD remains in Phase 1 compliance with this paragraph.

Comments:

During our past site visit, we found:

- a. The DPD MVS cameras are set to operate 100% of the time on patrol. Full video is 24-30 frames per second; MVS units are set to 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 an officer, uses of force, vehicle pursuits, and external complaints is required, DPD has been unable to provide comprehensive data identifying all such incidents. We therefore are unable to accurately measure compliance with U101b.
- c. DPD preserves and retains videos, as required by U101c.

U101b requires that video be activated for each of the incidents specified and that supervisors conduct a review of the video where one is available. We found the following on this site visit:

- Pursuits: DPD was able to produce MAS Vehicle Pursuit Reports that identified 46 officers who reported participating in pursuits during the quarter under review. Of the 46, 36 were determined to have operational MVS systems in their cars. Of these, 31 (86%) recorded video. Since videos were recorded at substantially less than the >94%

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we seek, audio was not tabulated. We also reviewed the MAS Vehicle Pursuit Reports for comments by supervisors that they had reviewed in-car video re in the incident. Only eight (22%) contained such a notation.

- **Uses of Force:** We reviewed instances of use of force that occurred from March 1, through May 31, 2011, and found that there were 59 cases that should have had some type of video/audio of which 27 (46%) contained documentation that a review was conducted. There were 32 that had no review.
- **Injuries:** We reviewed Supervisor's Traffic Crash Reports (DPD 159-A) for 27 crashes and found that 12 involved cars that had operational video. Of these, 10 (83%) contained video. Only two of the 10, however, involved injuries (in both cases, to the officers). Both contained video and a supervisor's notation that it had been reviewed.
- **External Complaints:** DPD was unable to provide a comprehensive list of external complaints in which video could have been collected. The Department is now taking steps to ensure that the availability of video is noted when OCI and IAD cases are initiated in the future. While not comprehensive, we were able to perform some reviews as we reviewed OCI and IAD cases for other requirements of the Consent Judgment.
 - Of 100 OCI cases reviewed we found that it was appropriate to at least explore the existence of video evidence in 37 of them. In fact, in 34 (92%) of these, video was explored.
 - We found 59 IAD cases that should have had some type of video or audio. Twenty-seven (46%) of these cases had a supervisory review conducted; 32 (54%) had no review. Line of sight issues were noted frequently as a reason that video was not recorded. We note, however, that since the systems records audio up to 900 feet from the MVS system, it may be possible to record audio in many of these cases.

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.

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Policy:

The policy relevant to this requirement is found in DPD Directive 303.3, In-Car Video, effective June 21, 2004, and revised February 22, 2010.

DPD remains in Phase 1 compliance with this paragraph.

Comments:

As of this reporting period, 303 of DPD's MVS systems are currently operational. The Department is now upgrading the wireless receivers at the various precincts and districts to ensure that the new MVS units, when installed, will function properly. DPD expects that the upgrade of the wireless system will be performed by the contractor during the next reporting period.

During this reporting period, we selected a random sample of 100 traffic stops for each of the months in the quarter (April, May and June, 2011). The results were as depicted on the following chart.⁴⁰

Month	Sample Size¹	# Video	%	Audio	%
April 2011	69	59	86%	10	14%
May 2011	88	71	81%	10	11%
June 2011	98	75	77%	23	23%
Total for the Reporting Period	255	205	80%	43	17%

During this reporting period, DPD improved in recording video marginally over the last reporting period, when we found it had recorded video at the levels of 79%, 70%, and 77% in January, February and March respectively.

DPD is not in Phase 2 compliance with this paragraph.

⁴⁰ Sample size does not reach 100 in any month because, for a number of reasons, some videos in our random sample were not located by DPD. If these were factored into our analysis, as they will be before we can find the DPD in compliance, the percentages recorded would be less than depicted in the chart.

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

Comments:

The DPD has been in Phase 2 compliance with this requirement since our second quarterly report. For this reporting period, we reviewed all 174 disciplinary cases that were closed during the quarter. We also established that all previously noted resources remain in place to support compliance with this requirement.

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.

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Policy:

The policy relevant to this requirement is DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008, and revised November 1, 2010; and the related DPD Discipline Matrix (DPD22a). DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD has been in Phase 2 compliance with this requirement since our second quarterly report. For this reporting period, we reviewed all 174 disciplinary cases that were closed during the quarter. All disciplinary proceedings met the established timelines and were consistent with this requirement. There are no cases remaining open that predate 2010. The status of 33 cases from 2010 and 126 from this year reflects appropriate scheduling and steps toward closure.

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:

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The policy relevant to this requirement is DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008, and revised November 1, 2010; and the related DPD Discipline Matrix (DPD22a). DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD has been in Phase 2 compliance with this requirement since our second quarterly report. For this reporting period, we reviewed all 174 disciplinary cases that were closed during the quarter. All disciplinary decisions fell within the matrix and were consistent with this requirement. DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

- **Risk Management and the Status of MAS:** The important issues now related to effective use of the system. The efforts to norm data by arrest volume are significant as is the development of reports that monitor the use and outcomes of the risk management process.
- **In-car Video Progress:** The DPD has repaired its MVS equipment and equipped over 300 cars. The Department now confronts the challenge of ensuring that the equipment is used by officers as directed by its policy. Of particular concern is the use of audio, which is lagging significantly behind video.
- **Discipline:** There is no backlog of disciplinary cases and cases are now resolved within the established timelines and with sanctions that fall within the expected range. The Department is also now examining the use of disciplinary data in relation to the risk management process. We will 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	Pending Compliance

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79	Improve risk management system	In Compliance	In Compliance
80	Database requirements (a-z)	In Compliance	In Compliance
81	Database to include officer information	In Compliance	In Compliance
82	Data Input Plan (a-d)	In Compliance	In Compliance
83	Report Protocol for database (a-c)	In Compliance	In Compliance
84	Review Protocol for database (a-l)	In Compliance	In Compliance
85	Use modules to ensure work progress	In Compliance	In Compliance
86	Common control number required	In Compliance	In Compliance
87	Data retention	In Compliance	In Compliance
88	Database schedule (expired)	In Compliance	Not in Compliance
89	Interim database (rescinded)	In Compliance	In Compliance
90	Change process needs DOJ approval	In Compliance	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	Annual audits-use of force	In Compliance	In Compliance
95	Annual audits-probable cause/stop-and-frisk	In Compliance	In Compliance
96	Annual audits-detention practices	In Compliance	In Compliance
97	Annual audits-external complaints	In Compliance	In Compliance
98	Random reviews of in-car camera videos	In Compliance	In Compliance
99	Regular meeting with local prosecutors	In Compliance	In Compliance
100	Replace/repair video cameras	In Compliance	In Compliance
101	Revision of video camera policy	In Compliance	Not in Compliance
102	Record all vehicle stops, searches etc.	In Compliance	Not in Compliance
103	Elimination of disciplinary case backlog	In Compliance	In Compliance
104	Scheduling of disciplinary cases	In Compliance	In Compliance

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105	Disciplinary matrix of responses/sanctions	In Compliance	In Compliance
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IX. TRAINING

During our most recent site visit, we visited the Detroit Police Training Center and interviewed the Training Commander and several training supervisors a sergeant. We observed an in-service training class conducted by the Department's legal instructor. We reviewed a variety of memoranda, policy material and new lesson plans prepared for use during FY 2012 (July 1, 2011, through June 30, 2012.)

As we noted in our last report, from our initial reviews until now, the Department has made progress in the development of training. We have seen improvement in the manner and content of training and in recordkeeping in support of training. The Department has made dramatic improvement in its attendance at in-service and firearms training, in its preparation of a training needs assessment and in the quality of its training conducted.

During our most recent site visit, we assessed the Department's plans for its next year of in-service training and reviewed each of the newly revised lesson plans. We found that DPD Training has developed training and curricula that are responsive to the needs of the Department and the requirements of the Consent Judgment.

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:

The policies relevant to this requirement were found in DPD Directive 304.5, Training, issued and effective May 13, 2011. This directive replaced Special Order 11-07. Section 304.5-6.1 requires that Training review and evaluate all use of force and arrest and detention training on a semi-annual basis. DPD is in Phase 1 compliance with this paragraph.

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Comments:

The DPD report, "Training Oversight and Development Report – Semi-Annual Review, June 2011," addresses requirement U106. This report, the fifth such report to be issued, contains the evaluation of use of force, arrest, and detention training; and covers all elements of this requirement. In addition, the DPD completed a needs assessment that addressed several issues relating to use of force and detention for which additional training was recommended.

The DPD remains 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:

The policy relevant to this requirement is found in Directive 304.5-3.1, Training, issued and effective on May 13, 2011. This directive replaced Special Order 11-07. Section 304.5-3.1, Functions of Training, addresses the requirements of U107. DPD is in Phase 1 compliance with this paragraph.

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Comments:

To assess compliance with this paragraph for this reporting period, we met with the Training Director and staff and reviewed training records. 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. We reviewed the recently revised lesson plans to be used during the next in-service training cycle (Verbal Judo, June 10, 2011; Supervisor Report Writing – SIR Report, June 10, 2011; Firearms, July 11, 2011; Use of Force Lesson Plan and PowerPoint slides, July 5, 2011; Arrest and Search and Seizure, May 14, 2007, which has been incorporated into the legal block of instruction and found that they were responsive to this requirement. In addition, we reviewed the report entitled, “Training Oversight and Development Report – Semi-Annual Review,” dated June 2011, which documents the DPD's semi-annual review and evaluation of its training.
- b. As noted above, we have reviewed the recently revised lesson plans for the use of force and arrest and detention training and found them to be adequate for the training required.
- c. DPD did not select any new trainers during the past quarter. One officer newly assigned to the range during the first quarter of 2011 attended the one-week Macomb County Community College's course for new training officers.
- d/e. As we have observed in past reviews, DPD policy, curricula, and lesson plans address these provisions. As noted in (a.) above, we reviewed the fifth semi-annual training valuation report (“Training Oversight and Development Report – Semi-Annual Review,” dated June 2011) was produced by the Training Committee chaired by the Commander of Training.
- f. Directive 304.5-3.4 places responsibility on the Commander of Training for conducting a training needs assessment. During the quarter a needs assessment was conducted in three meetings chaired by one of the commanders of CRIB. Executives and mid-level managers representing the Criminal Investigations Bureau, the Commander of Risk Management, the Commanders of CRIB, the Police Legal Advisor, Internal Affairs, Force Investigation, and the Office of the Chief Investigator, Audits participated in the meetings. The Committee identified several “performance gaps” that could be addressed through training.

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 progress, we find DPD in Phase 2 compliance with this paragraph.

Compliance Status:

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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 policy relevant to this requirement is found in Directive 304.5, Training, issued and effective on May 13, 2011. This directive replaced Special Order 11-07. The specific policy relevant to this requirement is found in Section 304.5-6.4, captioned "Training Records," which directs that Training shall maintain a record of all training participated in by each individual DPD officer, Senior Detention Facility Officer, and Detention Facility Officer. DPD is in Phase 1 compliance with this paragraph.

Comments:

DPD captures data relating to its in-service training, and records 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 have conducted audits of its accuracy during the past and current reporting periods. In past reviews, we have randomly selected 100 officers who were listed on the spreadsheet as having received and completed in-service training during the previous quarter. During our last review, the Training Division was able to locate sign-in sheets reflecting attendance for 99% of officers listed on the spreadsheet as having completed their training during the previous reporting period. During this reporting period, it again located 99% of the records in our sample.

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. Training advised that entry of data into the MITN System of all DPD training for years 2003 through the present had been completed during the quarter under review. We reviewed 100 records selected at random from the training years 2010 and 2011 and verified if the data was recorded the MITN System. We found that 99 (99%) had been recorded into MITN.

DPD is in Phase 2 compliance with this paragraph.

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Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U109

The DPD shall ensure that only mandated objectives and approved lesson plans are taught by instructors and that instructors engage students in meaningful dialogue regarding particular 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:

The policy relevant to this requirement is found in Directive 304.5, Training, issued and effective on May 13, 2011. This directive replaced Special Order 11-07. The DPD is in Phase 1 compliance with this paragraph.

Comments:

DPD training directives and lesson plans properly direct and instruct on the relevant provisions of the Consent Judgment.⁴¹ DPD developed 10 scenarios utilizing Internal Affairs incidents, and accepted them for incorporation into use of force training.

The Department developed another 12 scenarios for its legal training. The legal scenarios are based on both national and local cases that illustrate various legal issues. We observed the Legal in-service class in which several scenarios were presented. The instructor, a lawyer and former deputy chief of the DPD, broke the class into groups of five or six officers each and assigned different scenarios to the groups to present and discuss. The scenarios that we observed illustrated legal principles relating to exigent searches, Terry stops, carrying concealed and unconcealed weapons, and stop and frisk. The legal points presented were practical for patrol officers.

Our review of training curricula, lesson plans, and scenarios show that they 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 compliance in coming quarterly evaluations.

⁴¹ See Training Oversight and Development Report, Summer 2009.

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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.

Policy:

The policy relevant to this requirement is found in Directive 304.5, Training, issued and effective on May 13, 2011. This directive replaced Special Order 11-07. The DPD remains in Phase 1 compliance with this paragraph.

Comments:

The DPD met with the City Law Department pursuant to this requirement on May 23, 2011. 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.

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Policy:

The policy relevant to this requirement is Special Order 11-10, effective January 1, 2011 and in Directive 304.5, issued and effective on May 13, 2011. Directive 304.5 replaced Special Order 11-07. Section 304.5-4.4 mandates that City employees acting as agents of the DPD shall receive training on relevant departmental policies and the Consent Decree. DPD is in Phase 1 compliance with this paragraph.

Comments:

Recruits receive this training after they complete their state certification exams and before they graduate from the Academy. The currently in-progress Basic Training class, due to graduate in July, received Consent Judgment training on June 7, 2011. This training is conducted by CRIB. Civilian employees also receive this training from CRIB. No new civilian employees were hired during the current reporting period.

DPD remains in 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:

- 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:*

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- 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:

The policy relevant to this requirement is found in Directive 304.5, Training, issued and effective on May 13, 2011. This directive replaced Special Order 11-07. The specific items relevant to this requirement are found in Section 304.5-7.1, captioned "Use of Force." The DPD is in Phase 1 compliance with this paragraph.

Comments:

We reviewed training policy directives, curricula, lesson plans, special orders, training needs assessment and teletypes, among other materials that have been prepared to address the requirements of U112 during Fiscal Year 2012 (July 1, 2011, through June 30, 2012). Our review showed that the course content requirements of U112 and all of its subparagraphs were met for all recruits and in-service trainees.

During our most recent site visit, we found that 2,582 (99%) of the 2,612 DPD members "available to train" attended use of force training during the previous year (July 1, 2010 – June

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30, 2011). The DPD also trained 2,567 (98%) of its officers in its PR-24 in-service course. The Department remains in Phase 2 compliance with this paragraph.

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;*
- 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.*

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Policy:

The policies relevant to this requirement are found in Directive 304.5, Training, effective May 13, 2011. This directive replaced Special Order 11-07. 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 the year and sustained compliance in both six-month segments of the year. Our review of the Firearms training lesson plan revealed that the items set forth in this requirement are addressed in Firearms in-service training. We found that during the first six-month period of Fiscal Year 2011 (July 1, through December 31, 2010), 2,651 (97%) of the 2,727 officers then 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.

During the six-month period that ended on June 30, 2011, 2,539 (97%) of the 2,612 officers available to train attended firearms and qualified. During the six months, the officers that failed to qualify were remediated and qualified or were placed in medical or other administrative “no-gun” status. At the end of the year, three additional officers were given remedial training and one qualified. Two were placed in medical “no-gun” status.

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:

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- a. *The DPD Arrest, Investigatory Stop and Frisk and Witness Identification and Questioning Policies;*
- b. *The Fourth Amendment and other constitutional requirements, including:*
- 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:

The policy relevant to this requirement is found in Directive 304.5, Training, issued and effective May 13, 2011. Section 304.5-7.3, captioned “Laws of Search and Seizure,” is responsive to this requirement. This directive replaced Special Order 11-07. DPD is in Phase 1 compliance with this paragraph.

Comments:

Use of Force, Search, and Detention training comprise an eight-hour block in the Use of Force in-service and a four-hour block in Arrest Procedures in-service. Annual training is provided by DPD in its in-service training program for officers and supervisors. During the last fiscal year (July 1, 2010, through June 30, 2011) the Department trained 99% of its available members in its use of force in-service training.

During this reporting period, we found that DPD had trained 2,563 (98%) of the 2,612 officers who were available to train in arrest and detention procedures and, as noted above, and 2,582 (99%) of its officers in use of force. DPD remains in Phase 2 compliance with this paragraph.

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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:

The policy relevant to this requirement is found in Directive 304.5, Training, issued and effective May 13, 2011. This directive replaced Special Order 11-07. Section 304.5-7, captioned “Required Curriculum of the Mandatory Training Courses,” specifically addresses this requirement. The DPD is in Phase 1 compliance with this paragraph.

Comments:

DPD 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.⁴² 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. During the training year ended on June 30, 2011, 2,582 (99%) DPD members attended the use of force in-service training session and received this training.

The DPD remains in Phase 2 compliance with this paragraph.

⁴² Law of Arrest and Search and Seizure Lesson Plan and associated guides and materials have been merged into the block of legal instruction; Detention Officer Training Lesson Plan, dated May 30, 2008, has not been updated.

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Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U116

The DPD shall advise officers that the DPD arraignment policy shall not be delayed because of the assignment of the investigation to a specialized unit, the arrest charge(s), the availability of an investigator, the gathering of additional evidence or obtaining a confession.

Policy:

The policy relevant to this requirement is found in Directive 304.5, Training, issued and effective May 13, 2011. This directive replaced Special Order 11-07. Section 304.5-7.1, captioned “Use of Force,” requires training on the DPD policy that prohibits the delay of an arraignment of a detainee because of the assignment of the investigation to a specialized unit, the arrest charge(s), the availability of an investigator, and the gathering of additional evidence or obtaining a confession. The DPD is in Phase 1 compliance with this paragraph.

Comments:

DPD has incorporated these training requirements into its use of force lesson plan. During the past year, the Department trained 99% of its officers in its use of force in-service training session.

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.

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Policy:

The policies relevant to this requirement are DPD Training Directive 04-1, Confinement of Material Witnesses, effective March 21, 2005 and Directive 304.5, Training, issued and effective May 13, 2011. Directive 304.5 replaced Special Order 11-07. Section 304.5-7.1, captioned "Use of Force," specifically requires training that a court order must be obtained prior to holding a person as a material witness. DPD remains in Phase 1 compliance with this paragraph.

Comments:

DPD arrest policies are articulated in DPD Directive 202.1, Arrests, effective July 1, 2008. Departmental policy clearly states, "[O]nly a court has the authority to decide whether an individual is a material witness, and whether that material witness should be committed to jail pending his or her testimony."

Material witness training has been incorporated into the use of force lesson plan. As noted above (see U115), the DPD trained 99% of its officers in the use of force in-service training during the training year that ended on June 30, 2011.

DPD is in Phase 2 compliance with this paragraph.

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:

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The policy relevant to this requirement is found in Directive 304.5, Training, issued and effective May 13, 2011. This directive replaced Special Order 11-07. Section 304.5-7.5, captioned “Supervisory Leadership and Accountability,” addresses this requirement. DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD fulfills Consent Judgment requirements U118-122 through its annual in-service training for supervisors. During Fiscal Year 2010 (July 1, 2009, through June 30, 2010), the DPD had trained 650 (99%) of its 652 supervisors.

During the training year that ended on June 30, 2011, the Department trained 612 (99%) of its 616 supervisors in its supervisory leadership and accountability in-service training session.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U119

DPD supervisors shall receive leadership and command accountability training and learn techniques designed to promote proper police practices. This training shall be provided to all DPD supervisors within 30 days of assuming supervisory responsibilities and shall be made part of annual in-service training.

Policy:

The policy relevant to this requirement is found in Directive 304.5, Training, issued and effective May 13, 2011. This directive replaced Special Order 11-07. Section 304.5-4.2 specifically requires members of the rank of investigator and above to attend and successfully complete the supervisory leadership and accountability training course within 30 days of assuming their rank and annually thereafter. The DPD is in Phase 1 compliance with this paragraph.

Comments:

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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 DPD trained 99% of its supervisors in the annual supervisory training course. 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:

The policy relevant to this requirement is found in Directive 304.5, Training, issued and effective May 13, 2011. This directive replaced Special Order 11-07. Section 304.5-7.5 specifically requires supervisors receive training on risk assessment, risk management and the MAS database. The DPD is in Phase 1 compliance with this paragraph.

Comments:

The Department's supervisory and leadership accountability in-service training session addresses this requirement. During this reporting period, we found that DPD had provided this training to 99% of its supervisors. The DPD is in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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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:

The policy relevant to this requirement is found in Directive 304.5, Training, issued and effective May 13, 2011. This directive replaced Special Order 11-07. Section 304.5-7.5 specifically requires training of supervisors as outlined in this requirement. 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 which is attended by both supervisors and investigators. 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. In the training year concluded on June 30, 2011, the Department again trained 99% of its supervisory staff. The Department is in Phase 2 compliance with U121

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.

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Policy:

The policy relevant to this requirement is found in Directive 304.5, Training, issued and effective May 13, 2011. This directive replaced Special Order 11-07. Section 304.5-7.1 requires supervisors be provided training on the 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:

The training required by U122 is delivered in the DPD supervisory and leadership in-service which is attended by both supervisors and investigators. 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. During our most recent site visit, we found that DPD had again delivered the training required by this section to 99% of its supervisors and investigators.

We also learned that the Training Division is developing an investigative techniques course to address performance issues relating to its IAD and OCI investigators. The course will be mandatory for all investigators assigned to these units. 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:

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The policies relevant to this requirement are the Department Standard Operating Procedures Manual Field Training Program, effective January 1, 2011, and Directive 304.5, Training, issued and effective May 13, 2011. This directive replaced Special Order 11-07. Section 304.5-8 describes the minimal qualifications a FTO must meet. The DPD is in Phase 1 compliance with this requirement.

Comments:

During this reporting period, we found that the DPD had conducted a training class for its FTOs in April 2011 in which it trained three new FTOs and recertified another. Officers who volunteer for the program must meet the criteria set forth in 304.5-8:

- Minimum of three (3) years patrol experience as a response officer;
- Receive an approval endorsement to attend the course by his/her commanding officer;
- Positive review of past performance evaluations;
- Positive disciplinary history review;
- Positive attendance record; and
- Pass oral interview and evaluation.

FTO Applicants are interviewed by a supervisor and the DPD FTO Coordinator. The interviews are guided by a form that outlines the points to be covered. The applicant's disciplinary history is reviewed. Discipline in the past five years will bar an officer from participating in the program; discipline that occurred more than five years in the past, is considered by the applicant's commander. Probationary police officers are assigned to work with three different FTOs in three 28-day periods. The FTOs evaluate the PPOs daily. If a problem is developed during the FTO training, a Probationary Evaluation Board, chaired by the Commander of Training, is convened to consider the situation. The Board can recommend dismissal, additional training, extension of the probationary period or return the PPO to his or her assignment. The DPD currently has 110 trained FTO officers and 22 probationary officers in training.

DPD is in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
106	Review use of force and detention training	In Compliance	In Compliance
107	Develop training	In Compliance	In Compliance
108	Maintain training records	In Compliance	In Compliance
109	Lesson Plans and Objectives	In Compliance	In Compliance
110	Meetings with City Law Department	In Compliance	In Compliance
111	Explain agreement to employees	In Compliance	In Compliance
112	Annual use of force training	In Compliance	In Compliance
113	Firearms training	In Compliance	In Compliance
114	Training re arrests and citizen interaction	In Compliance	In Compliance
115	Custodial detention training	In Compliance	In Compliance
116	DPD arraignment policy training	In Compliance	In Compliance
117	Material witness training	In Compliance	In Compliance
118	Supervisors training in reports	In Compliance	In Compliance
119	Leadership accountability training	In Compliance	In Compliance
120	Risk assessment training	In Compliance	In Compliance
121	Interview training	In Compliance	In Compliance
122	External complaint training	In Compliance	In Compliance
123	FTO training	In Compliance	In Compliance

Critical Issues:

- During this reporting period, we found that the Training Division is developing an investigative techniques course to address performance issues. The course will be mandatory for all investigators assigned to the Internal Affairs Division and the Office of Chief Investigator. We commend this effort of the Training Division to identify deficiencies in the DPD and respond with training designed to improve performance.
- The Department gained compliance with U108 *Maintaining Training Records* and, therefore, is in compliance with all training requirements.

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Next Steps:

During the next reporting period, we will review:

- 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 their content.
- A list of officers and supervisors who have attended in-service for Fiscal Year 2011 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 June 30, 2011, which we will compare against the number who attended supervisory training during Fiscal Year 2010.
- A list of all supervisors promoted during the past quarter and the dates they received the training required by the Consent Judgment.
- Documentation of field training officer selection and training.

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**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.⁴³ 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 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 DPD:

Use of Force and Restraints: DPD is required to implement policies for the investigation of uses of force in detention facilities, consistent with the Department's 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. During the previous reporting period, DPD acquired handheld video equipment for use in each of the facilities in which they house detainees. During visits to the facilities, we assessed personnel's familiarity with the operation of these video cameras and when they should be deployed.

⁴³ Facilities with holding cells are located in the Northeastern, Eastern, and Southwestern Districts; Sixth and Twelfth Precincts.

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III. FIRE SAFETY POLICIES***CJ Requirement C14***

The DPD shall ensure that all holding cells, and buildings that contain them, achieve and maintain compliance with the Life Safety Code within one year of the effective date of this Agreement. The City shall ensure that the Detroit Fire Marshal conducts regular and periodic inspections to evaluate whether the conditions in DPD holding cells, and buildings that contain them, are in compliance with the Life Safety Code.

Policy:

The policies relevant to this requirement are the DPD Comprehensive Emergency Preparedness Plan (CEPP), which 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. DPD Directive 305.4, Holding Cell Areas, effective April 21, 2011, provides guidelines and procedures for the operation of holding cells. DPD is in Phase 1 compliance with this paragraph.

Comments:

The Fire Marshal reviews the FSP annually and also conducts regular and periodic (annual) inspections of holding cells; the most recent review was conducted in November 2010. Accordingly, DPD remains in Phase 2 compliance with this 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.

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Policy:

The policy relevant to this requirement is the Comprehensive Emergency Preparedness Plan (CEPP) cited in C14 above.⁴⁴ DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD has been in Phase 2 compliance with this paragraph since the second reporting period.

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 these requirements. We also examined a sample 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.

⁴⁴ 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.

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Policy:

The policy relevant to this requirement is the Comprehensive Emergency Preparedness Plan (CEPP) cited in C14 above.⁴⁵ DPD is in Phase 1 compliance with this paragraph.

Comments:

Following the development of the Fire Safety Plan, the DPD made required structural changes to districts/precincts' holding facilities, including the updating and/or installation of sprinkler systems, fire alarm systems, and fire-rated doors. During our inspection of the district/precinct holding cells, we found the presence of all three.

The DPD remains in Phase 2 compliance with this 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 policy relevant to this requirement is the Comprehensive Emergency Preparedness Plan (CEPP) cited in C14 above.⁴⁶ DPD is in Phase 1 compliance with this paragraph.

⁴⁵ 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.

⁴⁶ 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.

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Comments:

The DPD has developed and implemented the required Fire Safety Plan.

During our most recent site visits to each district/precinct that maintains holding cells, we found documentation of the Fire Marshal's inspections. The most recent inspections were conducted in November 2010. DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C18

The DPD shall take immediate interim fire safety measures in all buildings that contain holding cells. At a minimum, these interim measures shall:

- a. Ensure that the activation of any individual smoke alarm sounds an alarm throughout the building;*
- b. ensure that prisoners in holding cells have an adequate means of reporting emergency conditions to DPD staff immediately;*
- c. ensure that automated back-up power systems exist for all buildings containing holding cells that are capable of providing immediate power for emergency lighting, exit signs, fire alarm and smoke detection systems in the event of an electrical power failure through batteries or an emergency generator; and*
- d. reduce the likely spread of smoke and fire throughout the buildings by means of stairwells, garages, hazardous rooms and exposed pipes, such as ensuring that fire doors in stairwells are closed.*

Policy:

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The policy relevant to this requirement is the Comprehensive Emergency Preparedness Plan (CEPP) cited in C14 above.⁴⁷ DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD has been in full Phase 2 compliance with this paragraph since the first reporting period.

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. 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.

Policy:

The policy relevant to this requirement is the Comprehensive Emergency Preparedness Plan (CEPP) cited in C14 above.⁴⁸ DPD is in Phase 1 compliance with this paragraph.

⁴⁷ 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.

⁴⁸ 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.

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Comments:

The DPD has been in Phase 2 compliance with this paragraph since the second reporting period.

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 reporting period 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. DPD Form 702, Maintenance Log, instituted by the Holding Cell Compliance Committee in January 2011, ensures that all maintenance issues are documented and tracked at the Civil Rights Integrity Bureau. 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.

Policy:

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The policy relevant to this requirement is the Comprehensive Emergency Preparedness Plan (CEPP) cited in C14 above.⁴⁹ DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD has been in Phase 2 compliance with this paragraph since the first reporting period. During our most recent inspection of the holding cell areas, we found no trace of smoking in the facilities. During our review of all of the monthly inspections on 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 policy relevant to this requirement is the Comprehensive Emergency Preparedness Plan (CEPP) cited in C14 above.⁵⁰ DPD is in Phase 1 compliance with this paragraph.

⁴⁹ 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.

⁵⁰ 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.

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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. DPD is in continued Phase 2 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 policy relevant to this requirement is the Comprehensive Emergency Preparedness Plan (CEPP) cited in C14 above.⁵¹ 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. DPD is in continued Phase 2 compliance with the requirements of this Consent Judgment paragraph.

Compliance Status:

⁵¹ 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.

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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
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 policies relevant to this requirement are the Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP), which was approved on November 29, 2010; and DPD Directive 305.4, effective April 21, 2011. DPD Directive 305.4 provides guidelines and procedures for the operation of holding cells, and the CEPP includes an emergency response plan for each district/precinct (see C24) and a key control system requirement (see C25). DPD is in Phase 1 compliance with this paragraph.

Comments:

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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 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 policies relevant to this requirement are the Detroit Police Department Comprehensive Emergency Preparedness Plan and DPD Directive 305.4 cited in C23 above. The DPD is in Phase 1 compliance with this paragraph.

Comments:

The CEPP identifies staff responsibilities in the event of a fire emergency to include notifications, evacuation, and key control procedures. (See C15.)

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The DPD achieved full compliance in the second and subsequent reporting periods as it increased the frequency of fire drills to the 100% level required by policy. During this reporting period, we determined that the fire drills were again conducted according to policy at the 100% level.

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 the sixth and seventh reporting periods, that the shackles were fully accounted for and placed individually in crates, allowing for easy access. We found that this continues to be the case during this reporting period.

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:

The policies relevant to this requirement are the Detroit Police Department Comprehensive Emergency Preparedness Plan and DPD Directive 305.4 cited in C23 above. DPD is in Phase 1 compliance with this paragraph.

Comments:

We noted in our first quarterly report that 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

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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.

We continue to note that DPD form 715 (Evaluation of the Operation of the Holding Cells) needs to be updated. While the Department revised the form in October 2010, the form still does not elicit some critical information, including: the number of key sets at each location; where the keys are stored; and who has possession of them. In addition, the Emergency Evacuation Procedures Manual (or “red book”) does not reflect the number of key sets assigned to each detention facility.

During our previous inspection, we found that each districts/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’ and sergeants’ office. The CEPP directs that “the cell block supervisor to conduct an inventory of the keys at the commencement and the conclusion of his or her tour of duty and document same in the desk blotter.” At one facility, the key inventory had not been put into the desk blotter four hours after the shift had begun. The key assignments were among a stack of notes to be input into the desk blotter because there had been a disturbance in the holding cells earlier in the shift.

In the four districts/precincts where the supervisor has each detention officer sign for his/her set of keys on a log, we continued to observe problems. At one district/precinct, we attempted to locate the daily key inventory in the desk blotter and found it difficult to do so among the other entries. During this site visit, we discovered that not all of the officers working in the detention area had a set of keys. Additionally, the key inventories that were entered into the Desk Blotter were not always logged at the beginning of the shift, and did not indicate the number of the key block assigned to the individual officers. The same problems were documented on the form 715, Evaluation of the Operation of Holding Cells, when the CRIB inspector conducted his unannounced monthly inspections during this quarter. Based on a discussion with CRIB personnel during our most recent visit, we were informed that changes to the procedures affecting the above concerns will be made before our next quarterly visit.

A lack of key control jeopardizes detainees, officers, and the public. We expect that by the next reporting period, the Department will have updated form 715 and the CEPP to reflect the specific number of keys assigned to the individual facilities and a reliable method for key inventory.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

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¶	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:

The policies relevant to this requirement are DPD Directive 305.1, Detainee Intake Assessment; Directive 305.5, Detainee Health Care and; Directive 403.2, Infectious Disease Control Plan, all effective May 9, 2005. These policies were reviewed and updated by a qualified health care professional and revised accordingly on February 5, 2010 and February 4, 2011. DPD remains in Phase 1 compliance with this paragraph.

Comments:

During all previous reporting periods, we found DPD not in Phase 2 compliance with this paragraph. Our inspections, along with our review of the quarterly detainee file folders, revealed multiple issues and deficiencies in this area including: clerical errors, specifically on the cover sheet of the Detainee Intake Form, DPD 651; incomplete or missing documentation of medical referral and medication logs; and the lack of a documented exchange of health information between consecutive shifts. Although holding cell personnel do list the medical needs of the detainees on the Platoon Daily Detail Summary, the shift preparing or receiving the log fails place the date or the time on the form.

During the current reporting period, we reviewed and inspected a random sample of the detainee file folders and observed personnel. We again found that personnel are still not properly implementing these procedures in accordance with the DPD directives. We continue to note 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 timely documented exchange of health information between consecutive shifts.

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DPD improved in this area during this reporting period, but remains not in 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:

See C26 above - DPD Directive 305.5, Detainee Health Care. This directive, along with forms and logs, comprises the Comprehensive Medical and Mental Health Screening program (CMMHSP). The DPD remains in Phase 1 compliance with requirements.

Comments:

During the previous reporting period, the DPD Health Authority completed the review and approved the CMMHSP policies and directives. The DPD provided us with documentation during that site visit. DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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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 individual 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.*

Policy:

The policies relevant to this requirement are DPD Directive 305.1, Detainee Intake Assessment; Directive 305.5, Detainee Health Care and; Directive 403.2, Infectious Disease Control Plan, all effective May 9, 2005. These policies were reviewed and updated by a qualified health care professional and revised accordingly on February 5, 2010 and February 4, 2011. DPD remains in Phase 1 compliance with this paragraph.

Comments:

During the last seven reporting periods, we found DPD not in Phase 2 compliance with this requirement. We observed deficiencies including clerical errors; missing signatures of police detention officers and supervisors; and incomplete or incorrect completion of required forms. In five cases, during this review, we found that detainee intake screenings were not conducted within two hours of a detainee's arrest. In one incident during this reporting period, staff had not transported to DRH a detainee needing medical care until seven hours after the initial screening had been completed. The staff did not follow DPD policy that requires referring the detainee to DRH.

We reviewed the Cell Check Logs (DPD 659) for this reporting period, and found 97% in compliance for general population checks. The Medical/Mental High Risk Logs (DPD 661) for this reporting period revealed that 99% of high-risk detainees were observed by staff.

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There remains confusion among DPD personnel as to how to classify detainees who have had previous ideations of suicide or suicide attempts. DPD policy 305.1-3.9, Detoxification/Safety Cell, indicates that a detoxification/safety cell is an observation cell temporarily used to detain chemically impaired persons or a person who may be a suicide risk (constant observation). As the policy is written, any previous suicide attempt requires constant supervision. The policy requires DPD to elicit information regarding whether the suicide attempt was less than or over one year ago; however, it does not state how long the previous attempt occurred before the detainee was considered to require constant watch. DPD Policy 305.1-3.21 indicates that a suicidal detainee is one with a history of suicide attempts. In some cases, medical professionals at DRH may recommend placing a detainee on constant watch or remove them from the watch. In these cases, DPD personnel need to indicate these changes in the comment section of the High Risk Log or on the form when they have returned to the holding facility.

During this reporting period, in our review of a random sample of 225 detainee file folders, we continued to find some of the problems we observed in the past. These deficiencies included a limited exchange of pertinent health information between shifts; missing or incorrect dates/times on logs/forms; forms and logs not filled out correctly, including Medical Treatment/Medication Logs; Medical Referral Forms 660 missing from detainee file folders; and cases where detainees should have been referred to DRH, but were not. We also found, as in past reporting periods, that medical and mental health information is not being updated in the Livescan system. We continue to recommend to CRIB that it develops and implements a process so that when a detainee's medical or mental health status changes, detention staff update the system accordingly.

Overall, we found that DPD had an 89% compliance rate with this paragraph in the current reporting period. DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C29*The medical protocols, at a minimum, shall:*

- a. identify the specific actions the DPD shall take in response to the medical information acquired during prisoner screening or detention, including the need for emergency care, hospitalization, prescription medication and/or intensive monitoring; and*
- b. require prior supervisory review and written approval, absent exigent circumstances, of all decisions made in response to acquired medical information.*

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Policy:

See C26 above - DPD Directive 305.1, Intake Assessment. The DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD was not in Phase 2 compliance with this paragraph in previous reporting periods.

During the current reporting period, we reviewed a sample of 225 detainee file folders, and inspected each of the districts/precincts that maintain holding cells and the Detroit Receiving Hospital. We continue to find that staff did not follow policy in several key areas, including:

- Untimely referral, of detainees in need of medical or mental health care to the Detroit Receiving Hospital;
- Cases in which intake screenings were not conducted within the required two-hour timeframe following arrests;
- Medical referrals lacking appropriate information;
- Detainees not receiving medications prescribed by the Detroit Receiving Hospital in a timely manner or receiving them prior to the prescribed time;
- Medical referral forms missing from detainee file folders;
- Health information not being updated in Livescan;
- Detroit Receiving Hospital discharge instructions missing.

Overall, we found that 87% were in compliance with this paragraph – an increase over the previous reporting period. DPD remains out of Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

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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:

See C26 above – DPD Directive 403.2, Infectious Disease Control Plan. DPD is in Phase 1 compliance with this paragraph.

Comments:

During our previous site visits, our inspections of the Detroit Receiving Hospital and the five DPD facilities that maintain holding cells disclosed poor levels of sanitation in similar degrees at all of the sites with a trend toward improvement.

During our most recent site visit, we again inspected all districts/precincts with holding cells and the DRH. We found in prior visits that some of the facilities maintained adequate sanitary conditions in the cell areas, and others needed to take additional measures to ensure proper sanitation. The Northeastern District continued to be deficient in its sanitation practices; the cleanliness of its sinks and toilets was inadequate. The Northeastern District made the appropriate effort along with the other four facilities, and DPD is now compliant.

The DPD should continue to follow and complete the instructions in the Holding Cell Cleaning Log, which is critical to DPD's ability to be in compliance with this paragraph. Due to the improved condition of the Northeastern District's facilities, DPD's compliance rate with this requirement is 100%. (See details in C39 and C40.)

We reviewed 36 Holding Cell Cleaning logs from the five facilities, with seven days on each log, for a total of 252 days. We found them to be in order with the cleaning officers' names, dates of cleaning, and the Cell Block Supervisors approval designated. In every instance, the cleaning officer checked the box in the appropriate place.

We also found that the Personal Protective Equipment (PPE) kits were in order and included an adequate supply of the required contents. Our inspection of the first aid kits uncovered some expired contents, but we have seen some improvement by the detention staff in this area. We

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continue to recommend that detention staff open the first aid kits on a regular basis to verify that the contents have not expired.

Previously, we observed that staff had food and drinks in the holding cell areas. During our most recent site visit, we did not observe any staff eating or drinking in a holding cell area, nor did we observe any employee food located in the detainee refrigerator. The 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 as they arise, DPD take appropriate action to remedy these violations of policy.

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.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C31

The DPD shall develop and implement a protocol for updating and exchanging prisoner health information. At a minimum, this protocol shall;

- a. require that 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.*

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Policy:

See C26 above – DPD Directive 305.5, Detainee Health Care. The DPD remains in Phase 1 compliance with this paragraph.

Comments:

During previous reporting periods, our reviews of DPD form 661, Detainee Medical/Mental Health Monitoring 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 always being documented and communicated between consecutive shifts.

Our most recent inspection 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. It is critical for the oncoming shift to indicate the date and time they receive the Platoon Daily Detainee Summary to ensure the continuity of health monitoring for detainees requiring it.

During our most recent site visit, we reviewed DPD log 659a, Platoon Daily Detainee Summary in the five districts/precincts that maintain holding cells, and found errors, including missing signatures between shifts, detainee health information missing, and a lack of comments in the "comment" section on the forms. Most of the errors on the Detainee Summary were due to personnel not indicating the time the Summary was prepared or the time the oncoming shift reviewed the log. DPD's overall compliance rate for the Platoon Daily Detainee Summary completion for this quarter is 87%. (See C36.)

We also reviewed 122 copies of DPD Form 661 that required a 15-minute watch. The entries were made in a timely fashion; and we found that the date, time, and reason for the removal from the watch were recorded in 121 of the 122 cases. We attribute this improvement in part to the revised and combined DPD form 661/661a; DPD needs to continue to ensure that its detention personnel complete the forms correctly.

In addition, during this current reporting period, we continued to find a few 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, the lack of a timely documented exchange of health information between consecutive shifts, and missing updated health information in Livescan.

Overall, we found that 87% were in compliance with this paragraph – an increase from the 82% registered in the previous reporting period.

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DPD remains not in 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.*

Policy:

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See C26 above - DPD Directive 305.5, Detainee Health Care. DPD is in Phase 1 compliance with this paragraph.

Comments:

During all of the previous reporting periods, at the five districts/precincts that maintain holding cells, we found Medication Logs missing critical detainee and staff information. Detainee dosages, dosing times, signatures, the names of the persons administering the medications, and prescription release information did not always appear on the logs. As a result, we found the DPD not in Phase 2 compliance with this paragraph.

During the current reporting period, in our review of 225 detainee file folders, we continued to find instances where the DPD failed to record essential detainee and staff information. We noted, for example, that medication logs on detainees who had been released were missing signatures of detention staff or detainees; therefore, it was unclear whether detainees received their medications, or were given their unused medications at the time of release. There were eight instances where it was unknown if the remaining medication was released to the detainee or transferred with them to another facility due to personnel not indicating the status on the form. In three cases, the Medication Disbursement forms were missing from the file folders. While DPD personnel have successfully addressed the issues of C32a, b, c, d, e and f; there remain deficiencies with C32g.

Another incident we discovered while onsite involved a detainee who was sent to DRH; the Discharge Instructions indicated five prescriptions, as did the Hospital Prisoner Form, but the Medical Disbursement log indicated that only four had been filled. It was determined by holding cell staff through telephone contact with DRH that the fifth prescription had not been written by the administering physician, although it was clearly indicated on the Discharge Instructions. Personnel in the holding facility failed to notice the error. We recommend that CRIB enact a policy and process for addressing these sorts of problems.

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, detainee health information missing, and blank comment sections on the forms. We found 87% of the logs in compliance – a slight decrease from the last reporting period, when we found 90% of them in compliance.

Our inspection of medication cabinets and medications for detainees at the precincts/districts maintaining holding cells revealed that everything was satisfactory in the location of the cabinets and storage of medications.

With the deficiencies aforementioned, we continue to find DPD not in Phase 2 compliance with this paragraph.

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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:

See C26 above - DPD Directive 305.1, Detainee Intake Assessment. The DPD remains in Phase 1 compliance with this paragraph.

Comments:

During the previous reporting periods, we found that detention personnel were generally familiar with where the appropriate clothing items, paper gowns and/or suicide smocks, were stored. Our inspections revealed ample inventory of appropriate clothing.

During our most recent inspections in all five districts and precincts with holding cells, we found sufficient inventory of paper gowns and/or suicide smocks. The staff we interviewed was knowledgeable regarding the use of the clothing and where the appropriate clothing was stored.

We find 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.

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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. 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	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

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.

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Policy:

The policies relevant to this requirement are 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, effective May 20, 2010; DPD Directive 305.4, Holding Cell Areas, effective February 1, 2008, and revised March 20, 2010; Directive 305.5, Detainee Health Care, effective May 20, 2010; Directive 305.7, Transportation of Detainees; effective May 20, 2010; and Directive 305.8, Detainee Food Service and Hygiene, effective May 9, 2005, and revised March 20, 2010. DPD is in Phase 1 compliance with this 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:

The policy relevant to this requirement is DPD Directive 305.1, Detainee Intake, effective May 9, 2005, and revised February 5, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

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DPD Form 659A, revised August 2008, is used to record information on detainees with medical conditions or special needs. During this reporting period, we reviewed 57 Eastern District logs that contained 305 detainee entries; we found that in four instances, the officer did not enter the time that s/he prepared or received the report. All detainee information was included on the form. The Eastern District's compliance rate with this paragraph is 93%, a slight decrease from the previous reporting period.

We reviewed 40 Northeastern District logs that contained 145 detainee entries, and found four lacking the date of preparation or receipt by the incoming shift. One supervisor was responsible for two of the four violations. The Northeastern District's compliance rate with this paragraph is 90%, a decrease from the previous reporting period.

We reviewed 42 Sixth Precinct logs that contained 165 detainee entries. Five of these did not include the time the form was either prepared or received; and in one case, an entry was not made as to the detainee's status in the comments section of the form where it is required. The Sixth Precinct's compliance rate with this paragraph is 89%, a slight decrease from the previous reporting period.

We reviewed 35 Twelfth Precinct logs that contained 168 detainee entries; of these, 11 did not indicate the times of receipt or preparation by the officer. One individual was responsible for seven of these omissions. All detainee entries had appropriate medical/mental comments listed in the appropriate space. The Twelfth Precinct's compliance rate with this paragraph is 69%, a decrease from the previous reporting period.

We reviewed 47 Southwestern District logs that contained 245 detainee entries. We found one instance where the supervisor failed to place the receiving time on the document and detainee entries that did not contain any comments referring to the detainee's medical or special needs in the comments section of the form, as required. During the previous two reporting periods, the Southwestern District made substantial progress in this area; its compliance rate with this paragraph during this reporting period increased to 98%.

In our previous report, we indicated that the failure of holding cell personnel not properly documenting the date and time of preparation or receiving DPD Form 659A remains the only obstacle to compliance with this paragraph. DPD's overall compliance rate for this reporting period is 87%. DPD is not yet in compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

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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:

The policy relevant to this requirement is DPD Directive 305.4, Holding Cell Areas, Sections 4.2 4.3 and 7.4, effective February 1, 2008, and revised April 21, 2011. This policy 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 DPD Form 661 (Mental Health High Risk Monitoring). During the current reporting period, our review of 230 Detention Cell Check Logs (DPD 659) for the general detainee population from the districts with holding cell facilities reflected a 99% compliance rate. This is an improvement over the previous reporting period. During each tour of duty, detention officers are required to make cell checks every 30 minutes (16 checks daily) and supervisors every two hours (four checks daily). We reviewed 4,600 individual time entries during this quarter. There were 20 late cell checks – five by more than an hour – and two supervisory checks were not timely. In three cases, we noted that the individuals were reprimanded or counseled for the failure to document the required supervisory check of the cell block every two hours or for the failure to conduct a timely cell check by detention personnel.

During our most recent site visit, we observed that in some of the facilities, the processing officer is responsible for conducting the holding cell checks. In some instances where cell checks were

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late, the processing officer would indicate on the cell check log that the reason for the late check was due to processing detainees. We recommend that DPD rectify this situation.

We reviewed a total of 122 cases for the period of April 1, through June 30, 2011 that required a 15-minute watch. These included those detainees on medication. 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 121 of the 122 cases. There was one case where the supervisor authorizing the watch failed to place their name, signature or badge in the appropriate box available for that purpose and in another the form did not contain the name of the supervisor releasing the detainee from monitoring. There was one late cell check; and in one instance, the type of watch was not indicated. There were four late checks at the Detroit Receiving Hospital where the detainee holding cells are within a few feet of the office area. The Eastern District's Medical/Mental High Risk Logs were exceptional in their completeness and accuracy. DPD's compliance rate with this paragraph is 99%.

DPD is in Phase 2 compliance with this paragraph. We attribute the Department's 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.

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:

The policy relevant to this requirement is DPD Directive 305.4, Holding Cell Areas, Section 4.3, effective February 1, 2008, and revised April 21, 2011. 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.

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Comments:

As previously noted, DPD continues to not meet its policies in that detainees on suicide watches are often not placed on constant supervision. During the current reporting period, of the 15 DPD 661 Forms (for detainees who were maintained on suicide watches or should have been) that we reviewed, 11 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 found a few reports during this period that indicated both constant and 15-minute watches. There seems to be some confusion regarding what necessitates a constant watch; we noted being suicidal, having previous suicidal attempts, and having suicidal thoughts listed on the form in the “Reason for Starting Monitoring” section of the report. We have seen identical language describing the reason for monitoring, yet some personnel choose to mark 15-minute watch, and others will mark constant watch without any other information listing specifically why that designation was given. There should be more consistency among Departmental personnel when making these determinations. We understand that retrieving medical information from the Detroit Receiving Hospital may be difficult. However, the comments section of the form is not being utilized to its full potential.

There were three instances where the Reason For Monitoring indicated “suicide watch” and the box was marked as a 15-minute watch; in another case, in the comments section, there was a notation that the detainee had poured gasoline on his body yet was not marked as suicidal (constant watch). If a detainee has had a previous suicide attempt and is not placed on constant watch, then personnel assigned to the holding cells should indicate in the comments section why the detainee is placed on 15-minute watch. DPD’s compliance rate with this paragraph is 74%.

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 remote observation of cells	In Compliance	Not in Compliance

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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.

Policy:

The policy relevant to this requirement is DPD Directive 305.4, Holding Cell Areas, Section 5, effective February 1, 2008, and most recently revised April 21, 2011, to be reviewed annually. A significant change in the 2011 revision is the deletion of Section 305.4-5.1.6 relating to the preparation of monthly reports prepared by district/precinct commanding officers identifying unsatisfactory conditions and providing timeframes for correction. This section also requires the preparation of Inter-Office Memoranda to be prepared and sent to the Deputy Chiefs of the Fiscal Management and Risk Management Bureaus. DPD is in Phase 1 compliance with this paragraph.

Comments:

During this reporting period, we evaluated all districts/precincts for general cleanliness and sanitation. Overall, the facilities were generally in compliance with this section. However, floors in the Sixth District and the Twelfth Precinct needed additional cleaning efforts, particularly around the toilet areas. The cleanliness level in the holding cells in the Detroit Receiving Hospital was exceptionally good. This is the first quarter where our inspections found that all facilities have an acceptable level of cleanliness.

During this reporting period, we reviewed 36 Holding Cell Cleaning logs from the five facilities, with seven days on each log, for a total of 252 days. We found them to be in order with the cleaning officers' names, dates of cleaning, and the Cell Block Supervisors' approval designated. In every instance, the cleaning officer checked the box in the appropriate space. At the top of DPD Form 701, Holding Cell Cleaning Log, revised August 2008, it clearly indicates "place a check mark under the duty performed." Although all of the entries contained a Cell Block Supervisor's signature, eight did not contain the time that the form was approved by the CBS. DPD's compliance rate with this paragraph remains at 97% for proper documentation of the forms and overall cleanliness of the cells.

There are five holding cell facilities among the districts/precincts, and a smaller facility at the Detroit Receiving Hospital. In order to be found in compliance with this requirement, all facilities must be in compliance.

DPD is in Phase 2 compliance with this paragraph.

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Compliance Status:

Phase 1: In Compliance

Phase 2: 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:

The policy relevant to this requirement is DPD Directive 305.4, Holding Cell Areas, Section 5, effective February 1, 2008, and revised April 21, 2011. DPD is in Phase 1 compliance with this paragraph.

Comments:

Section 305.4-5.2 of this policy addresses the identification and use of cleaning solutions in the holding cells. The policy specifies the use of a specific proprietary chemical, NeutraQuat – 252L Lemon, with specific directions for its use under various conditions. During our inspection, none of this particular chemical was observed in any of the districts/precincts. Various chemicals are being used with little uniformity among the various locations. Among the chemicals observed were Simoniz Freedom II, Ajax Cleaner, Allstar D-Fen Surface Disinfectant, a stainless steel cleaner, household bleach, and Lysol.

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 has been 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 (Holding Cell Cleaning Log) were in compliance with this paragraph. We have observed that some facilities take pride in their ability to maintain a safe environment for detainees, and others have made significant progress and are now in compliance. Sanitation appears to be satisfactory on paper, but the random and improper use of various chemicals creates serious questions about the adequacy of the cleaning process. For example, household bleach was observed being used as a

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cleaning chemical. Chlorine bleach has no cleaning qualities; it is strictly a sanitizer/disinfectant, and surface soil must be removed prior to its use for it to be effective.

DPD remains in Phase 2 compliance with this paragraph since it was compliant in the previous reporting period. The Department must correct the deficiencies noted above to remain compliant with this paragraph during the next reporting period.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.

Policy:

The policy relevant to this requirement is DPD Directive 305.4, Holding Cell Areas, Section 6.6, effective February 1, 2008, and revised April 21, 2011. 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 Facilities Maintenance Department.

During previous reporting periods, our review of DPD 702 Forms 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 Facilities Maintenance or the CBS indicating when the reported repairs are completed.

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As a result of those conversations and a subsequent meeting on January 28, 2011, OCR began preparing a spreadsheet specifying all current outstanding repairs and their status at all DPD holding cell facilities. The listed items are derived from each HC facility logs submitted to the Monitor and OCR. The OCR/HCCC also committed to including all outstanding repairs as an agenda item for discussion at each monthly HCCC meeting. During our most recent site visit, we reviewed HCCC meeting agendas for April and May 2011, and confirmed that current facility repairs are being discussed. A representative from the Facilities Maintenance Department is required to attend, and his attendance was verified in the meeting minutes.

During our evaluation of this reporting period's Facility Maintenance Logs, we reviewed all logs from each of the five districts/precincts that maintain holding facilities and matched those repair requests to the master tracking log maintained by OCR. During our previous site visit, there were 35 requests for repairs, of which only five had not been reconciled. The repairs that had not yet been completed are listed on the spreadsheet with a repair date to be completed within 30 days of notification. During our most recent inspection, we reviewed all requests for repairs with OCR personnel for the reporting period, and determined that DPD is now fully compliant. 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 September 2011 OCR spreadsheet to ensure that the projected dates for completion of the repairs have been achieved.

DPD's compliance in this area is 100%. Full compliance required DPD to amend previous Departmental policy (DPD 305.4, Holding Cell Areas) to include the changes noted above. We were notified on February 8, 2011 that the necessary changes had been made; we verified the change was implemented during our previous site visit.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C42

The DPD shall provide adequate heating and ventilation for all buildings containing holding cells.

Policy:

The policy relevant to this paragraph is DPD Directive 305.4, Holding Cell Areas, Section 6.6, effective February 1, 2008, and revised April 21, 2011. DPD is in Phase 1 compliance with this paragraph.

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Comments:

During our most recent inspection of all five facilities, we checked the temperatures in the holding cell areas and found the temperature in each cell block exceeded established limits (between 66 and 80 degrees). Ambient air temperatures in the cells ranged from 82-83°F (Eastern District) to 86-87°F (Sixth District and Twelfth Precinct). The thermometers used by the staff to monitor temperatures were located in the hallways and did not reflect conditions in the cells due to poor air circulation. Hallways were generally 3-5 degrees cooler than the cells. It should be noted that the HVAC systems were inoperable in all five of the DPD Districts/Precincts. The relative humidity in the cells consistently measured 62-70 percent, further decreasing the comfort level in the holding cells.

During our most recent tour, outside air temperatures reached 92-97°F each day, with a heat index of over 100 degrees. Due to one of the facilities experiencing a power outage in the morning, it appears the cooling systems of all the facilities were having difficulty handling the load. Our interviews with cell block supervisors and inspection of the facilities revealed that the cell block supervisors checked the temperature upon assuming the shift. Based on our review of the above-referenced directive and our observations, the DPD is not in Phase 2 compliance with the requirements of this paragraph for this reporting period. DPD must correct the deficiencies during the next quarter, or the Department will be taken out of compliance with this 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:

The policy relevant to this paragraph is DPD Directive 305.4, Holding Cell Areas, Section 6.6, effective February 1, 2008, and revised April 21, 2011. DPD is in Phase 1 compliance with this paragraph.

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Comments:

Our most recent tour of the holding facilities revealed only a minor number of broken or malfunctioning lights, toilets, sinks and windows in holding and observation cells. As we noted previously, DPD was in the process of implementing a more effective maintenance repair tracking system, and this system became functional on June 8, 2010. However, issues remained. In January 2011, OCR created a master spreadsheet that augments the maintenance repair tracking system to ensure that maintenance concerns are resolved; this process has been effective in ensuring compliance. (See C41.)

DPD has revised its policy to more effectively track repairs in all facilities. The Holding Cell Compliance Committee has an agenda item during its monthly meeting to discuss and resolve all existing repair issues.

Accordingly, DPD is now in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C44

The DPD shall ensure that lighting in all cell block areas is sufficient to reach 20 foot candles of illumination at desk level and in personal grooming areas.

Policy:

The policy relevant to this paragraph is Directive 305.4 Holding Cell Areas, Section 6.6, effective February 1, 2008, and revised April 21, 2011. DPD is in Phase 1 compliance with this paragraph.

Comments:

During our most recent tour, illumination levels were randomly measured in each of the five districts/precincts that maintain holding cells and the Detroit Receiving Hospital. The lighting levels were determined to be below the required luminescence in all areas except the Detroit Receiving Hospital. The DPD Facilities Management staff have routinely conducted light level tests in the five districts/precincts that maintain holding cells and at the Detroit Receiving

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Hospital. In each case, the light levels in the cells and adjacent areas have been reported to exceed 20-foot candles at desk level. The light measurements that we took fell well below the required 20-foot candles at desk level and in personal grooming areas, as required by the Consent Judgment. In order to eliminate possible instrument and/or operator error, we conducted a joint test with DPD. It appeared that the disparity in readings resulted from measurement technique rather than instrument error. The Consent Judgment requires “20 foot candles of illumination at desk level and in personal grooming areas.” The DPD holding cells do not have desks or tables. To properly measure compliance with this section, light measurements must be taken at the sink where grooming would occur, rather than in the center of the cell. When measurements were taken by both parties using standardized techniques, both parties measured approximately eight-foot candles of light.

Most of the cells in the DPD holding areas do not have a direct light source in the actual cells. Lighting is provided by fluorescent fixtures mounted behind glass bricks at the top of the front wall of the cell, or by flood lights that have been installed in the hall ceiling and directed into the cells. None of this lighting is capable of providing the level of illumination required by the Consent Judgment.

The requirement for 20-foot candles of lighting is derived from American Correctional Association (ACA) standards for correctional facilities that state, “Light levels in inmate cells/rooms are at least 20 foot candles in personal grooming areas and at the writing surface. Lighting throughout the facility is sufficient for the tasks performed.”⁵² It must be noted ACA does not currently have standards for short-term holding facilities. In a holding facility, detainees are rarely held more than 48 hours.

Holding cells do not typically contain a writing surface. Also, detainees do little, if any, personal grooming beyond brushing their teeth, due to the limited time spent in the cells. To bring the DPD holding cells into compliance with the lighting requirements of the Consent Judgment would require a large expenditure of funds for a relatively minor improvement to the housing conditions for the detainees. The major benefit of a lighting retrofit would be the increased efficiency of cleaning and security activities. Many of the cells are very dim, and it is difficult to see to clean around the toilet areas. Increased lighting would be beneficial in this regard and could be provided by temporary means during periods of housekeeping activities.

In summary, the costs of retrofitting the five holding cell facilities to bring them into compliance with this section of the Consent Judgment may not be practical, given present considerations to transfer the holding of detainees at the county facility. Therefore, we recommend that all Parties involved consider a revision of this section of the Consent Judgment.

DPD is not in Phase 2 compliance with this paragraph for this reporting period. If these deficiencies are not rectified during the next reporting period, DPD will be removed from compliance with this paragraph.

⁵² American Correctional Association 4-ALDF-1A-14.

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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:

The policy relevant to this paragraph is Directive 305.4, Holding Cell Areas, Section 7, effective February 1, 2008, and revised April 21, 2011. DPD is in Phase 1 compliance with this paragraph.

Comments:

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, DPD is in Phase 2 compliance with 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:

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The policy relevant to this paragraph is Directive 305.4, Holding Cell Areas, Section 6.6, effective February 1, 2008, and revised April 21, 2011, Security, Heating, Lighting, Ventilation and Conditions. This policy requires that weekly security and maintenance inspections be conducted in the following areas: holding cell bars; locks; windows; walls; floors; ventilator covers; protective screens; doors; toilets; sinks; and lighting. DPD is in Phase 1 compliance with this paragraph.

Comments:

The DPD staff advised, and our inspections of the district/precinct holding cells confirmed, the removal of all Hepa-Aire purifiers. 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	In Compliance
40	Holding cell cleaning policy required	In Compliance	In Compliance
41	Holding cell maintenance policy required	In Compliance	In Compliance
42	Provide adequate heating and ventilation	In Compliance	In Compliance
43	Repair broken/malfunctioning cell elements	In Compliance	In Compliance
44	Insure sufficient cell lighting	In Compliance	In Compliance
45	Provide reasonable access to toilets and water	In Compliance	In Compliance
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 policies relevant to this requirement are the Comprehensive Medical and Mental Health Screening Program (CMMHSP) and DPD Directives 305.1, Detainee Intake and Assessment, and 305.5, Detainee Health Care, effective May 9, 2005. These policies were updated and approved in writing by a qualified medical and mental health professional on February 5, 2010 and again on February 4, 2011. The variance between the requirements of 305.1 and actual practice pertaining to Telecommunications Devices for the Deaf (TDD) noted in our previous two visits was corrected with a policy revision during this reporting period. The DPD is in Phase 1 compliance with this paragraph.

Comments:

In our previous inspections, we found that the CMMHSP was inconsistently implemented by DPD detention staff. The DPD did not have a process in place to check the TDD equipment to ensure that the TDD equipment was functional and that the DPD staff was proficient in the use of the TDD equipment.

During our most recent inspection, we found that detention staff in the precinct/district with holding cells demonstrated competency in the use of Telecommunications Devices for the Deaf (TDD). In addition, the TDD equipment was working properly. This has been accomplished by the development of an effective testing protocol. DPD detention staff is now required per policy to conduct tests on a monthly basis that demonstrate the equipment is working properly and confirm that detention staff can demonstrate the use of the equipment.

Accordingly, we find the DPD in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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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:

The policy relevant to this requirement is DPD Directive 305.1-7, Detainee Intake/Assessment, and effective May 9, 2005. The DPD revised this policy on February 5, 2010 in consultation with a qualified medical and mental health professional from the Detroit Department of Health and Wellness Promotion (DHWP) and again February 4, 2011. DPD is in Phase 1 compliance with this paragraph.

Comments:

Except for issues relating to the use of Telecommunications Devices for the Deaf (TDD), the DPD has been in continuous compliance with the requirements of this paragraph. In previous reporting periods, the DPD failed to demonstrate satisfactorily that the TDD equipment located in districts/precincts was functional, and that the detention staff was proficient in the use of the equipment. According, we found the DPD not in Phase 2 compliance with this paragraph.

During the last reporting period, we visited the five districts/precincts that maintain holding cells, and found that the detention staff demonstrated competency in the use of Telecommunications Devices for the Deaf (TDD), and that the equipment was working properly in all five locations. DPD satisfactorily developed an effective testing protocol during that reporting period. The DPD detention staff now is required, per policy, to conduct tests on a monthly basis that demonstrate the equipment is working properly and verify that detention staff can demonstrate the use of the equipment.

This change in policy and demonstration of competencies in practice by staff in the use of the TDD system now places the DPD in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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¶	Requirements	Phase 1 - Policy	Phase 2 – Implementation
47	Reasonable accommodation for disabled	In Compliance	In Compliance
48	Detention of persons with disabilities	In Compliance	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:

The policy relevant to this requirement is DPD Directive 305.8, Detainee Food Service, effective May 9, 2005 and revised March 20, 2010. This policy 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. 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.

The DPD is in Phase 1 compliance with this paragraph.

Comments:

Phase 2 compliance is related to and contingent upon the implementation of C50; accordingly, DPD is also in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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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:

The policy relevant to this requirement is DPD Directive 305.8, Detainee Food Service Hygiene Items, effective May 9, 2005, and revised June 12, 2010. This directive was developed in consultation with a dietician and sanitation specialist from the Detroit Department of Health and Wellness Promotion (DHWP). The most recent revised and implemented Detainee Meal and Hygiene Items Log, DPD 663, was effective July 5, 2010. We received documentation of this revision, Administrative Message, Teletype 10-02497 dated July 2, 2010.

DPD is in Phase 1 compliance with this paragraph.

Comments:

During the current reporting period, we reviewed a random sample of 1,464 entries on DPD 663 form Daily Detainee Meal and Hygiene Items Log. Our review indicated that 1,407 of these entries were in compliance and 57 were not. In every case, the supervisor properly documented the date and time of review. In every instance, the type of meal was indicated; and in 56 instances, documentation was lacking for those detainees released from custody. Twenty-eight of these violations were found at the Eastern District, and 21 at the Sixth Precinct. The forms at the Northeastern, Southwestern, and Twelfth Precincts were appropriately completed. We found DPD was 96% in compliance, a slight decline from the 97% we found in the previous reporting period.

We also reviewed 10 (70 days) Refrigeration Logs during this reporting period. We found that in every instance the refrigerators had been cleaned weekly. The refrigerator temperatures and expiration dates on the food were up to standard. In addition, we verified that all districts/precincts that maintain holding cells that we inspected had an adequate number of alternative meals available for detainees with religious or dietary needs.

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DPD remains in Phase 2 compliance with this paragraph. DPD must ensure that detention staff have an adequate number of alternative meals onsite, and that the meals are stored in a clean and sanitary environment to maintain this compliance 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:

The policy relevant to this requirement is DPD Directive 305.8, Detainee Food Service and Hygiene Items, effective May 9, 2005, and 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:

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In the current reporting period, we reviewed a random sample of 1,464 Meal and Hygiene Logs. We checked the column that indicates if hygiene kits were requested or provided, and found that DPD personnel make them available to detainees. We inspected each area where the meals are stored to see if the kits were readily available, and found that in all five facilities there were an adequate number of hygiene kits to distribute to detainees when needed. In one of the facilities the feminine hygiene products supply had been depleted (none on site) and personnel in the facility advised the new supply was being delivered that same afternoon. DPD holding facilities should be aware of the existing supply and reorder these necessities prior to depleting them.

Our interviews with the PDOs show an understanding in the importance of providing personal hygiene items to the detainees on a daily basis.

The DPD's compliance rate with this requirement is 100%. 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.

Policy:

The policies relevant to this requirement are DPD Directives 305.4, Holding Cell Areas, effective May 9, 2005, revised effective March 1 2010; and Directive 304.2, Use of Force, effective June 27, 2006, and revised November 1, 2010.

DPD is in Phase 1 compliance with this requirement.

Comments:

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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.

During this reporting period, we reviewed 11 incidents occurring at detention facilities, 10 uses of force, and two suicide attempts.⁵³ There were three incidents at the Sixth Precinct; one at the Eastern District; three at the Twelfth Precinct; one at the Northeastern District; and three at Southwest.

One attempted suicide occurred at the Twelfth Precinct. The review of the suicide attempt found that the subject used a wire from his braces to inflict cuts to his wrists. We also reviewed the investigation of an attempt suicide in the Northeastern District holding facility. A detainee attempted to hang himself with a long-sleeved shirt. The shirt had so much give that no injuries occurred. Nonetheless, he was transferred to DRH, and a full and complete investigation was conducted. All available video evidence was reviewed, and it was determined that all personnel responded appropriately.

The use of force cases in the cell block areas suffer from some of the same deficiencies as those outside the facilities: sketchy reports; brief interview of officers; and a less than critical review of investigations at the command level. The DPD 31 Quarter Report, June 30, 2011, notes that on May 31, 2011, DPD issued Teletype #11-0660, mandating that all use of force investigations and reports include a declarative statement regarding the status of acquiring any captured video for the incident being investigated. During this reporting period, DPD improved its efforts to review videos, doing so in eight of the 11 cases. The Department needs to improve, however, in explaining the contents of the videos. Simply stating that the video is consistent with the officers' statements will not suffice. There were no instances in which the newly acquired portable digital cameras were utilized to video an extraction and or use of force.

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:

⁵³ Four incidents in March 2011; three in April 2011; and four in May 2011.

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- a. Officers utilize appropriate precautions when interacting with a prisoner who has previously demonstrated he or she is recalcitrant or resistant, including: summoning additional officers; summoning a supervisor; and using appropriate restraints;*
- b. absent exigent circumstances, officers notify a supervisor before using force on a prisoner who is confined to a cell; and*
- c. the supervisor 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:

The policies relevant to this requirement are DPD Directives 305.4, Holding Cell Areas, effective May 9, 2005, revised effective March 1, 2010; and Directive 304.2, Use of Force, effective June 27, 2006, and revised November 1, 2010. DPD is in Phase 1 compliance with this paragraph.

Comments:

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. During our last site visit, we were informed that in addition to the mounted video equipment the detention districts/precincts have now been issued handheld cameras that can be used for planned extractions. Our visits to the various holding facilities found that supervisors were aware of the handheld cameras and had received some training in their use. DPD needs to ensure that the cameras are stored in an area easily accessible to the cell block supervisors, which will facilitate their use as situations arise.

In evaluating whether or not the officers used the appropriate precautions when interacting with prisoners who had previously demonstrated that s/he is recalcitrant or resistant, we found that there were three cases that could be evaluated against this requirement. The remaining eight cases were spontaneous in nature and did not allow time to comply with the sub-sections of this requirement.

In one instance, the officer recognized the belligerent behavior on the part of the prisoner and initiated steps to neutralize the situation, but the prisoner lashed out before the officer could secure him. In the other two cases, no steps were taken to neutralize the situation before force had to be utilized. There were no instances that could fall into the category of an extraction from a cell, consequently neither 53 (b) or 53 (c) were found to be applicable to the uses of force.

In our last report, we indicated that handheld video cameras were deployed to all of the detention facilities to facilitate compliance with paragraph c of this requirement. During our most recent site visit, we inspected the Northeastern and Eastern Districts, the Schaefer Annex, and the Sixth and Twelfth Precincts. In each location, we checked the availability and condition of the

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cameras, as well as an understanding of the policy governing when they would be used. Results were mixed. While in some facilities, supervisors were obviously familiar with the cameras' operation and when they should be used, in others they had difficulty turning them on. In one facility, the camera was uncharged and stored in an office that is normally kept locked other than on the day shift. While we commend DPD for finally deploying these cameras, in the rush to begin deployment, it is possible that consistent training was not provided, nor were adequate expectations for the cameras' use articulated.

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:

The policy relevant to this requirement is DPD Directive 305.4, Holding Cell Areas, Section 6.1, effective March 2010. DPD remains in Phase 1 compliance with this paragraph.

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. Our review of DPD 715 forms (Evaluation of the Operation of Holding Cells), question 22 ("Were any detainees observed handcuffed to an object?"), revealed two instances in which prisoners were so handcuffed. In one case, the detainee was handcuffed while he used a telephone for a period of 5 minutes, and in the other, a prisoner was handcuffed to a gurney in Detroit Receiving Hospital.

DPD is in Phase 2 compliance with this paragraph.

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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:

The policy relevant to this requirement is DPD Directive 305.4, Holding Cell Areas, Section 6.6, effective March 2010. DPD remains in Phase 1 compliance with this paragraph.

Comments:

We found the DPD out of Phase 2 compliance with this paragraph during all of the previous reporting periods.

During this reporting period, we reviewed 10 incidents involving uses of force in holding cells. The use of force case investigations in the cell block areas suffer from the same deficiencies as those outside the facilities: late reports; no review of videos; and less than critical reviews at the command level.

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There were two cases of attempted suicides and no in-custody deaths in the cell block area.⁵⁴

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:

The policies relevant to this paragraph are DPD Directive 305.4, Holding Cell Areas, Section 6.2, effective March 2010; and Directive 304.2, Use of Force, effective June 27, 2006, and revised November 1, 2010. The DPD remains in Phase 1 compliance with this paragraph.

Comments:

As noted in requirement C52, the use of force cases in the cell block areas suffer from some of the same deficiencies as those outside the facilities: sketchy reports and less than critical reviews of investigations at the command level. DPD has made a more concerted effort to get supervisors to review videos when they conduct these investigations in the holding facilities. Of the 11 cases we reviewed, we ascertained that there were video reviews prior to submission of the completed investigation in eight of the cases; in one, there were no details provided regarding its contents, which is twice as many as were reviewed in the last quarter. Of the three that had no review, one reflected that a recording had been ordered; in one, the video was inoperable and the incident unfolded too quickly and precluded the use of the handheld camera; and in one, the incident occurred in an area without video coverage. While all of the video reviews did not contain the detail we would like to see, the investigators are also improving in this area.

DPD is not in Phase 2 compliance with this paragraph.

⁵⁴ The attempted suicides are discussed in more detail in C52.

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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.

Policy:

The policy relevant to this requirement is DPD Directive 305.4, Holding Cell Areas, Section 6.2, effective March 2010. This policy 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:

Other than the attempted suicides, which are discussed in CJ Requirement C52, there were no injury reports submitted for review during this reporting period. The DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

- The issues which impact the quality of use of force investigations as described in the Use of Force section of the Consent Judgment are applicable to the use of force investigations of incidents occurring in cell block area. The remedies we have recommended in those areas remain constant for the Conditions of Confinement requirements. Timely and

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thorough investigations, coupled with critical command level reviews, are the keys to achieving compliance.

Next Steps:

During the next reporting period, we will:

- Continue to review all force, injury, and complaint incidents originating from detention facilities.
- Monitor the supervisory review of video captured in the detention areas, and, where appropriate, monitor the use of handheld cameras in each detention facility.
- Conduct field visits to various detention facilities to verify the Department's adherence to policy requirements.

¶	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	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:

The policies relevant to these requirements are DPD Directives 305.4, Holding Cell Areas, Section 6.2, effective March 2010 and 102.6, Citizen Complaints, effective July 1, 2008, and revised November 2010. These policies require the acceptance and processing of external complaints regarding incidents occurring in the holding cells. DPD is Phase 1 compliance with this paragraph.

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Comments:

We found DPD in Phase 2 compliance with this paragraph during all of the previous reporting periods.

The Department closed 11 complaints originating from detention facilities during the reporting period: five in April; two in May; and four in June. All complaints were accepted and processed in accordance with DPD policy. Nine of the 11 cases involved force allegedly used during the arrest of the subjects, *before* they were brought into the detention facilities. One involved force used during intake processing, and the other was a complaint by a concerned family member that a detainee's medications were not being dispensed properly. OCI retained investigation of all of the complaints. 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:

The policy relevant to this requirement is 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. These directives require the investigation and review of all external complaints regarding incidents occurring in the holding cells. 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.

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The Department closed eleven complaints originating from detention facilities during the reporting period. Only five were completed within 90 days, and yet only three contained requests for extensions. (One investigation lasted eight months with no extension requests or any other explanation for lack of investigative activity). Involved officer statements were considered untimely in five of the cases. Video was checked in the cases where it was appropriate to do so. 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

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.
- Check, in applicable cases, for the appropriate use of handheld cameras, now that they are deployed in all detention facilities.
- Conduct field visits to various detention facilities to verify members' knowledge of and the Department's adherence to policy requirements.

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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.

Policy:

The policy relevant to this requirement is DPD Directive 404.1, Definitions, effective November 2010. The DPD has incorporated these terms in various directives and other official documents throughout the term of this Agreement. DPD is in Phase 1 compliance with this paragraph.

Comments:

We found the DPD in Phase 2 compliance in all of the previous reporting periods. That status continues in this reporting period.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C61

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

Policy:

The policy relevant to this requirement is DPD Directive 101.1, Written Directive System, effective November 2010. This policy sets forth the procedure for developing, publishing, distributing, and updating policy and procedures within the Department. (See also U71.) DPD is in Phase 1 compliance with this paragraph.

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Comments:

See U71. The DPD is in continued Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
60	Clearly define all terms in policies	In Compliance	In Compliance
61	Policy changes available to community	In Compliance	In Compliance

XV. MANAGEMENT AND SUPERVISION***CJ Requirement C62***

The DPD shall routinely evaluate the operation of the holding cells to minimize harm to staff and prisoners.

Policy:

The policy relevant to this requirement is DPD Directive 305.4, Holding Cell Areas, effective May 9, 2005, and updated on April 21, 2011. DPD is in Phase 1 compliance with this paragraph.

Comments:

During the sixth reporting period, we learned that CRIB implemented a new procedure for completing the 715 forms. CLOs are now responsible for completing the forms once per month – not daily. Also during the sixth reporting period, the DPD provided us with our requested sample of 715 forms for evaluation of the five districts/precincts that maintain holding cells. All of the 715 forms we received were signed by the Compliance Liaison Officers (CLO). However, we did not receive any documents for the DRH.

During the last reporting period, CRIB staff inspected Operation of Holding Cells monthly utilizing Form 715, Evaluation of the Operation of Holding Cells. All of the inspections were

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completed for the precinct/districts, and the 715 forms were submitted for documentation; once again, there were no inspection forms for DRH, as required by this paragraph.

This reporting period, CRIB staff inspected all of the holding cell and the DRH each month and documented their findings on Form 715 Evaluation of the Operation of Holding Cells. All forms were complete with all required signatures.

We find 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:

- 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, and relating to the risk management system (U78-90), personnel evaluations (U91), 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).

Comments:

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With regard to personnel evaluations, requirements to sustain Phase 2 findings in U91 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, also 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 we note progress with MAS during this reporting period, the current status of the system does not yet support a finding of Phase 2 compliance. (See U88.) 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

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 prisoner processing areas of the DPD holding cells within one year of the effective date of this Agreement;⁵⁵*
- 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.*

⁵⁵ Amended by Court Order dated June 1, 2011.

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Policy:

The policy relevant to this requirement is DPD Directive 305.4-6.3, Video-Taping Use of Force, reviewed and updated on April 21, 2011. DPD is in Phase 1 compliance with this paragraph.

Comments:

During our previous inspections of holding cells, we observed the operation of video cameras in all processing areas and throughout the holding facilities. We noted that CRIB and/or detention staff conducts monthly random reviews of videos in processing areas as well as specific reviews when a use of force incident occurs.

During our January 2011 site visit, the Parties determined that video cameras were not required outside of the processing areas. During our April and July site visits, the video cameras in all of the districts/precincts that maintain holding cells were operational in the processing areas. DPD has purchased handheld video cameras to achieve compliance with C53, subparagraph c, which states: "The DPD shall revise and augment its policies regarding prisoners to require that: 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." Personnel in four of the facilities were able to activate the handheld cameras; and in one facility, staff had difficulty in locating the camera and when they found it, the battery was dead. This equipment should be routinely checked to ensure its operability.

We reviewed DPD Form 713, effective April 2010, that requires personnel working in the five holding facilities to conduct random reviews of holding cell processing areas for training and integrity purposes and found the reviews timely.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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;

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- 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.⁵⁶*

Policy:

The DPD, using generally accepted government auditing standards (GAGAS), developed an Audit Protocol policy in accordance with the above requirements, effective August 31, 2008. The protocol 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. The protocol was reviewed and updated, effective October 31, 2010. The DPD remains in Phase 1 compliance with this paragraph.

Comments:

For the previous reporting periods ending July 31, 2009; January 31, 2010; and July 31, 2010; the Civil Rights Integrity Bureau (CRIB) Audit Team conducted the required Combined Uses of Force Investigations Audits.⁵⁷

⁵⁶ 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.

⁵⁷ 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)

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During the last reporting period, on January 31, 2011, the CRIB Audit Team completed and issued its Combined Use of Force Investigations Audit. We reviewed the audit for that reporting period. The next semi-annual audit will have been completed by July 31, 2011. We will review it in our next report.

Accordingly, we continue to find the DPD in Phase 2 compliance with this paragraph.

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 (see C65). The DPD remains in Phase 1 compliance with this paragraph.

Comments:

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.

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During the last reporting period, we reviewed the Fire Safety Practices and Policies Audit that was completed and released on January 31, 2011.

During this reporting period, we inspected the five districts/precincts that maintain holding cells, and examined the policies and practices related to Departmental fire safety. (See C14-22.)

The Fire Safety Program requires fire drills to be conducted on each shift twice each year. Our review of Log 703 revealed that all units were 100% in compliance with this requirement.

Fire extinguishers are also required to be inspected and inventoried on a monthly basis. Our review of Log 716 Fire Extinguisher Monthly Inspection/Inventory Report revealed that all units were in 100% compliance. We conducted a visual check at each unit, and all fire extinguishers were charged and up to date.

Accordingly, we continue to find DPD in 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 (see C65). The DPD remains in Phase 1 compliance with this paragraph.

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Comments:

During the last reporting period, we reviewed the Comprehensive Emergency Preparedness Program audit conducted by the HCCC and the CRIB Audit Team for the period ending January 31, 2011. We confirmed 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 inspection of all precincts/districts that maintain holding cells, we 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. Accordingly, we continue to find the DPD in Phase 2 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:

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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 (see C65). The DPD remains in Phase 1 compliance with this paragraph.

Comments:

During the last 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 the audits to continue to uncover many of the same deficiencies we have found during our quarterly reviews and inspections. The next semi-annual audit will have been completed by July 31, 2011. We will review it in the next reporting period.

We visited the five districts/precincts 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.

We conclude that the DPD has met the requirements for performance and documentation of requirements of this paragraph. The DPD remains 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.*

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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 (see C65). The DPD remains in Phase 1 compliance with this paragraph.

Comments:

During the last reporting period, the CRIB Audit Team completed and issued its audit results for the Detainee Safety Program on January 31, 2011. We reviewed the current audit independently, and found that many of the deficiencies founded are similar to our findings during our inspections.

Additionally, 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 conclude that the DPD has met the requirements for performance and documentation of the requirements of this paragraph. Accordingly, we find 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;*
- 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;*

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- 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 (see C65). The DPD remains in Phase 1 compliance with this paragraph.

Comments:

During the last reporting period, the CRIB Audit Team completed its audit of the Environmental Health and Safety Program and issued their findings on January 31, 2011. We reviewed the team's results. We continue to conduct inspections separately on operational implementation of policies and practices of the five districts/precincts with holding cells and the DRH. Our findings are discussed above in C39-46. The next semi-annual audit will have been completed by July 31, 2011. We will review it in the next reporting period.

We conclude that the DPD has met the requirements for performance and documentation of requirements of this paragraph. The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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;*

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- 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 (see C65). The DPD remains in Phase 1 compliance with this paragraph.

Comments:

During the last reporting period, the CRIB Audit Team completed and issued its command-specific audit on the DPD food service program and hygiene practices on January 31, 2011. We found the audit to be comprehensive and meeting the requirements for performance and documentation of requirements of this paragraph. The next semi-annual audit will have been completed by July 31, 2011. We will review it in the next reporting period.

We continue to visit the five 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.

The DPD remains 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 that topic. The DPD shall issue all audit reports to the Chief of Police and also provide copies to

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*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.*⁵⁸

Policy:

The DPD developed an Audit Protocol, effective August 31, 2008 (see C65). The protocol was reviewed and updated effective October 31, 2010 to require that commanders take disciplinary or non-disciplinary action where appropriate. Accordingly, DPD remains in Phase 1 compliance with this paragraph.

Comments:

The CRIB is mandated under this Consent Judgment paragraph to provide written reports for the Chief of Police and specified commanders. In previous reporting periods, we found that the various reports and field responses were unacceptable, in that these reports were specific to the district/precinct and did not receive sufficient attention. The CRIB conducted a review of the audit process, and subsequently 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 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. In the past, we did not always receive specific command corrective action plans. We felt that the CAP format was insufficient. Our review revealed deficiencies, including missing signatures on employee reprimands and inconsistency in the format of a CAP. 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. In response, CRIB developed a new electronic format.

During the sixth reporting period, we met with CRIB to discuss the new format. DPD advised that these adjustments were implemented so that the commanders/inspectors can respond within the audit report timeframe. This new format places all the critical information in one document, which makes the process more efficient.

⁵⁸ Consent Judgment amendment, April 15, 2009.

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For the last reporting period, we received and reviewed the command-specific audits for the period ending January 31, 2011. The audits included are 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. In addition, we reviewed the command-specific corrective action plans (CAP) that are now incorporated into the new reporting process. Our assessment of the new process finds that it meets the requirements of this paragraph.

We will review the semi-annual audits due on July 31, 2011 in the next reporting period. The DPD is now in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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	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	In Compliance

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CJ Requirement C73

The DPD shall provide comprehensive pre-service and in-service training to all detention officers.

Policy:

The policy relevant to this requirement is found in Directive 304.5, Training, issued and effective May 13, 2011. This directive replaced Special Order 11-07. Section 304.5-4.3 requires that prior to performing duties relative to detainees in DPD holding cells, a DPD member shall have attended and successfully completed the Detention Officer Course and that they shall attend a detention course annually. DPD is in Phase 1 compliance with this paragraph.

Comments:

During 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. DPD has steadily improved in this area. In January and April 2011, our surveys found 100% compliance; all officers and supervisors who had worked in detention on the selected days had received detention training.

During this reporting period, we again sampled three days (Monday, April 18; Sunday, May 15; and Thursday, June 23, 2011) and found 100% compliance; all officers who worked in detention duties on those days had completed the Detention Officer Course.

The Department is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C74

The DPD shall create and maintain individual training records for all detention officers, documenting the date and topic of all pre-service and in-service training, completed for all training completed on or after the effective date of this agreement.

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Policy:

The policy relevant to this requirement is DPD Special Order 11-07, Training, effective January 1, 2011 and in Directive 304.5, Training, issued and effective May 13, 2011. This directive replaced Special Order 11-07. The specific policy relevant to this requirement is found in Section 304.5-6.4, captioned "Training Records," which directs that Training shall maintain a record of all training participated in by each individual DPD officer, Senior Detention Facility Officer, and Detention Facility Officer. DPD is in Phase 1 compliance with this paragraph.

Comments:

During this reporting period, we found that DPD had completed its work entering training records since 2003 into the Michigan MITN system.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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.*

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Policy:

The policy relevant to this requirement is found in Directive 304.5, Training, issued and effective May 13, 2011. This directive replaced Special Order 11-07. Section 304.5-7.6, captioned “Detention Officer” requires training as outlined in this requirement. DPD is in Phase 1 compliance with this paragraph.

Comments:

Although DPD detention training adequately addresses the requirements of C75, we found in our previous reviews that the Department continued to assign officers and supervisors who had not been trained in detention duties. Since our quarterly review in January 2011, we have found that 100% of DPD officers serving in detention duties on three randomly selected days have attended the required detention training.

During this reporting period, we again found that 100% of DPD officers serving in detention duties had attended the required training. DPD remains in Phase 2 compliance with this paragraph.

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.*

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Policy:

The policy relevant to this requirement is found in Directive 304.5, Training, issued and effective May 13, 2011. This directive replaced Special Order 11-07. Section 304.5-7.6, captioned “Detention Officer,” requires training as outlined in this requirement. DPD is in Phase 1 compliance with this paragraph.

Comments:

During previous reporting periods, we found that this requirement addresses training to be afforded to all detention officers, supervisors, and members of the Holding Cell Compliance Committee.

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 this reporting period showed that 100% of the officers serving in detention duties received this training, we find DPD in Phase 2 compliance with this paragraph.

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*

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- d. examples of scenarios faced by detention officers illustrating appropriate security screening, segregation and monitoring techniques.*

Policy:

The policy relevant to this requirement is found in Directive 304.5, Training, effective May 13, 2011. This directive replaced Special Order 11-07. Section 304.5-7.6, captioned “Detention Officer,” requires training as outlined in 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 this reporting period showed that 100% of the officers serving in detention duties received this training, we find DPD in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C78

The DPD shall provide all detention officers, supervisors and members of the Holding Cell Compliance Committee with annual training in environmental health and safety and hygiene. Such training shall include and address the following topics:

- a. cell block cleaning and maintenance protocols; and*
- b. sanitary food preparation and delivery protocols.*

Policy:

The policy relevant to this requirement is found in Directive 304.5, Training, issued and effective May 13, 2011. This directive replaced Special Order 11-07. Section 304.5-7.6, captioned “Detention Officer,” requires training as outlined in this requirement. DPD is in Phase 1 compliance with this paragraph.

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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 this reporting period showed that 100% of the officers serving in detention duties received this training, 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
C73	Pre-service and in-service training	In Compliance	In Compliance
C74	Maintain records training	In Compliance	In Compliance
C75	Emergency preparedness training	In Compliance	In Compliance
C76	Medical/mental health training	In Compliance	In Compliance
C77	Detainee safety programs training	In Compliance	In Compliance
C78	Environmental, safety, and hygiene training	In Compliance	In Compliance

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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; our fifth site visit from October 18, through October 22, 2010; our sixth site visit from January 24, through January 28, 2011; and our seventh site visit from April 18, through April 22, 2011. Our eighth site visit, connected with this report, took place between July 18, through July 22, 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 Consent 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 Consent 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.

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A statement of “Critical Issues” follows the reviews of the requirements in each major section of the Consent 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 Consent Judgment.

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 toward 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

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be given this status for only two successive quarters at which time the status shall be changed to “Not in Compliance,” unless compliance has been achieved.

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

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

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

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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

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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
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 FIS</i>)
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

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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
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

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APPENDIX C: Monitoring Team

Robert S. Warshaw, *Monitor*

Chief (Ret.) Charles D. Reynolds, *Deputy Monitor*

Lieutenant Colonel (Ret.) J. Rick Brown

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 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.

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.

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John M. Klofas, Ph.D.

Evaluates compliance with U78-90, Risk Management Database; U91, Performance Evaluation System; U92-97, Oversight; and U103-105, Discipline.

Leonard F. Rice, M.E.S., R.S.

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; and C71-72, Management and Supervision.

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; C26-34, Medical and Mental Health Care Policies; C35-38, Prisoner Safety Policies; C47-48, Policies Concerning Persons with Disabilities; C49-50, Food Service Policies; C51, Personal Hygiene Policies; and C64 which falls under the Management and Supervision 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

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 are 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 Consent Judgments.

Dashboard Data: Detroit Police Department 2010-2011																		
	Jan	Feb	March	April	May	June	July	August	Sept	Oct	Nov	Dec	Jan-11	Feb	March	April	May	June
Total Arrests	3108	2751	3074	3052	3012	2937	2634	2629	2397	2309	2115	1871	2099	1943	2456	2523	2959	2470
					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	43.83	29.34	46.01	40.82	37.51	45.34
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	0.48	1.03	1.22	0.79	0.68	1.21
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	64.79	49.41	50.49	56.28	47.65	59.92
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	5.24	5.15	4.89	3.17	5.41	3.64
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	7.15	3.60	7.33	8.32	5.75	2.43
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	6.19	4.63	5.29	3.57	8.11	6.07
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	52.41	47.35	20.77	39.64	25.35	43.32
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	2.38	3.09	5.70	10.31	7.10	5.26
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	15.72	8.23	18.32	15.46	16.90	16.60
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	8.10	1.54	4.48	3.17	5.07	6.07
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	2.38	1.54	2.85	5.15	3.04	1.62
Total Judgment noted Arrsts (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	28.59	14.41	31.35	34.00	32.11	29.55