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**Independent Monitor
for the
Detroit Police Department**



Robert S. Warshaw

Independent Monitor

Office of the Independent Monitor
Police Performance Solutions, LLC

July 14, 2014



NINETEENTH QUARTERLY REPORT

**NINETEENTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
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SECTION ONE: INTRODUCTION

On October 5, 2009, the Honorable Julian Abele Cook, Jr., United States District Court Judge for the Eastern District of Michigan, Southern Division (the Court), appointed me to serve as the Independent Monitor of the Use of Force and Conditions of Confinement Consent Judgments in the case *United States of America v. City of Detroit, Michigan (the City) and the Detroit Police Department (DPD)*, No. 03-77758, decided in June 2003. With this appointment and assisted by a team of highly respected professionals, I assumed responsibility for monitoring compliance with the requirements of these Judgments – the implementation of a compilation of generally accepted professional police and confinement policies, procedures, and related practices.

Our Team conducted our first quarterly site visit in November 2009, and has conducted subsequent site visits each subsequent calendar quarter. There has been, of course, considerable change within the City and the Detroit Police Department during our engagement.

Similar to previous reports, the issuance of this report follows an onsite visit to assess and guide the Department's ongoing efforts. However, unlike our previous reports, this report includes our assessment of the Department's compliance with each of the requirements contained only in the Use of Force Judgment. As we have reported previously, DPD's agreement with the State of Michigan regarding detention, in effect, allowed for the dissolution of the Conditions of Confinement Consent Judgment. We describe this further below.

The body of this report is comprised of our assessments of compliance with the individual requirements of the Use of Force Consent Judgment. Our findings are based on the results of discussions and meetings with City and DPD staff, observations of operational activities, inspections of facilities, and our review of documents and data covering the period of January 1, through March 31, 2014. We include introductory narratives for each major section of the Judgment. Following these narratives are their respective requirements and our comments regarding the compliance status for each. After these are summary notations of Phase 1 and Phase 2 compliance. A statement of "Critical Issues" follows the reviews of the requirements in each major section of the Judgment. A brief statement of "Next Steps" follows, in which we describe a plan of work for the next visit including a discussion of the data we plan to review. Finally, a table summarizes the compliance finding for that particular section of the Judgment.

Our Team determines compliance through an examination of policies and implementation of practices that support each requirement in the Judgment. Phase 1 compliance is dependent upon the development and adoption of a policy or set of procedures that supports each requirement. Phase 2 compliance is dependent on the effective implementation of the practices necessary to meet the requirements, consistent with the applicable policy. Full compliance is dependent on both Phase 1 and Phase 2 compliance. Accordingly, we note our finding of "in compliance" or "not in compliance" for each requirement.

Additionally, in the limited circumstances where substantial work and time is required to achieve implementation of a policy or procedure and the related practices, and where ongoing progress is clearly evident, we recognize that progress with the designation "pending compliance." Where there are circumstances in which we are unable to fully determine the compliance status of a

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requirement due to a lack of data or other reasons, we identify that status with the designation “deferred.”

Verification of compliance with the many parts of the Consent Judgment requires the analysis of multiple instances of activity, reviewing cases, or observations of the practical application of policies and procedures. In those circumstances, our first option is to conduct an analysis-based on a review of all cases or data. Where that is not appropriate or possible, we rely 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 Judgment.

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

The Vacating of the Conditions of Confinement Consent Judgment

The Conditions of Confinement Consent Judgment set forth procedural and operational requirements relating to the confinement facilities maintained and operated by the Detroit Police Department. The Judgment required 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 set 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. Finally, the Judgment established requirements for management and supervision, the auditing of internal practices, and the training of personnel who are assigned detention responsibilities.

Following negotiations between DPD and the Michigan Department of Corrections (MDOC), the two parties signed an Interagency Agreement in April 2013 compelling the State to house all DPD detainees. By October 2013, the Department’s detainees had all been transferred to MDOC facilities. Overall, the transition of DPD detainees to MDOC control was not seamless, but occurred with minimal disruption; and was a positive move with no identified issues from a medical/mental health care or an environmental health and safety viewpoint.

EXECUTIVE SUMMARY

This is the nineteenth quarterly report of the Independent Monitor in the case of United States of America v. City of Detroit No. 03-72258. The report covers the period of January 1, through March 31, 2014; and is based on our site visit of April 21, through April 25, 2014; and our subsequent analyses of relevant data from this period. As described above, this report includes our assessment of the Department’s compliance with each of the requirements contained only in the Use of Force Judgment. In this executive summary, I will review the levels of compliance found for this reporting period.

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Consistent with our agreement with the Parties, we again limited our assessments to include: all requirements that are not in compliance; as well as particular requirements that were selected by the Parties and the Monitor. The specified requirements selected for assessment by the Monitor are randomly selected and may vary from report to report. Overall, we did not assess 35 requirements during this reporting period; we are considering these requirements to be in *sustained* compliance.¹

With regard to Phase 1 (policy) compliance, for the eleventh consecutive reporting period, we found the City and the Police Department in compliance with all 110 (100%) requirements of the Use of Force Judgment. Following the practice we established in previous reports, all references to supporting policies, directives, and other relevant documents are listed in Appendix A.

For the current reporting period, we also found the Department in Phase 1 and Phase 2 compliance (full compliance) with 99 (90%) of the 110 Use of Force requirements. This is an increase of four percentage points from the level found in our last report. The specific changes are discussed below. In this report, compliance assessments are not deferred for any requirements.

Nineteenth Quarterly Report		
	Use of Force	
	Phase 1	Phase 2
Paragraph Numbers	14-123	
Number of Requirements	110	110
Pending Compliance	0	0
Not in Compliance	0	11
Deferred	0	0
In Compliance	110	99
Percent in Compliance	100%	90%

In summary, this is the eleventh consecutive report in which we found DPD in Phase 1 compliance with all (100%) of the 110 monitored requirements. We found the Department to be in full compliance (that is, both Phase 1 and Phase 2 compliance) with 99 (90%) of the 110

¹ The requirements that we did not assess include: U14; U19; U20; U21; U23; U26; U31; U41; U44; U54; U55; U56; U57; U58; U61; U63; U64; U65; U66; U70; U71; U72; U74; U76; U77; U81; U85; U86; U87; U88; U89; U120; U121; U122; and U123.

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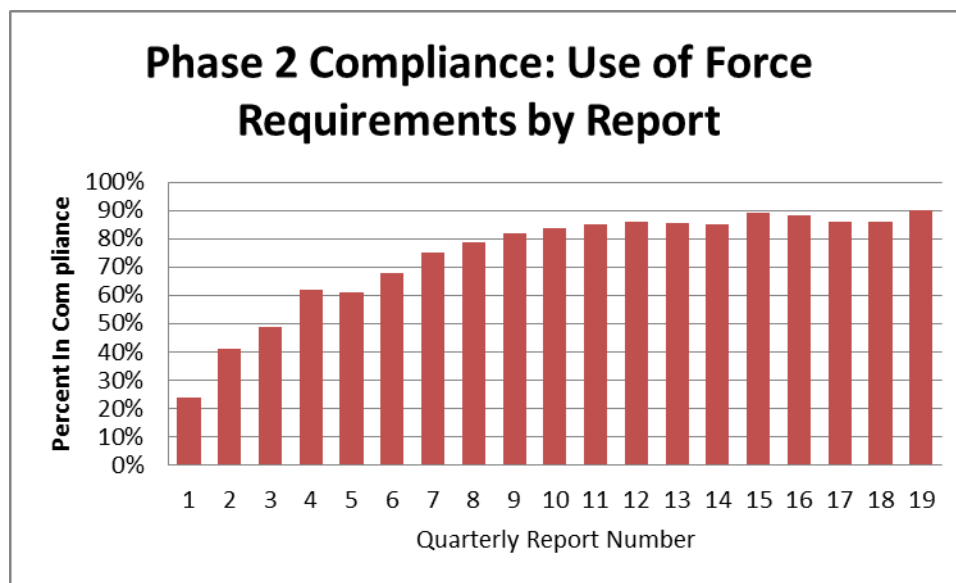
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monitored requirements of the applicable paragraphs of the Use of Force Consent Judgment. The overall level reflects an increase of compliance, by four requirements, from what was reflected in our last report. As shown in the table below, the net increase was the result of a decline of compliance with one requirements and improvement in five.

	Change in Compliance from Report 18	From, To
U15	The use of lethal, less lethal force	Not in Comp. to In Comp.
U18	Approval of policy	Deferred to In Comp.
U40	Review critical firearm discharges	In Comp. to Not In Comp.
U59	Required written review of violations	Not in Comp. to In Comp.
U73	Adequate officer/supervisor ratio	Not in Comp. to In Comp.
U75	Revise policies regarding off-duty officers	Deferred to In Comp.

The chart below illustrates the levels of compliance achieved on the Use of Force Judgment across all 19 reporting periods. It shows a return to the trend of improvement after decline and stagnation across our two most recent previous reports.



The table below provides the summary data illustrating the status of compliance over the course of all of our quarterly reporting periods.

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Quarterly Report		
Compliance Levels	Use of Force	
	Phase 1	Phase 2
Report 1	81%	24%
Report 2	94%	41%
Report 3	96%	49%
Report 4	98%	62%
Report 5	97%	61%
Report 6	99%	68%
Report 7	99%	75%
Report 8	100%	79%
Report 9	100%	82%
Report 10	100%	84%
Report 11	100%	85%
Report 12	100%	86%
Report 13	100%	85%
Report 14	100%	85%
Report 15	100%	89%
Report 16	100%	88%
Report 17	100%	86%
Report 18	100%	86%
Report 19	100%	90%

The next table identifies the requirements that remain out of compliance. The reader should consult the report below to consider the full text of these requirements.

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Requirements Not in Compliance, Report 19		
¶	Requirement	Phase 2 – Implementation
U28	Investigation by uninvolved supervisor	Not in Compliance
U29	Procedures for investigative interviews	Not in Compliance
U32	Revise investigatory report policies	Not in Compliance
U36	Completion of command investigations	Not in Compliance
U38	Protocol for critical discharge investigations	Not in Compliance
U33	Chain of command reviews	Not in Compliance
U40	Review critical firearm discharges	Not in Compliance
U45	Written account of stops and frisks	Not in Compliance
U60	Required written review of violations	Not in Compliance
U101	Revision of video camera policy	Not in Compliance
U102	Record all vehicle stops, searches, etc.	Not in Compliance

We are pleased that the Department has returned to a positive trend following what we noted appeared to be a “plateauing” in recent reports. We must note, however, as we have in the past, that all of the requirements of the Consent Judgment do not carry the same weight with regard to current conditions in the Department – or the prospect for sustaining constitutional policing in the future. The areas where the Department must show improvement are those that require the strongest leadership, the most judicious use of discretion, and the greatest capacity for critical self-analysis and commitment to improvement. The collection of non-compliant requirements indicates that the Department continues to falter in its ability to consistently and carefully conduct internal investigations, and to learn and reform its practices based on the results. We regard these as essential elements for achieving – and sustaining – progress in the Department. That said, the Department is to be commended for recalibrating its efforts in the right direction. Chief Craig and his team should be credited for helping lead the way in the Department’s road to full compliance.



Chief (Ret.) Robert S. Warshaw
Monitor

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The Monitoring Team:

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

Lt. Colonel (Ret.) J. Rick Brown

Division Chief (Ret.) Rachel M. Burgess

Commander (Ret.) John M. Girvin

Chief (Ret.) Eduardo Gonzalez

John M. Klofas, Ph.D.

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

Chief (Ret.) Billy R. Riggs

Asst. Director (Ret.) Joseph R. Wolfinger

Robin Busch-Wheaton, *Editor*

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; relates 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 facedown.

To assess implementation of these policies for this and 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.

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 19 critical firearm discharges.

The DPD selected the PR-24 collapsible baton as its impact device, and provided training on its use to 844 (39%) through the second quarter of the fiscal year. We reviewed instances of chemical spray deployments during this reporting period, and found that there were seven cases in which chemical spray was utilized. A warning was articulated or danger documented prior to its use in all seven of those cases.

During this reporting period, DPD continued its practice of issuing Roll Call Information Bulletins that are designed to improve member compliance with DPD policy reflecting the Consent Judgment requirements. See Appendix D.

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During our January 2014 site visit, after observing an accounting error on the number of cases submitted to us by the FI Commander, we sought to determine if we had received all of the cases closed by Force Investigation in 2013. After some inquiry, we learned from the newly assigned FI command staff that they had identified a large number of cases that were not properly completed by the previous FI command staff. We eventually discovered that eight closed FI cases were not submitted to us for assessment, as required.

After we requested copies for our review and the FI Commander could not locate one critical firearm discharge case, we notified the Commander of the Office of Professional Standards, via email, of the situation; and the fact that our cursory review revealed that these cases would have lowered FI's compliance percentage in several areas had they been assessed during the applicable reporting periods.

The FI Commander ultimately provided all eight cases for our assessment and confirmed the case numbers, date of the incident, and date closed for the case inventory. These use of force cases involve significant events, and so we added them to the 38 other completed FI cases submitted for this reporting period. As a result, we assessed a total of 46 FI cases during this reporting period.

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.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

CJ Requirement U15

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

- a. identifies when and in what manner the use of lethal and less than lethal force are permitted;*
- b. relates the force options available to officers to the types of conduct by individuals that would justify the use of such force; and*
- c. states that de-escalation, disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements or calling in specialized units are often the appropriate response to a situation.*

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

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Our previous reviews 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.

Command Level Investigations: During this reporting period, we reviewed a total of 80 Command Level Investigations (11 FI investigations were removed from the population), which described the conduct of individuals against whom force was used and the corresponding response from the involved officers.² In evaluating officers' de-escalation techniques, we eliminated 14 cases of the original 101 we reviewed; 10 incidents in which there were no opportunities to attempt de-escalation, two cases involving detainee injuries in which force was not used, and two cases where officers were assisting citizens to get up who were on the lying on the ground. We evaluated 76 cases; in 73 (96%) of them, we found evidence of some efforts at de-escalation or disengagement, a 7% increase from the last reporting period. Though this represents compliance, the DPD appears to require just enough to be *technically* compliant, but not necessarily *sustainably* compliant, with this fundamental requirement. It is imperative that DPD provide appropriate training to – and leadership for – officers that emphasizes the importance of de-escalation techniques as a means of avoiding violent confrontations between citizens and police, and the importance of adequately documenting the steps that officers take to minimize the use of force. Increased video/audio recordings of encounters with the citizens would prove beneficial in documenting compliance with this requirement.

DPD is in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U16

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

² We randomly selected 101 cases for review. Of these, 11 had no SIR investigations, leaving 80 cases for review. Of the 24 cases eliminated, 11 were assumed by Force Investigations; two were acquired-target incidents which do not require SIR investigations; and nine were K-9 deployments with no apprehension.

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Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

Use of Force Reports: To assess compliance for this reporting period, we reviewed 161 uses of force reports, of which 137 were applicable to this paragraph. We found that 132 (96%) of the 137 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.³

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

Force Investigations: During this reporting period, we reviewed 46 force investigations. Thirty-one of the 46 cases were not applicable due to exigent or vehicle pursuit circumstances existing that prevented the use of verbal commands, or because DPD personnel did not use force.

The DPD found in six of the remaining 15 cases that officers escalated the use of force unjustifiably; the involved officers in these cases are facing formal disciplinary action.

Thirteen of the 15 cases 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. This represents a 96% compliance rate.

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

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U17

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

³ The base was reduced from 161 to 137, due to two being detainee injuries with no force used and eight which reflected that there was no time for commands to be given due to the exigency of the situations; or that other officers on the scene were giving the commands.

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Use of Force Reports: To assess compliance with this requirement for this reporting period, we reviewed 161 uses of force reports and 80 Supervisory Investigation Reports (SIRs).⁴ There were no allegations that officers used chokeholds or similar carotid holds during this reporting period.

DPD remains in Phase 2 compliance with this paragraph for Command Level Investigations.

Force Investigations: Our review of 46 force investigations for this reporting period identified no incidents wherein a DPD officer used a chokehold to restrain a subject.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U18

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

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, U15, U16, U17, and U19; therefore, DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

⁴ The terms Command Level Investigations and Supervisory Investigation Reports (SIRs) are used interchangeably throughout the quarterly report.

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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.

Comments:

Force Investigations: Our review of 46 force cases for this reporting period revealed one event where a DPD officer used a PR-24 to strike a subject in the head. The officer is facing disciplinary action.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

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.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

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.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

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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 vehicle.⁵

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

Use of Force Reports: During this reporting period, we reviewed 179 uses of force reports and 80 Supervisory Investigation Reports (SIRs). There were no instances of officers shooting at or from a moving vehicle or instances in which an officer intentionally placed himself or herself in the path of a moving vehicle. DPD is in Phase 2 compliance with this paragraph for Use of Force Reports.

Force Investigations: During this reporting period, we reviewed 46 FI investigations, and found one incident involving an officer firing at a moving vehicle. The subject DPD officer is facing formal disciplinary action. DPD is in Phase 2 compliance for Force Investigations in this requirement.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U23

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (See Executive Summary)

⁵ Amended by Court Order dated June 1, 2011; approved by the BOPC, November 3, 2011.

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CJ Requirement U24

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

Use of Force Reports: During this reporting period, we reviewed 161 uses of force reports, and found no strikes to the head. DPD reported it had provided training on its use to 844 members (39%) through the second quarter of the fiscal year. DPD remains in Phase 2 compliance with this paragraph for use of force reports.

Force Investigations: During this reporting period, we reviewed 46 cases completed by FI; there were two cases where an intermediate force device (PR-24) was used. The DPD found that one use of the PR-24 was justified, and that the other was not justified due to a head strike. This is the same case cited in paragraph U19 above.

DPD remains in Phase 2 compliance with this paragraph for Force Investigations.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

C. Chemical Spray Policy***CJ Requirement U25***

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

- a. provide a verbal warning and time to allow the subject to comply prior to the use of chemical spray, unless such warnings would present a danger to the officer or others;*
- b. provide an opportunity for decontamination to a sprayed subject within twenty minutes of the application of the spray or apprehension of the subject;*
- c. obtain appropriate medical assistance for sprayed subjects when they complain of continued effects after having been de-contaminated or they indicate that they have a pre-existing medical condition (e.g., asthma, emphysema, bronchitis or heart ailment) that may be aggravated by chemical spray and if such signs are observed the subject shall be immediately conveyed to a local hospital for professional medical treatment; and*
- d. obtain the approval of a supervisor any time chemical spray is used against a crowd.*

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Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

Use of Force Reports: To assess compliance for this reporting period, we reviewed 161 uses of force reports and 80 Command Level Investigations. We found one deployment of chemical spray, with warnings or danger articulated in the case.⁶ This maintains the 100% compliance rate registered during the last reporting period. We also found that this case provided details of decontamination within 20 minutes of spraying or capture. This maintains the 100% registered during the last reporting period. There were no complaints of ill effects from the spraying noted in the case.

As we continue to note, the use of chemical spray by DPD officers is very limited; consequently, the Department must continue to emphasize the importance of attention to all of the details regarding the use of chemical spray.

DPD is in Phase 2 compliance for Command Level Investigations.

Force Investigations: During this reporting period, we reviewed 46 cases completed by FI, and there were two cases of chemical spray being used. DPD remains in Phase 2 compliance with the reporting of the use of chemical spray in Force Investigations.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U26

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

⁶ This number includes one case in January 2014.

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Critical Issues:

- 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. As we noted above, an improved reliance on body microphones and a strict requirement that officers utilize them when engaging Detroit citizens could prove beneficial to better documenting the de-escalation techniques. Unfortunately, in spite of our recommendations regarding attention to this detail, we observed no improvement in reliance on the video/audio equipment. While DPD previously advised that the issues experienced with the Data 911 Video System have been resolved and the system operational again, we find officers continuing to experience difficulties with their microphones or failing to activate them as required. We are aware that DPD is considering acquiring body-worn cameras for its members, and we encourage the Department to launch controlled trials in several of the precincts to determine the effectiveness of this new technology. While in Detroit in April 2014, we interviewed two officers at the Second Precinct who volunteered to wear and test the new body cameras. They were responsive to our questions and indicated that they were supportive of the program as they were knowledgeable of the potential benefits. DPD could explore with DOJ the possibility of federal grant monies to assist in this endeavor. The proper use of the recording equipment is one of the cornerstones of the use of force investigative process and remains one which is not only unavailable to the investigators, but also to the Monitoring Team, which is charged with verifying that the information in the investigative reports is accurate.

DPD continues to provide improved documentation of the application of de-escalation measures, and we encourage the Department to continue to emphasize the importance of practicing de-escalation and documenting same.

Next Steps:

During the next reporting period, we will:

- Continue to monitor the numbers of use of force reports generated during the next reporting period, and continue to discuss with DPD the issue of documenting the de-escalation of use of force situations in an effort to identify a sound methodology for measuring the effort. We will monitor any increase in the reliance on audio recordings to enhance the documentation provided by the officers. We will also meet with CRIB personnel to further discuss issues associated with use of force compliance.

¶	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	In Compliance
16	Opportunity to submit to arrest	In Compliance	In Compliance

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¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
17	Prohibit chokeholds	In Compliance	In Compliance
18	Approval of policy	In Compliance	In Compliance
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	In Compliance
23	Selection of ammunition	In Compliance	In Compliance
24	Intermediate force device	In Compliance	In Compliance
25	Chemical spray policy	In Compliance	In Compliance
26	Spraying handcuffed subjects	In Compliance	In Compliance

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IV. DOCUMENTATION, INVESTIGATION, AND REVIEW

This section of the Consent Judgment, containing paragraphs U27 through U41, requires that DPD and the City review and revise its policies to ensure full, thorough, and complete investigations; including command level and those conducted by Force Investigations, Internal Affairs, and the Board of Police Commissioners, Office of Chief Investigator. In each case, the investigation must, to the extent reasonably possible, determine whether the officer's conduct – and/or specifically, the officer's use of force – was justified.

DPD and the City have conducted the requisite reviews and revisions of policies, which set forth procedures designed to guide investigative procedures in accordance with this Decree and generally accepted police practices.

To assess operational implementation of these policies for this and previous reporting periods, we closely review use of force and citizen complaint investigative reports completed at the command level and by Force Investigations, Internal Affairs, and the Office of Chief Investigator. In addition, we periodically meet and maintain continued communication with the staff of these units and other commands.

To assess compliance for this reporting period, we reviewed 179 use of force reports resulting in 80 SIRS; 46 cases closed by Force Investigations (see above); 34 cases closed by Internal Affairs; and 100 of 294 closed by the Office of Chief Investigator. The details of these reviews are outlined in U27-41 below.

During our last site visit, DPD informed us that it had expanded the Force Investigations program to more closely monitor and enforce corrective actions provided to the districts/precincts regarding their Command Level Investigations. FI members responsible for administering this program identified problems with the responses they were receiving from the commands; and as a result of their identification of those problems, FI developed an additional level of monitoring responses from the various commands. This program provides computer monitoring of the performance of commands and officers with regard to use of force reporting. It allows for a drill-down to core problematic issues, including, but not limited to: poorly written, incomplete reports/investigations, and other problematic patterns and trends. The sergeants responsible for the administration of this program demonstrate the ability, willingness, and commitment to the success of this program; and to ensuring both the necessary improvement of the investigative process and of course, compliance.

Although we are encouraged with the above, we are continuing to find a lack of full, thorough, and complete investigations by Force Investigations. The investigations often lack credibility and are deficient in many areas, including but not limited to: the failure of supervisors to respond to the scenes of force, to interview witnesses, resolve material inconsistencies in statements, record interviews or take photographs. Interviews of officers are also unnecessarily delayed. Crime scene security and analysis is problematic, and there is a lack of ballistic examinations. It appears there is a practice of *reporting* rather than *investigating* incidents. Collectively, the above is inconsistent with Decree requirements as well as a departure from generally accepted police practices and a disservice to involved officers and the affected citizen(s).

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The related provisions of the Consent Judgment require that use of force and other specified events be properly investigated to ensure the protection of the DPD, its officers, and the citizens of Detroit. The reforms are also intended to hold accountable officers who deviate from DPD policy and training.

We stand ready to assist the DPD and the City in whatever way we can to resolve these issues.

A. General Investigations of Police Action***CJ Requirement U27***

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

To assess compliance with these requirements, we meet on a quarterly basis with Command, Internal Affairs, Force Investigations, OCI and other staff. We also review relevant investigative and other reports, including the Department's quarter status reports.

Command Level Investigations: To assess DPD's Phase 2 compliance with this paragraph for this reporting period, we again met with relevant staff and reviewed 179 uses of force reports resulting in 80 uses of force.⁷ There were no instances where a SIR was closed simply because a subject or complainant was unavailable, unwilling, or unable to cooperate, including a refusal to provide medical records or proof of injury. We found sufficient justification for officers' conduct in 79 (99%) of the 80 SIRs. In the one case, there was a use of force where the subject was not arrested and this action was questioned by supervisors during the investigation.

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

Force Investigations: During this reporting period, we reviewed 46 FI cases, and found all in compliance with the requirements.

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

Office of the Chief Investigator: During our previous reviews of completed cases, we noted a steady improvement in the quality of OCI's investigations. The Chief Investigator's tenure has brought with it a period of stability and consistent leadership which had previously been lacking.

⁷ Many of the command-level investigations contained multiple uses of force forms. Acquired target cases, and cases assumed by FI were removed from the numbers reported as SIRs.

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To assess Phase 2 compliance with this paragraph for this reporting period, we reviewed 100 randomly sampled cases from the 294 cases that were closed in January, February, and March 2014. (This represents an 11% decrease in closed cases over the previous reporting period.) Generally, the investigations established sufficient facts to support determinations that justified or did not justify the actions of the officer(s) or non-sworn member of the Department.⁸

We did not identify any cases that were closed prematurely, as compared to two such cases during the previous reporting period.

While complainants failed to cooperate in 26% of the cases, their lack of cooperation was not a factor in the closing of these cases. Invariably, the narrative contained in the Citizen Complaint Report (CCR) served as the complainant's statement in these instances.

With a 100% compliance rate, the City remains in compliance with the OCI portion of this paragraph.

Internal Affairs Division Investigations: To assess Phase 2 compliance with this paragraph, we interviewed IAD supervisors and selected staff; and reviewed the 34 cases that were closed by IAD in January, February, and March 2014. We assessed the investigations 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 34 of the cases were sufficiently investigated – including five cases where the complainants refused to cooperate after making the initial complaint, and another case where the investigation was based on an anonymous letter.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

⁸ 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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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.*

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

Command Level Investigations: During the previous reporting period, we determined that the DPD was in compliance with requirements relating to the conduct of investigations by involved supervisor (96%); documentation of the name and badge number of involved officers (100%); conduct of a neighborhood canvass to identify witnesses or explanation no canvass conducted (99%); and documentation of medical care where applicable (97%). We further determined the DPD was not in compliance regarding requirements that investigators conduct thorough and complete interviews of all witnesses (80%)⁹; efforts made to resolve material inconsistencies between witness statements (71%); and the photographing injuries (86%).¹⁰

During this reporting period, we determined the following:

- There was one case in which an involved supervisor conducted an interview of the subject, which resulted in a 99% compliance rate. In 79 (99%) of the cases, the names of all of the officers involved or on the scene during the incident were included. In 78 (98%) of the cases, the investigating supervisor conducted a timely canvass to identify civilian witnesses, or explained why a canvass was not conducted.
- Thorough and complete interviews were conducted in 74 (93%) of the cases, a significant increase from the 80% previously recorded. We again stress the importance of these interviews wherein investigating supervisors should elicit pertinent details from witnesses and ask follow-up questions in order to clarify the information provided. We reviewed one case where the investigating supervisor asked the same question to five officers at the DDC, where the incident occurred, and their responses were identical, which may lead one to believe a group interview occurred. When statements differ between officers,

⁹ This is a reduction from the 93% during the previous reporting period.

¹⁰ Not all of the administered medical care was related to police actions. Several of the cases involved ranged from psychiatric evaluations to a need for medications to injuries caused by someone or something other than police action

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investigators should ask follow-up questions to reconcile any differences between statements or evidence discovered during the investigation. We observed that in some instances, the failure to notify a supervisor from the scene contributed to the failure to interview all possible witnesses – as they were gone by the time the supervisor was informed of the incident. Continued critical reviews at command level and the FI can help to improve compliance with this requirement. Some investigating supervisors conduct acceptable investigations and are relatively thorough, while some have difficulty. OCR has provided a step-by-step guide for conducting these investigations and, if followed, it provides the investigating supervisor with guidance for the process.

- Material inconsistencies were addressed in 29 of 35 applicable cases (83%).¹¹
- In 49 cases, photos should have been requested for officer or subject injuries. The reports noted that photos were ordered in 42 (86%) of the cases. In the 42 cases where injuries occurred, documentation was included in the reports that medical care was received at DRH, the nurse at the DDC, on scene medic or another medical facility (100%).

The DPD conducted thorough and complete interviews in 93% of the cases, addressed material inconsistencies in 83% of the cases and ordered photographs in 86% of the cases, all below the >94% standard; accordingly, the DPD is not in compliance with the Command Level Investigative requirements for this paragraph.

Force Investigations: To assess compliance for this reporting period, we reviewed 46 force investigations.¹² The case files included complete documentation of the names and badge numbers of all officers involved in – or on the scene of – the various incidents, canvasses for civilian witnesses in all applicable cases, and any medical care that was provided.

The investigations contained witness interviews, both written and recorded. While we acknowledged improvement by FI in addressing material conflicts in investigations, we noted that material inconsistencies relating to all the allegations of force used was not addressed in four of the 46 cases that we reviewed during this reporting period. In one of the events, we are troubled by Homicide and FI's failure to address a significant material conflict in a critical firearm discharge event. The officer stated that the juvenile suspect turned and pointed a gun at him while fleeing on foot. The officer discharged two rounds that missed the suspect. No firearm was recovered attributable to the suspect during the investigation. The investigative report noted that the suspect was not questioned whether or not he was in possession of a weapon. The FI investigation is conducted to determine if the use of lethal force in this circumstance was justified; yet the investigation is deficient in covering this aspect of the case. The FI investigator concluded there was possibly a weapon in the vehicle, and it is plausible that the suspect was in possession of a weapon to justify the application of lethal force in this event. However, the officer's version of events was taken at face value without any credible investigation.

¹¹ In 45 of the 80 SIRs reviewed, there were no inconsistencies identified.

¹² These investigations included nineteen critical firearm discharge events and four vehicle pursuits.

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Photographs were not taken, as required, in four cases.

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

Office of the Chief Investigator: During this reporting period, we reviewed 100 randomly sampled OCI investigations. Since OCI is an investigative body separate and distinct from the Detroit Police Department, all cases were investigated by investigators who did not authorize, witness, or participate in the incidents being investigated. In 12 cases, involved officers were not identified by both name and badge number. Three of the cases were transferred to other investigative entities prior to the involved officers being identified. One of these cases involved sworn officers from another jurisdiction. In the remaining cases, OCI took diligent steps to identify involved personnel. If they were not identified, they were listed as “unknown.”

In all of the cases retained for investigation by OCI, investigators attempted to contact potential witnesses when appropriate.

In all cases alleging excessive force, photographs were referenced where appropriate. In most of the cases, force could not be substantiated and use of force documentation, including photographs, did not exist. In four cases, it was appropriate to reference medical care; and in all of these cases, the documentation was included in the investigative packages if available. If a medical release was required but not executed, that was noted.

The City is in Phase 2 compliance (100%) with the OCI portion of this paragraph.

Internal Affairs Division Investigations: We reviewed the 34 cases that were completed by IAD during this reporting period. The investigations consistently included the names and badge numbers of all officers who were involved in or on the scene during an incident. In seven of the cases, the complainant could not identify the officer(s) that were the subject of their complaints. IAD attempted to identify officers when allegations of criminal misconduct were reported and the officer(s) was unknown to the complainant. IAD also conducted canvasses to identify witnesses or obtain any video recordings that might be available from businesses near the location.

IAD 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. In an effort to resolve the allegations, IAD requested in-car video in 13 of the cases where video should have been recorded. Video was available for five of the investigations. In the eight cases where video was not available, four vehicles were deployed without cameras. One of those vehicles was changed after assignment by the officers without the knowledge of their supervisor. Four of the vehicles had camera systems that were not functioning properly, including one where the camera had been manipulated to point skyward. (Refer to U100-102.)

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

DPD is not in Phase 2 compliance with this paragraph, specifically as it relates to Command Level and Force Investigations sections.

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Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U29

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

- a. officers who witness or are involved in an incident to provide a timely statement regarding the incident (subject to paragraph 31 below);*
- b. whenever practicable and appropriate, interviews of complainants and witnesses be conducted at sites and times convenient for them, including at their residences or places of business; and*
- c. that all IAD, OCI and Critical Firearm Discharge Investigations shall also include in-person video or audio tape-recorded interviews of all complainants, witnesses, and involved DPD officers and prohibit group interviews. In cases where complainants/witnesses refuse in-person video or audio tape recorded interviews, written statements shall be taken and signed by the complainant/witness along with a signed refusal statement by the complainant/witness.*

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

Command Level Investigations: During the previous reporting period, our review found the following: timely statements taken from officers (93.75%); interviews of complainants and witnesses conducted at sites and times convenient for them (98%); and timely notification of a specialized units (98%).

During this reporting period, we determined that in 77 (96%) of the 80 cases we reviewed, timely statements were taken from officers who were involved in or witnessed the incident. This percentage is an increase from the 93.75% noted in our last report. In addition, we found that interviews of complainants and witnesses were conducted at sites and times convenient for them in all of the cases we reviewed, and notification of specialized units occurred in 78 (98%) of the 80 cases.

DPD is in Phase 2 compliance for the Command Level Investigations during this quarter.

Force Investigations: In previous reporting periods, we noted that statements were generally taken at sites and times convenient for the person(s) being interviewed. However, we expressed continued concern that statements from witness officers were often unnecessarily delayed or that investigators instead relied on officers' Crisnet reports. We also noted our concern regarding the variance in practice between FI and Homicide members of the Joint Incident Shooting Team (JIST) when interviewing witnesses and taking statements. Specifically, the practice adopted by

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Homicide members of JIST to take written, rather than recorded, statements has been a longstanding non-compliance issue not addressed by the DPD.

To assess compliance with this paragraph for this reporting period, we reviewed 46 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 the event; however, statements from involved officers or witness officers were often *unnecessarily* delayed.

We found that Garrity interviews of *involved* officers in 16 of the 46 cases were unnecessarily delayed, ranging from 93 to 816 days from the date of the incident. Similar interviews of *witness* officers in 12 of the 46 cases were unnecessarily delayed, ranging from 62 to 816 days from the date of the incident. The DPD practice of undue delay with critical event interviews is inconsistent with generally accepted police practice for a host of reasons – not the least of which is credibility. In addition, these delays of weeks or months result in an altering of an officer's accurate recollection of the facts due to external factors including, but not limited to, news accounts, and interactions with family, friends and colleagues. Accordingly, aside from the few instances where investigative reasoning suggests the justification for a delay with an interview or interviews of involved officers, it is imperative that critical event interviews are conducted very close to the date of the incident that is under investigation; in particular, we find no legitimate basis to delay interviews of witness officers. We have continually expressed our concerns with this serious and continuing investigative shortcoming; however, the DPD has not addressed it.

As reported, the delays discussed above often result from the desire and allowance in procedure to await a declination decision from the District Attorney.¹³ Accordingly, we examined 46 cases closed by FI during this reporting period, and found eleven where a prosecutorial decision from the Wayne County Prosecutor's Office (WCPO) was sought with the following results:

- FI conducted the Garrity interview of the subject officer in five cases after the prosecutorial decision by the District Attorney. One of these Garrity interviews fell outside of the 30-day requirement due to the officer not being medically cleared to be interviewed about the event. The Consent Judgment requires involved officers' Garrity interviews to be conducted within 30 days of the declination by the WCPO or completion of the criminal prosecution. (Refer to U38.)
- In five cases, the Garrity interviews of subject officers were completed in advance of a prosecutorial determination by the WCPO.
- In the remaining case, FI referred the investigation to the WCPO, and the prosecutorial determination is still pending. This case involves a non-fatal critical firearm discharge event that occurred in November 2009. The DPD made the warrant request in November 2009, and the case is still pending a prosecutorial decision from the WCPO. The DPD

¹³ Consent Judgment ¶38.c. provides "...If a *Garrity statement is necessary* (emphasis added), then that portion of the investigation may be deferred until 30 days from the declination of conclusion of the criminal prosecution.

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found the officer was not justified in using deadly force in this case and initiated disciplinary action.

There are few situations requiring more diligence or a professional police response than an allegation or a perceived use of excessive force – especially when involving a critical firearm discharge. All warrant a priority, thorough response and expeditious conclusion. We encourage the DPD, with the cooperation of the WCPO, to resolve these issues, which are significantly impacting the credibility of these investigations.

We find that the DPD Force Investigations is not in Phase 2 compliance with the requirements 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. We noted five cases in which we believed officer interviews were not timely. In these cases, officers were interviewed between 74 and 89 days after the complaints were filed, without reasonable explanations for the delays. In one case, the first officer interview was not conducted until 88 days after the complaint was filed, and interviews determined to be missing by the Chief Investigator were conducted as late as 94 days after the date of the complaint.¹⁴

Complainants were identified as uncooperative in 26 of the investigations we reviewed. OCI investigators relied on the synopsis contained in the Citizen Complaint Report in these cases. When complainants and witnesses were available for interviews, they were recorded, either over the telephone or in person. When interviews were conducted, they were administered and recorded in accordance with requirements.

With a 95% compliance rate, the City is 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.

During this reporting period, timely interviews were appropriately conducted in all 34 cases. The Internal Affairs Alert Teams, who are available or on-call 24 hours a day, respond to complaints or allegations of criminal activity or serious misconduct by Department members. Preliminary interviews and investigations are conducted immediately and according to DPD directives.

¹⁴ This case was still considered timely because the deficiencies were identified and corrected during the seven-day window allotted for the Chief Investigator to review a case under U68.

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In all of the investigations, complainants and witnesses were interviewed at times and sites convenient for them. DPD is in compliance with the IAD portion of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U30

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

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

Command-Level Investigations: During the previous reporting period, we found that the DPD used the question-and-answer format (without the use of leading questions) in 95% of the cases we reviewed. During this reporting period, we found this same process used to document officer interviewed in the SIR in 77 (96%) of 80 the cases reviewed. One case involved a supervisor who emailed the investigative questions to officers due to time constraints; in addition, we noted two instances where leading questions were asked during the interview.

DPD is in Phase 2 compliance with the Command Level portion of this requirement.

Force Investigations: Our previous review of FI cases for compliance with these requirements found instances where leading questions were contained in written statements. Similarly, our review of randomly selected recorded interviews found investigators asking leading questions.

We also noted that the details of officer interviews are often adversely affected by the excessive delays in scheduling them; in fact, officers routinely refer to their Crisnet reports to refresh their recollection of specific details, due to the lapse of time between the incident and the interview. We also found that investigators routinely fail to ask appropriate follow-up questions leaving the interviews appearing to revolve around *reporting* – not *investigating*. And finally, we noted our continuing concern with investigators' apparent lack of preparation for the conducting of Garrity interviews.

To assist with our assessment of compliance for this reporting period, we listened to 13 randomly selected recorded interviews of police officers. We noted that, although the interviews were not primarily based on leading questions, the use of leading questions has not been entirely eliminated and still on occasion surface. We continue to be concerned with the tendency of some interviewing officers to preface questions with "Do you remember...do you recall" or

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similar phrases, which tend to prompt “I do not remember...I do not recall” responses. This has been a persistent deficiency that can – and should – be addressed. While recognizing that interviewing skills must be acquired through training and experience and also that the DPD has attempted to address these issues, the overall quality of the interviews remains marginally acceptable.

Additionally, we compared the officers’ spoken words with the documented summaries of the interviews prepared by FI investigators that are included in their investigative reports. We are mindful that use of force incidents generated by DPD policy, and not routinely initiated by a citizen complaint, require prompt reporting and preparation of Crisnet reports by all involved officers contemporaneous to the event. The review of officers’ Crisnet reports prior to their Garrity interviews provides a useful snapshot to FI investigators of what occurred at the time of the event. During our review of the recorded interviews, we noted that the investigators’ summaries are generally consistent with the recordings. We also noted that investigators failed to ask probing questions when opportunities were present. We caution FI to continue to review these investigations diligently to ensure that significant facts involving the use of force are thoroughly investigated and accurately documented.

We previously recommended that the DPD seek *comprehensive* interview training, and carefully supervise and critique all interviews in order to avoid non-compliant findings; however, the DPD has not addressed the training deficiency leaving investigators to learn this special skill on their own. Accordingly, we again recommend that the DPD expeditiously address this training requirement with the development and activation of an aggressive training program in order to provide its FI (and other) investigators with training consistent with generally accepted professional standards; and as indicated above, to avoid a non-compliant finding for the requirements of this paragraph.

The DPD is in compliance with the FI portion of this paragraph; however, this finding is more technical than substantive. Thorough, competent, and probing interviews are a critical element of serious use of force investigations – either to justify the officer(s) actions or to determine otherwise, but most importantly to the extent possible, to leave no question unanswered. As indicated, the need for training is clear.

Office of the Chief Investigator: OCI supplied 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 90 interviews (65 employees, 25 citizens) associated with 23 cases. Generally, investigators are employing proper interviewing techniques, using open-ended rather than leading questions.

During this reporting period, we noted five instances in which leading questions were used inappropriately. In general, we were not provided with written questions, although it is probable that they were used to structure interviews in most, if not all, of the cases involving interviews.

In the past, we noted a wide disparity in the interviewing skills of OCI’s investigators, and have recommended that supervising investigators either observe the interviews conducted by OCI’s investigators or listen to the recordings, in order to identify training needs and provide appropriate, individualized corrective measures. The supervising investigators provided

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documentation that they either observed, or reviewed recordings of, interviews in 69 cases during the reporting period. This represents a 5% increase when compared to the last reporting period.

With a 95% compliance rate, the City is in compliance with the OCI portion of this requirement.

Internal Affairs Division Investigations: Since the first reporting period, we found no evidence of the use of leading questions during IAD interviews. In all cases, we sought evidence in the case summary that the investigators had asked particular questions to address the allegations, clarify complainants' and witnesses statements, determine if additional policies were violated, and confirm locations of possible physical evidence. During this reporting period, we listened to audiotapes from six of the 34 investigations. We did not find evidence of leading questions.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: 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).

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

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;*

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- f. an evaluation of all uses of force, including the officer's tactics, and any allegations or evidence of misconduct uncovered during the course of the investigation;*
- g. all administrative investigations to be evaluated based on a preponderance of the evidence standard;*
- h. written documentation of the basis for extending the deadline of a report and evaluation and provide that the circumstances justifying an extension do not include an investigator's vacation or furlough and that problems with investigator vacations or workload should result in the matter being reassigned; and*
- i. any recommended non-disciplinary corrective action or disciplinary action be documented in writing.*

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

Our assessment of compliance with the Phase 2 requirements of this paragraph included interviews with relevant staff; and a review of closed command-level, FI, IAD, and OCI cases.

Command Level Investigations: During the current reporting period, our assessment found that the reports contained a precise description of the facts and circumstances of the incident, including a detailed account of the actions of the subject(s) or complainants and officer(s) in 73 (91%) of the investigations, an increase from the 82% registered during the last reporting period.

Some of the issues that continue to adversely affect compliance in this area remain: insufficient details in interviews; interviews that are almost verbatim from officer to officer; and in one case, five officers gave identical answers to a question by the investigating supervisor; officers providing evasive and nebulous statements; investigators not asking follow-up questions; investigators failing to address discrepancies between officer statements; and investigators failing to interview complainants/victims.¹⁵ In 80 (100%) of the cases, an evaluation of the initial stop or seizure was conducted. In 41(80%) of the 51 (video and audio) cases evaluated, all of the relevant evidence – including circumstantial, direct, and physical evidence – was reviewed.¹⁶ This is an increase from the 53% we found during the last reporting period. We continue to assert that the review of both video and audio recordings of citizen contacts with DPD members is essential to use of force investigations; and consequently, we continue to recommend, in the strongest of terms, that DPD initiate all of the corrective actions necessary to ensure that encounters are captured in both video and audio recordings.

Given that most uses of force occur out of the line of sight for the video, the audio recordings take on greater importance. DPD must continue to work on improving the audio capability of its system and critical review by investigating supervisors – and make every effort to determine if

¹⁵ This is not an all-inclusive list.

¹⁶ Twenty-nine of the cases reflected either no equipment installed or officers assigned to walking beats, Gaming Detail or some other special assignment, leaving 51 cases to evaluate.

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the failures to capture audio recordings at the scenes are system issues or user errors, and then institute the appropriate corrective measures. Supervisors must verify, at the beginning of each shift, to determine if each scout car has audio/video capability and if it is operable. There are too many instances where officers fail to activate their microphones or have them charged. Commands must make every effort possible to review available video/audio recordings prior to the submission of the SIR. The failure to have these reviews conducted prior to the submission of the final report is an unacceptable practice.

Seventy-nine (99%) 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. In one case, preference was given to officer's statements with no credible evidence to support the decision. Eighty (100%) of the investigations contained an evaluation of whether or not an officer complied with DPD policy. In reviewing the evaluations of use of force, two detainee injury cases were removed from the 80 SIRs as no force was used, leaving 78 cases to evaluate. Seventy-six (98%) of the 78 cases reflected evaluations of the use of force. Due to the DDC now processing detainees, the number of prisoner injuries that were reported in the past has declined since they are under the care and control of DPD for shorter periods of time. Officers' tactics were evaluated in all (100%) of the 80 cases reviewed. All (100%) of the 80 cases were evaluated on a preponderance of the evidence standard.

Seventy-one (89%) cases had no extension request; of the remaining nine cases, we found one that referred to an extension in the file, but no copy of the document was provided. Eight contained documentation for the delays. We reviewed the eight requests that were provided and found that one of them had issues with vacations, furloughs, lack of new due date, workload or lack of specifics regarding the need for the extension. We continue to urge DPD to provide guidance regarding the importance of properly documenting the extensions and the returns of reports for corrections routinely documented in the Timeline section of the SIRs. Documents returned for corrections should reflect the new due dates.

There were 56 SIRs in which corrective action might have been taken; corrective action was documented in 51 (91%) of the investigations. Inclusive in the corrective action were misconduct investigations, negative administrative counseling registers, re-instructs, re-training, written reprimands, trial boards and verbal counseling.

Factors impacting in achieving substantial compliance for this requirements include the 91% registered for providing a precise description of the facts and circumstances of the incident and the 80% registered in the relevant evidence area, specifically as it applies to video/audio recordings;

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

Force Investigations: Our review of completed FI cases for previous reporting periods found them to be in overall compliance, but we 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.

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To assess compliance for this reporting period, we examined 46 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, but need to more thoroughly investigate all allegations of force used; and evaluate available direct, circumstantial, and physical evidence. During this reporting period, we noted five cases that were deficient in the review of available evidence. Investigators miss opportunities to complete thorough and factual investigations when evidence is obtained and not properly analyzed. This continues to include the lack of satisfactory ballistics examinations. Lastly, command/supervisory personnel are reviewing a number of these investigations and are rendering findings based upon incomplete information.

During this reporting period, 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 also demonstrated the need for FI to continue to provide training on this issue. We found five cases of the 46 that we reviewed did not have reasonable credibility determinations. We found that all of the 46 investigations we reviewed 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.

We noted during this assessment that extensions were requested – specifically with backlogged cases being reassigned by the new FI command staff. In 22 cases, the investigator made the initial extension request after the time limitations had already lapsed for the respective incident under investigation. We recognize the challenges inherent with effective case management, and recognize the continued efforts of DPD – particularly the FI staff – to address them.

Fourteen (30%) of the 46 cases complied with requirements of this paragraph. DPD is not in Phase 2 compliance with the Force Investigations portion of this requirement.

Office of the Chief Investigator: We noted in our previous reports that OCI investigations have generally been completed within the prescribed 90-day timeframe once the backlog of two years ago was eliminated. The delay in securing timely interviews has been a recurring problem that, while it has decreased in frequency, still impacts the quality of the investigations when it occurs. OCI investigations have generally been factual and complete, and in the vast majority of cases, the preponderance of evidence standard is used in reaching determinations.

During the current reporting period, we reviewed 100 randomly selected cases, 83 of which were received in 2013. The remainder was filed this year. In all of the cases, there was a precise description of the facts and circumstances of the incident complained of. We did not identify any cases in which additional allegations were raised during an interview, but not documented or addressed.

We also did not identify any cases in which OCI did not consider relevant evidence that was potentially available. We observed that investigators generally explore the availability of video

¹⁷ These investigations included nineteen critical firearm discharge events and four vehicle pursuits.

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evidence in cases where it is appropriate. In 46 cases, investigators inquired as to the availability of video. In 26, or 57%, of these cases, video evidence was not available. This is concerning, given the large monetary and resource investment that DPD has made in this technology. We continue to recommend that investigators inquire about video as early in the investigation as possible, as retention times for both DPD and private sources can result in the deletion of video evidence before it can be acquired.

We found no evidence where a complainant's conviction or guilty plea had a bearing on the investigation. In all of the cases we reviewed, we noted appropriate evaluation of whether officers complied with DPD policy.¹⁸

In six cases, OCI investigators appropriately discovered potential misconduct during the course of their investigations. In two cases, investigators determined that officers failed to complete a report, in violation of policy. In another, it was determined that a sergeant failed to serve Garrity notifications, resulting in a delay in the investigation. In still another, the investigator determined that the subject officer was less than forthright in his interview. In another case, the investigator sustained two officers for failing to use their in-car video equipment, as it was determined that the equipment was functional before and after their shift. In the last case, in-car video and audio indicated that an officer gave inappropriate advice to one party in a domestic dispute.

In three cases, the preponderance of evidence standard was not used. This is based on our determination that different findings were warranted based on the documentation provided for our review. In one case, an allegation of officers pulling the complainant's shirt up over his head, we believe the finding should be not sustained rather than exonerated. There is no doubt that this happened – both the complainant and the officers confirm it – but the officers indicated that it was done to prevent the complainant from spitting, whereas the complainant denied spitting and indicated that it was done in conjunction with an unjustified use of force. In another case, a sergeant who is not mentioned in the complaint and has no recollection of the incident was exonerated for stopping the complainant. In the final case, the complainant alleged that officers failed to make an arrest in a domestic violence case, and also that the officers transported the suspect to her house. Both of these occurred, and yet were not sustained. The findings should have been either exonerated or sustained, depending on whether or not these actions were in accord with Department policy.

All of the cases we reviewed were completed within the prescribed 90-day time period. There were no cases in which corrective action or specific disciplinary action was recommended as a result of the investigation. All of the sustained cases were referred to the Office of the Chief of Police “for appropriate action.”

We note that neighborhood canvasses are being conducted on a timelier basis, but we nonetheless reviewed several cases in which the canvasses were performed so long after the

¹⁸If 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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alleged occurrence as to have no investigative value. Only 18 of the 59 canvasses conducted, or 31%, were completed within the first two weeks after the complaints were filed, as recommended by OCI policy. Eight, or 14% of all canvasses, were done more than two months after the complaints were lodged. The average number of days between lodging of the complaint and conducting a canvass was 29 days for this review period. We repeatedly recommended that canvassing be one of the first few investigative steps taken by investigators after they are assigned their cases.

The City is in Phase 2 compliance with this paragraph, with a compliance rate of 97%.

Internal Affairs Division Investigations: Our review during this reporting period found that the IAD investigative packages continue to be well organized, and elements of the investigation are easy to locate. We found that the IAD investigations were conducted in a professional manner. The supervisor meets with the investigators every two weeks to discuss the case progress and grant extensions when necessary. In our review of 34 completed IAD investigations, we found precise descriptions of the incidents. There were five cases that exceeded the 90-day requirement. One was delayed due to the criminal court process. Two were delayed due to the need to re-interview the involved officers to clarify discrepancies. There were also two cases that were transferred from the Office of the Chief Investigator after 63 and 160 days, respectively. Appropriate credibility determinations were made in all of the cases; and ultimately, the determinations were made using the preponderance of evidence standard. In seven of the 34 investigations, additional DPD policy violations were identified and sustained.

DPD is in compliance with the IAD portion of 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*

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

Our assessment of compliance with the Phase 2 requirements of this paragraph included interviews with staff; and a review of closed command-level, FI, IAD, and OCI cases.

Command Level Investigations: Our assessment for this reporting period found that in 80 (100%) of the 80 SIRs reviewed there was a chain of command review above the investigator. DPD identified deficiencies in 80 (100%) of 80 cases, with 75 (93.75%) corrected and returned within seven days. We found a number of instances where timelines were incomplete, failing to document new return/submission dates. This failure to submit corrected reports within the requisite seven days is preventing DPD from achieving Phase 2 compliance for the SIR investigations. We encourage the Civil Rights Division to convene a meeting with the Precinct Commanders and establish the process that will assist them in achieving compliance with this requirement. We again caution the command reviewers that they need to conduct critical reviews of these investigations to correct these issues before the report is entered into MAS. As we have previously mentioned, the review of SIRs by the command level remains the most critical step in the conduct of these investigations. With more critical command reviews of the investigations, DPD will be able to improve the quality of investigations conducted at the command level. It is incumbent on the captains and commanders to continue to ensure that deficiencies in the investigations are corrected, and to consult the appropriate units if any procedural or tactical issues are identified. The practice of submitting a SIR to MAS before the full command review is concluded should be reviewed again, and the Department should consider reinstituting the previous practice of conducting the full review before the report is submitted to MAS. This would afford the reviewers an opportunity to have corrections made before the report is submitted and transmitted to the Monitoring Team.

DPD is not in compliance with the Command Level Investigations portion of this paragraph.

Force Investigations: In our previous reviews of FI cases, 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 46 completed FI cases. We found that five of these cases were deficient – but approved by the reviewing supervisors. In one case, the subject arrested alleged during processing that the arresting officer stole \$3,600 from him. The officer's simple denial was deemed more credible than the citizen's complaint of a theft of money. No referral was made to IAD, and no meaningful inquiry was made. This allegation went unaddressed and was approved by supervisory personnel.

In two cases, investigators referred to available academic "research" to provide an explanation for officers missing details during the investigation. This research reference is based on FBI Law Enforcement Bulletin articles (included in the investigative file) that discuss perceptual and

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memory distortion as justification for the officers' inability to recall missing details of an event. The referenced article also notes that the use of the cognitive interview process is the most effective technique for facilitating memory retrieval. Given that we find that the DPD appears to lack an understanding of perceptual and memory distortion concepts, and that it does not employ the cognitive interview process, there is no credible basis for inclusion of this information in the case file. These references regarding research are without foundation and should not have been part of the investigation. Regardless, the inclusion of this information and these explanations went unchallenged by supervision. Although it appears, based on our discussions with FI staff, that supervisory reviews and evaluations are occurring, we recommend that these reviews continue to be more thoroughly documented.

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

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.

For the current reporting period, we reviewed a random sample of 100 closed investigations. During this reporting period, 83 cases were returned for deficiencies. Most of these were for spelling, grammar, and formatting. In two cases, deficiencies were either missed or not corrected within seven days. In one, the complainant alleged improper demeanor and force when officers responded to a disturbance on a City bus. Leading questions were used in every interview. A sergeant was not interviewed until 86 days after the complaint was lodged, with no reasonable explanation for the delay. The findings section did not reference the statements of two sworn personnel, and also failed to address one of the allegations of improper force. In the other case, the complainant alleged that an officer failed to turn in a citation that was issued to the complainant. While the not sustained finding was correct, each interview contained several leading questions, including the investigator completing answers for the officers being interviewed. The investigator also became argumentative with the complainant during her interview.

We did not review any cases in which a reviewer disagreed with the recommended findings of the investigator.

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

Internal Affairs Division Investigations: During this reporting period, the IAD supervisor used the case management system, Case Trax, to record any deficiencies and instructions in the investigators' progress notes. All of the investigations were reviewed and approved by the chain of command above the investigators within the required timeframe.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

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B. Use of Force and Prisoner Injury Investigations***CJ Requirement U34***

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

During the last reporting period, we reviewed 179 auditable forms, and found that 169 (94%) were prepared correctly and documented the prisoner injuries, uses of force, and allegations of force. The forms include 18 forms that were referred to FI/IAD, and seven in which the officers acquired a target.

During this reporting period, we reviewed 161 auditable forms, and found that 153 (95%) were prepared correctly and documented the prisoner injuries, uses of force, and allegations of force. The forms included those cases that were referred to FI/IAD, canine deployments and in which the officers acquired a target.

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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*

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*force, and to permit IAD to delegate all other use of force or prisoner injury investigations to the supervisor for a command investigation.*¹⁹

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

Command Level Investigations: During the previous reporting period, we reviewed 80 Command Level Investigations cases and found that in 79 (99%), a supervisor was notified following a use of force or a prisoner injury. There were 44 cases in which the use of force involved a firearms discharge, a visible injury, or a complaint of injury. A supervisor responded to 44 of them. Supervisors responded to other uses of force on a priority basis in 33 of the remaining 36 cases. In combination, a supervisor responded to 80 (97%) of 82 cases.

During this reporting period, we reviewed 80 Command Level Investigations cases and found that in 78 (99%), a supervisor was notified following a use of force or a prisoner injury. There were 45 cases in which the use of force involved a firearms discharge, a visible injury, or a complaint of injury. A non-involved supervisor responded to 44 of them. Supervisors responded to other uses of force on a priority basis in 35 of the remaining 35 cases. In combination, a supervisor responded to 79 (99%) of 80 cases.

In 77 (97%) of the 80 cases, a supervisor interviewed the subject at the scene, at the district/precinct, at DRH or at the Detroit Detention Center (DDC). In 78 (98%) of the 80 cases, a supervisor examined the subject and ensured the subject received needed medical attention. There were 11 serious uses of force in which FI or IAD were notified; and in all, they responded and assumed the investigation.

DPD is in Phase 2 compliance for Command Level Investigations with this paragraph.

Force Investigations: Our review of 46 FI cases relevant to this requirement found in four cases that officers failed to report the use of force to supervisors as required. The Department has initiated disciplinary action against the officers.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¹⁹ Amended by Court Order dated September 15, 2008.

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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.*

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

Command Level Investigations: In the last reporting period, we found that 72 (90%) of the 80 preliminary investigations were completed within 10 days of the event. There were no photographs of injuries in the files. In 80 (100%) of the 80 cases, the canvass and witness information was included in the file. Officers' prior uses of force and allegations of misconduct were included in 80 cases (100%). Seventy-nine first-line supervisor evaluations were made in the cases (99%). The final command use of force investigations were completed within 30 days in 77 (96%) of the cases. Copies of completed Command Level Investigations were transmitted to IAD within seven days of completion of the investigations in 69 (86%) of the cases.

During this reporting period, we found that 75 (93.75%) of the 80 preliminary investigations were completed within 10 days of the event. There were no photographs of injuries in the files. In 70 (100%) of the 80 cases, the canvass and witness information was included in the file. There was one case where the canvass was not timely, as the use of force was not reported for 30 days after the event. Officers' prior uses of force and allegations of misconduct were included in 80 cases (100%). Seventy-eight first-line supervisor evaluations were made in the cases (98%). The final command use of force investigations were completed within 30 days in 76 (95%) of the cases. Copies of completed Command Level Investigations were transmitted to IAD within seven days of completion of the investigations in 69 (86%) of the cases, the same as the previous reporting period. DPD must place greater attention to the requirements dealing with the 10- and 30-day reporting requirements and the transmission to FI of the completed reports within the seven-day requirement.

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

Force Investigations: To assess compliance for this reporting period, we reviewed 27 applicable completed FI cases. Only seven (26%) of the 27 cases assessed were timely. In addition, we continue to recommend that DPD closely evaluate case management and related issues, including staffing, and more closely monitor FI investigators' time management and report preparation to more expeditiously complete these investigations.

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DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U37

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

Previously, we found that the JIST appropriately responded to critical firearm discharge events; accordingly, we found DPD in Phase 2 compliance with this requirement. There were 19 critical firearm discharge investigations completed during this reporting period. JIST appropriately responded to all 19 events.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U38

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

- a. the investigation to account for all shots fired, all shell casings, and the locations of all officers at the time the officer discharged the firearm;*
- b. the investigator to conduct and preserve in the investigative file all appropriate ballistic or crime scene analyses, including gunshot residue or bullet trajectory tests; and*
- c. the investigation to be completed within 60 days of the incident. If a Garrity statement is necessary, then that portion of the investigation may be deferred until 30 days from the declination or conclusion of the criminal prosecution.²⁰*

²⁰ Consent Judgment amendment, April 23, 2012.

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Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

Our review of critical firearm discharge investigations for previous reports noted a number of significant issues relating to the requirements of this paragraph. We found that although investigators inventoried the officers' ammunition to assist with determining the number of shots fired, and collected shell casings at the scene, there were instances where the number of shots believed to have been fired did not match the inventory of officers' ammunition and/or the number of retrieved shell casings.

In addition, we noted that while the locations of officers were generally described, the files do not consistently include diagrams depicting their positions. We also expressed concern regarding the absence of gunshot residue and DNA collection and analysis. The DPD advised that gunshot residue analysis is no longer available; that DNA analysis is limited and that there are significant delays in ballistics analyses, which are conducted by the Michigan State Police Crime Laboratory. These have been – and remain – issues mitigating the ability of FI to conduct complete and timely critical firearm discharge investigations. And finally, we have repeatedly expressed concern with the failure to complete these investigations within the required 60-day time limit.

During this reporting period, the DPD reorganized and assigned a new Office of Professional Standards command staff to provide oversight to Internal Controls and specifically to FI. The new command staff is making an effort to address the ongoing issues with the Wayne County Prosecutor's Office (lengthy prosecutorial determinations), Michigan State Police Crime Laboratory (evidence testing), DPD Crime Scene Services, and Homicide to reduce timeliness and thoroughness issues and effect better communications between agencies and DPD units.

To assess compliance with requirements for this reporting period, we reviewed 19 completed critical firearm discharge investigations. Only one (5%) of the 19 investigations was completed within the prescribed time 60-day time period. The critical firearm discharge events include three fatalities; seven involved non-fatal injuries; and nine involved no injury. The following deficiencies were also noted: the location of officers at the time of discharging the firearm was absent in 13 cases; shell casings could not be accounted for in seven cases; no crime scene sketch was included in seven cases; no Gunshot Residue (GSR) was collected in 11 cases (GSR would have been valuable in two questioned discharge events); officers' firearms were not inspected in one case; the DPD made the decision not to send ballistic evidence to the MSP for analysis in one case; and in three cases, the WCPO notified the MSP Laboratory that it need not analyze the ballistic evidence submitted by the DPD for the WCPO criminal case. It is troubling to note the WCPO contacting the MSP Laboratory to and suggest or direct a discontinuance of the requested ballistics analysis of evidence collected and submitted by the DPD. Despite the role of the WCPO, the DPD still conducts an administrative investigation and a Command Level Force Review Team (CLFRT) process that could have serious consequences for the involved officer(s), and this evidence would be valuable in establishing independent facts in the evaluation of these cases for accountability purposes.

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The DPD often gives officers the benefit of the doubt involving their conduct at the outset of an investigation. We have noted and discussed this concern with the DPD. The benefit of the doubt should only be given to officers only *after* all of the facts and evidence have been completely collected, thoroughly investigated, and analyzed at the completion of an investigation.

We are aware that the DPD relies on the Michigan State Laboratory for ballistic testing, and have been advised that the present lab protocols and procedures do not allow for some of the required testing and analysis. This must also be addressed.

The above-cited ongoing issues are significant and continue to mitigate the quality, thoroughness, and credibility of these investigations. Each critical firearm discharge must be investigated with a focus on whether the deadly force was used in accordance with DPD policy, regardless of whether or not it resulted in injury or death. Crime scene activities and the analyses of all evidence – including important ballistic evidence – often form the basis for making appropriate decisions regarding these most serious issues. Moreover, the continued failure of the DPD to resolve the long-standing shortcomings regarding ballistic analyses leaves these investigations at odds with generally accepted police practice. Therefore, the deficiencies described herein and in our previous reports must be addressed.

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.

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

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.

The DPD submitted five CLFRT reports that met the composition requirements of this paragraph during this reporting period. The report assessed included four critical firearm discharge events and one in-custody death.

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 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 21 days from the completion of the investigation and require the Chief of Police to complete his or her review of the team's report within 14 days;²¹*
- b. comply with the revised review of investigations policies and procedures;*
- c. interview the principal investigators; and*
- d. prepare a report to the Chief of Police in compliance with the revised investigatory report and evaluation protocol.*

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

During this reporting period, the DPD submitted five CLFRT reports, and three did not meet the 21-day time limitations from completion of the FI investigation to CLFRT review. The CLFRT's assessments, however, did comply with DPD protocols, including interviews with the principal investigator.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

²¹ Amended by Court Order dated April 23, 2012.

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CJ Requirement U41

*The commanding officer of Force Investigation or other appropriate DPD executive designated by the Chief of Police 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. A copy of the report shall be submitted to the Monitor within five months after the end of the year reported on.*²²

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)***Critical Issues:***

- The failure to conduct complete, quality investigations within prescribed timelines remains a critical issue. 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. This is not an acceptable administrative practice. When the cases are returned for correction, the reviewing supervisor must advise the investigating supervisor what corrections must be made. We reviewed one case that was sent back for corrections four times when it appears that if the reviewing supervisor would have noted all the corrections needed the first time it was returned, they could have been addressed at that time saving the initial investigator valuable time. Complete information must be provided under the Timeline category of the SIR. Timelines need to be checked by the command review to ensure completeness. The final submission date in the timeline chronology should be the MAS entry date.
- DPD needs to continue to provide more attention to the quality of interviews; some lack details regarding the incident and exactly how the officers on the scene responded to the incident; it appears that investigators, armed with new information from interviews seldom re-interview officers to resolve differences. Training must be provided to officers/investigators that have responsibility for conducting these important interviews. Video and audio recordings must be reviewed as part of the investigative process; the Department needs to place greater emphasis on the appropriate use of the body microphones to capture interactions between officers and the public/subjects. Supervisors need to ensure that activity logs are properly completed with respect to the video and audio capabilities, particularly with the officers documenting the synchronization of the body microphones and ensuring that supervisors verify that in-car

²² Amended by Court Order dated January 28, 2009.

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video (for those scout cars equipped) is operational at the beginning of each tour of duty; unknown is not an acceptable category of the capabilities. When equipment is inoperative, the proper documentation should be prepared and commented on in the investigation. We continue to recommend that a formalized practice of forwarding complex/faulty investigations to the Training Division and/or the Policy Section for their review as a measure of ensuring that both units are aware of the situations officers are confronting in the streets and institute any corrective measure they may deem appropriate.

- The DPD needs to carefully monitor case management issues, particularly at the Command Level, including assignment, due dates, extensions, and case status in order to more effectively address case management deficiencies.

Next Steps:

During the next reporting period, we will:

- Continue to assess compliance, paying particular attention to the thoroughness and completeness of investigations, their review by supervisors, and compliance with the timelines.

¶	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	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	In Compliance
35	Notification of supervisors, etc.	In Compliance	In Compliance
36	Completion of command investigations	In Compliance	Not in Compliance
37	Joint Incident Shooting Team	In Compliance	In Compliance
38	Protocol for critical discharge investigations	In Compliance	Not in Compliance
39	Command Level Force Review Team	In Compliance	In Compliance
40	Review critical firearm discharges	In Compliance	Not in 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 and again on July 26, 2013. As a result of additional emphasis by the Department on investigatory stops/frisks, DPD has previously attained compliance in this area, but compliance has been inconsistent. 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.

While previous compliance had been achieved in these areas, we note that DPD has had issues with the inability of personnel to indicate holds over 48 hours on the Warrant Tracking Form. This has been problematic in that when command review occurs, the commanders had relied solely on whether the OIC had indicated on the Warrant Tracking Form the hold status of the detainee. Due to previous compliance, the current issues stemmed from combining the general investigative units that were previously housed in the districts and precincts into two central facilities. There had been internal discussions among DPD staff to return the general investigative units to the districts/precincts to provide more accountability to the command personnel in those areas. This transfer of responsibility occurred in the first quarter of 2014. The issue of failing to document holds over 48 hours has been addressed in the Command Accountability Meetings and commanders are now required to verify the existence of any holds in violation of policy.

DPD had improved its documenting traffic/investigatory stops, detainee registration, and following internal witness identification policies during previous reporting periods. DPD officers' ability to articulate reasonable suspicion with frisks had declined during the previous four previous reporting periods; we now see an upward trend in this area. When DPD begins utilizing the new Investigatory Stop/Frisk form it has developed, it will require more scrutiny by the reviewing supervisor. A review of in-car video of traffic stops by DPD supervisors has indicated a number of these stops where frisks occur but are not documented by the officer(s) on their activity log.

However, of particular note is the present process for recording stops and related frisks in officers' Daily Activity Logs. This is a longstanding deficiency that must be addressed. It is

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important to uniformly capture stop and related search (frisk) data so as to allow for a credible analysis of these stops and related searches (frisks) in order to determine whether there are any indications of personal, district or Department-wide issues relating to the basis for stops, frisks, or disparate treatment. During the last (19th) reporting period, OCR developed a new form to better capture and document investigatory stops and frisks. The form contained sufficient requirements that would allow supervisors to easily review the documentation in order to determine if the officer had reasonable suspicion to make a stop and conduct a frisk.

We continue to note that the Department's ability to document and timely prepare warrant submittals to the prosecutor has been problematic, in that the failure to do so caused other violations of policy. (See U50, U51, and U53.) We continue to find in a few instances, the failure of timely review (see U59) by commanding officers. Command review continues to be lacking in some areas, and that documentation of violations should be a Departmental priority.

In previous reviews, we have observed that most of the detainees arrested by DPD exceeded the 48-hour requirement for arraignment within 48 hours of the arrest. Much of this process is not under control of DPD (Prosecutor's Office/court system). There has been an additional daily arraignment time added to expeditiously arraign arrestees; this step has already substantially reduced the number of detainees arraigned over 48 hours. We note that since the DDC (Detroit Detention Center) became fully operational during the fourth quarter of 2013, the number of arrestees arraigned over 48 hours after the initial time of arrest was reduced by 60%; this trend has continued for the current reporting period. By reducing the arraignment time to 48 hours or less, DPD will prevent other potential violations of policy such as failing to timely clear holds, having to create unnecessary auditable forms and failure of command officers to review certain documents if violations occur.

All paragraphs under the Arrest and Detention Policies and Practices require supervisory review and command review when violations of policy are discovered. DPD had previously instituted a 12-hour work shift for patrol personnel; however, supervisors remained on an eight-hour schedule, which produced issues with continuity with supervision. As a result of meetings with the Chief and DPD personnel a decision has been made for all patrol entities to revert back to the eight-hour shift schedule. In addition to the eight-hour shifts, a 10-hour power shift will be instituted at all precincts/districts (Administrative Message, Teletype 13-0977, issued September 16, 2013).

During our last site visit, we interviewed two officers from the Second Precinct and received a demonstration of the new body cameras that will capture both audio and video of citizen encounters. Both officers volunteered to participate in the pilot phase of the program and both were enthusiastic about the program. They appeared to understand the value of such a tool and its applicability to law enforcement.

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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.

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

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.

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

To assess compliance with these requirements for this reporting period, we reviewed a random sample of 101 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 but one, sufficient probable cause for an arrest was present.

In all cases, supervisory approval for probable cause occurred within 12 hours of the arrest. In one arrest, probable cause did not exist for the charge, but the supervisor reviewing the report approved the form. There were three cases where the charge was for Home Invasion I, but our review of the Michigan statute along with OCR staff, indicated that the charge did not fit the crime in one of the three cases. In this case an arrest should have been made but not for the crime of Home Invasion I. These errors were compounded when the OIC forwarded the warrant submittal to the Prosecutor's Office. In another case, probable cause did not exist. In two cases, the reviewing supervisor failed to indicate the time of approval of probable cause when the arrestee was taken to the DDC. When an officer is not seeking an arraignment warrant, the Department is required to complete Auditable Form U004, Warrant Tracking Hold Form (effective September 2009). Of the 101 arrests we reviewed, the Department did not seek a warrant in 14 cases. In all cases but two, the required auditable form was completed within the time requirement of the paragraph. Due to the lateness of these two auditable forms, it appears the errors may have been caught after OCR's request for the documents.

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DPD's compliance rate is 97%, a slight decrease from the previous reporting period, for the three separate and distinct requirements of this paragraph. DPD has been in compliance with Phase 2 of this paragraph in all our previous reports.

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.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)***CJ Requirement U45***

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

In our tenth quarterly report, we determined that DPD was in compliance with the provisions of this paragraph; this was the first reporting period that DPD achieved compliance in this area. DPD had previously come into compliance with traffic and investigatory stops. Supervisors must scrutinize each officer's Daily Activity Log and complete the required auditable form when reasonable suspicion for the stop does not exist. Due to settling previous litigation, DPD issued Training Directive 12-03 on January 12, 2012 reinforcing Detroit City Code 38-1-3 as it pertains to the loitering ordinance. The new guidelines clearly define the rights of the individual and provide clarity to personnel when enforcing loitering violations. On August 16, 2013, DPD issued Teletype #13-0861 reaffirming Section 38-1-3 of the Detroit City Code and advising officers that simply writing "loitering" on their Activity Log without any other description does not meet the requirements of this paragraph.

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DPD issued Teletype 13-073 (read at all Roll Calls from February 16, through February 22, 2013) regarding traffic stops and the codes used by the officers to notify Communications Operations Zone Dispatchers when they clear the stop. One of the codes indicates “advised/released without requiring the officer to state to the dispatcher the reason for the initial stop.” DPD issued Teletype 14-103 on January 24, 2014, emphasizing the responsibilities of officers, supervisors, and command personnel when completing and reviewing Daily Activity Logs.

To assess compliance for this reporting period, we reviewed 127 officers’ Daily Activity Logs completed on two randomly selected dates; and for the week of January 25-31, 2014, we requested all Daily Activity Logs containing a frisk.²³ Each district/precinct provided the logs requested, which included traffic stops and other situations where officers made investigatory stops of individuals who were not in vehicles or in vehicles stopped in places where a police inquiry was warranted.

Our review yielded 67 investigatory stops, of which 64 indicated a lawful purpose for the stop. We observed and noted in previous reports that supervisors are now more thorough in their reviews of officers’ Daily Activity Logs and would complete auditable forms for violations. There was one auditable form completed by the supervisors for an investigatory stop in violation of policy and it was submitted timely. Most of the investigatory stops involved subjects being in a park after posted hours, entering premises/property without owners’ permission, and loitering. In one instance, the supervisor affixed his signature for review of the Activity Log one day prior to the officer’s duty assignment. DPD’s compliance rate for investigatory stops only (excluding frisks and traffic stops) during this reporting period remains at 96%, the same as reported in the previous reporting period.

The logs included 258 traffic stops, and our review indicated that four did not contain sufficient information to justify the stop, which is a basic requirement. There were no auditable forms completed for the violations of policy. Supervisors reviewed all the officers’ Daily Activity Logs containing traffic stops in a timely fashion, with one exception, marking their signatures, and dates and times of review. DPD’s compliance rate for traffic stops is 98%, an increase from the previous quarter’s 97%.

For this report, we requested a one-day sample for the months of February and March 2014; and requested that DPD forward all Daily Activity Logs containing a frisk for January 25-31, 2014. Consequently, we reviewed 81 frisks appearing on officers’ Daily Activity Logs for the reporting period, and found that 76 met the requirement. There were five that did not meet the requirement and did not contain a required auditable form. If only one supervisor out of the five frisks in violation had completed the required auditable form, DPD would have been compliant with this paragraph. In some cases, the CLOs are completing the Activity Log reviews when they conduct internal inspections, but that is the task of the officers’ immediate supervisors. Officers are required to complete the “Recap of Activity” portion of the log to indicate their total

²³ For this review, we randomly selected Daily Activity Logs completed on February 20, and March 5, 2014; and all DPD Activity Logs containing documentation of any frisks for January 25-31, 2014.

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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 his/her subordinates. However, supervisors have not used this tool – as we continue to find instances where the officer properly conducts a frisk, but does not mark either of the appropriate boxes; or the frisk box is marked erroneously, and the supervisors fail to discover the errors.

During a 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. No changes were made as a result of that meeting, and we have found that on the few occasions when an officer conducts a consent frisk the supervisors have completed the auditable form.

We recommend that a review of in-car video of frisks by the training staff and commanders would be helpful in ensuring that legal authority exists for the frisks. In our eleventh quarterly report, we noted that supervisors were conducting in-car video review of their subordinates’ investigatory stops and frisks. This is a sound supervisory practice and we encourage DPD to continue the video review of these stops when the legality of these stops is in question. As noted above, Administrative Message 11-0151, issued on January 28, 2011; Administrative Message 11-0477, issued on April 22, 2011; Administrative Message 11-1497, issued on December 22, 2011; and a subsequent Administrative Message, issued on November 9, 2012; emphasized the recording of investigatory stops and frisks by officers and supervisory review. In addition to the previous emphasis DPD has placed on stop and frisk, the Department issued Administrative Message, Teletype #13-0766 on July 26, 2013, clarifying when a frisk can be conducted during an investigatory stop.

In previous reporting periods, we found a few cases where auditable forms were completed after they were requested by the Monitoring Team and reviewed by DPD personnel. DPD personnel have been trained; this is no longer an issue of *training* but one of *accountability*. Command personnel must ensure that their sergeants/lieutenants review investigatory stops and take action when they occur. DPD continues to fail in the area of supervisory and command review. First-line supervisors are the key personnel in ensuring that all investigatory stops are in compliance with policy. DPD’s compliance rate for frisks this quarter is 93.8%, a slight increase from the 91% we found during the previous reporting period. Conducting frisks that follow appropriate guidelines and meet established law is an important part of this paragraph and must be compliant.

The present process for recording stops and related frisks in officers’ daily logs does not allow for the capture of various data required to conduct a credible analysis of these stops and related searches (frisks). To address this issue, we have continued to suggest that the DPD design a stop (field contact) data form that requires officers to uniformly capture information related to the stop and any subsequent search (frisk). Contemporary police practices suggest that this data should include – but not be limited to – the reasons for stops, basis for any subsequent searches (frisks), results of searches (frisks), arrest/citation or other action taken, and personal data related to the person stopped. The analyses of this and related data should allow the DPD to determine whether there are any personnel-, district-, or Department-wide issues relating to the basis for stops, frisks, or disparate treatment. OCR has developed a form to better document investigatory stops/frisks and we will monitor its progress. During our April site visit, OCR advised us that

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the proposed form has been enhanced for investigative purposes; and that DPD was in the process of requesting proposals (RFPs) for the printing of the document. We recommend that this process be expedited.

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.

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

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.

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

Full compliance with this paragraph is dependent upon the successful implementation of U48; 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 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.*²⁴

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

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 supervisors can review all interviews, interrogations, and conveyances within 24 hours, compared to the 12 hours previously mandated by the paragraph.

On June 13, 2012, DPD advised us that all general investigative operational units would be merged under one command, the Criminal Investigation Unit, and be divided geographically into East and West facilities (Central District and Second Precinct). During this reporting period, all of the General Investigative Operational Units were reassigned back to the Precincts. As a result we reviewed samples of witness interviews and interrogations from all general investigative functions in all the Precincts.

We reviewed case files containing 151 interviews/interrogations (DPD Form 103, revised April 2009). We found in one case no interviewing investigator listed; wrong date listed for the interview; one with no ending time; one with a late auditable form attached and one without a witness signature.

We reviewed 53 witness conveyances from the Homicide Unit, and found all to be in compliance. Due to the nature of homicide and sexual abuse investigations, witness conveyances are generally exclusive to more serious crimes.

DPD's compliance rate for this paragraph is 98%, a slight decrease from the 99% registered in the last reporting period.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

²⁴ Amended by Court Order dated June 1, 2011.

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D. Prompt Judicial Review Policies

CJ Requirement U49

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

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.

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

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 88 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 88 cases we reviewed where an arraignment warrant was submitted or the detainee taken directly to court, all but two met the 48-hour requirement; however, in one case, the completed auditable form was attached.

In the other instance, the warrant submittal form from the OIC could not be located and it was brought to our attention by OCR staff. DPD's compliance rate for this for this paragraph is 99%, the same as we found during the last reporting period.

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 U51

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

To assess Phase 2 compliance with these requirements, we reviewed the same documents referenced in U50. Of the 101 arrest case reports we reviewed, there were 88 that began at the initial arrest and in which a warrant was submitted to the Prosecutor's Office for arraignment. There was one case where the warrant submittal to the prosecutor's office was late; however, the auditable Warrant Tracking Form was not completed. In another case the warrant submittal by the OIC to the prosecutor's office was not in the arrest packet and could not be located by OCR staff or the Precinct.

There were 53 detainees who went to arraignment, and 12 of these where the arraignment occurred more than 48 hours from the time of the initial arrest or the detainee was in custody for more than 48 hours without going to court or being released. For the second consecutive reporting period, DPD reduced the number of arraignments occurring more than 48 hours after the arrest. There was one case where an auditable form was not completed for failing to have the detainee released or arraigned timely and in another instance the auditable form for violation of the prompt judicial policies occurred 10 days late. There was one other case where a detainee was held for 59 hours in the DDC when the warrant had been denied by the prosecutor's office; an auditable form had not been prepared in this case for the delay in the release of the individual. DPD does have a procedure for notification when a detainee approaches the 48-hour timeframe while in custody; however, it failed in this instance. 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 event was recognized. If the commanding officer reviews the dates and times of the events prior to approval, determining compliance is straightforward.

DPD's compliance rate with this requirement for the current reporting period is 95%, a decrease over the previous quarter's 98%. DPD personnel who prepare the detainee warrant request information to the prosecutor should process and forward those documents promptly as any delay can create situations where detainees are not arraigned within the 48-hour time requirement.

On June 20, 2013, DPD issued Teletype 13-0593 (to be read at consecutive Roll Calls) emphasizing member responsibility with Prompt Judicial Reviews (DPD Policy 202.1-7.2). DPD also issued Teletype 14-0447 and Teletype 14-0048 on April 17, 2014 emphasizing command personnel responsibilities regarding form UF004/7 with regards to the prompt judicial

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review policies. Any further slippage in this area may take DPD out of compliance in the next quarter.

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.

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

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.

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

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 94%.

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To assess compliance with the requirements, we reviewed 101 arrest case packets from all districts, precincts, and specialized units. We reviewed DPD Detainee Input Sheets, and found a total of 34 holds/warrants listed on the Detainee Information Sheets. In our earlier reports, we noted that DPD was inconsistent in its ability to maintain compliance with this paragraph due to supervisors and OICs (officer in charge) failing to identify those holds exceeding 48 hours and the detainee still in custody. Form (DPD UF004-007, revised June 2009) 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 or a detainee is held in custody for any reason for more than 48 hours 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. There can also be an issue if the warrant submittal for the outstanding arrest is denied by the prosecutor and there is a hold on the detainee. In these cases, DPD has an expectation that the hold(s) will be addressed at the arraignment on the current charge; and if the warrant is denied, the detainee may be presented to the judge at the next available arraignment opportunity.

Since DPD combined the general investigative units in 2012, it had difficulty complying with this paragraph. As a result of the Department's inability to comply with policy, the commander of the investigative units directed that all members completing the Warrant Tracking Hold Form submit a copy of the Detainee Input Sheet to the reviewing commander to ensure that holds over 48 hours were captured on the auditable form. Of the 34 holds we reviewed, there were 33 that were compliant. (There were eight holds that were not cleared within 48 hours and seven of these contained the required auditable form.) In the one non-compliant case, where the hold exceeded the 48-hour requirement, an auditable form had not been generated.

DPD personnel advised us that the commander of the precinct – or, in the absence of the commander, the lieutenant on duty – receives the Warrant Tracking Form only when violations occur and the form is completed and forwarded by the OIC or a supervisor. Reviewing command personnel previously did not receive the entire package, and assumed all violations were properly indicated when they reviewed and approved the forms. When the supervisors receive and review the form from the OIC, they must ensure that it is complete *prior* to forwarding it for command review. DPD devised a method of ensuring the holds are either cleared or the required auditable form has been generated; however, issues with the process still remain progress has been made. We will continue to monitor to see if these issues are resolved during the next reporting period. The General Operational Investigative Units have returned to the Precincts, and this change may have a positive impact on closer scrutiny of auditable forms by commanding officers.

On May 25, 2012 DPD issued Administrative Message (Teletype 12-0400) advising all personnel of the proper procedure to ensure that auditable forms for arraignments and holds/warrants exceeding the 48-hour requirement are processed according to DPD policy.

As we have noted previously, the lack of DPD personnel properly indicating the date and time that holds/warrants are identified/cleared and generating the required auditable forms for violations continues to be problematic for the Department. We would re-emphasize that if command personnel would verify the existence of holds from the Detainee Information Sheet

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prior to signing off on the Warrant Tracking auditable form, the problem of previous non-compliance would be resolved, and it would ensure that officers and subordinate supervisors are completing the forms accurately. The issue of failure to complete required auditable forms for holds not being cleared within 48 hours has been a topic of discussion at Command Accountability Meetings on several occasions. Command personnel must ensure that the OIC completes the auditable forms timely and forwards those for review since this paragraph (prompt judicial review) requires a lieutenant or higher level of command review within 24 hours.

DPD's compliance rate for this requirement is 97%, a slight decrease from the 98% registered during the previous reporting period.

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.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)***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.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

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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.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

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.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

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.*

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

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

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

We reviewed 101 arrest case packets for this reporting period, and found a number of auditable forms submitted by supervisors or CLOs for violations of DPD policy. This paragraph requires a review of the documents and auditable forms submitted for U42-U48. The lack of supervisory review in past inspections has kept the Department out of compliance with several of the paragraphs in this section. An equally important function is command review of the actions of personnel under the command of the districts/precincts to ensure officers are complying with all DPD policies and procedures. Our review for the requirements of this paragraph included the inspection of 16 auditable forms submitted by supervisors for violation of DPD policy. Fifteen of the forms were properly reviewed by a commanding officer within the seven-day requirement and in one case the required auditable form was late in preparation by the reviewing supervisor. We found several auditable forms completed by supervisors that indicated clerical errors but were not pertinent in determining compliance.

We are aware that two internal issues may have had an impact on DPD's ability to maintain compliance with this paragraph for this and the previous reporting period: several commanding officers retired and due to the reassignment of lieutenants some units were left without a commanding officer for a period of time. In addition, we observed that several new lieutenants have been recently promoted and may not as yet be familiar with their responsibilities with the command review process. DPD must immediately address these issues if compliance is to be maintained. DPD's compliance rate for this paragraph is 94%, an increase from the 80% we found in the previous reporting period.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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CJ Requirement U60

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

This paragraph requires a review of all documentation and auditable forms submitted for paragraphs U49-57. To assess compliance for this reporting period, we reviewed 101 arrest case reports, of which 88 were submitted to the Prosecutor's Office; in one instance, the request was not timely and the OIC completed the required auditable form and a command review occurred. In another instance, the warrant submittal to the prosecutor could not be located.

In the 53 cases that went to arraignment, 12 were arraigned more than 48 hours after arrest or released without being charged by the prosecutor's office, and auditable forms were completed in all but one case. There were three instances where the same commanding officer failed to review the form to indicate the command review was within the required time frame of 24 hours. We noted previously that OCR sent Corrective Action Notices to commanders who failed to review the auditable forms within the allotted time constraints.

Of the 34 hold/warrants that we identified, there were eight holds that were not cleared within the required 48 hours. In all instances, the Warrant Tracking Form was properly completed and forwarded to the commander for review. In two cases the command review was late. There was one material witness taken into custody during this reporting period, and the commander did not review the auditable form. OCR addressed this situation with the commander of the affected unit in our presence. Under this paragraph, there were a total of 29 auditable forms in our sample that should have been reviewed and signed by a commanding officer. In the event of a commander's absence from the district or precinct, the on-duty commanding officer (lieutenant or above) has the authority to review and sign off on the auditable forms as they serve as precinct commanders during that timeframe. There should not be any instance where the officer in charge of the case cannot contact a lieutenant or above within 24 hours to review those cases where there are violations of the prompt judicial policies.

This paragraph requires that command review occur on a daily basis (within 24 hours). There were 20 auditable forms submitted for this review. DPD's overall compliance rate for this paragraph is 85%, an increase from the 69% we found in the last reporting period. 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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Critical Issues:

- During the last reporting period, DPD began transferring its detainees to the State (MDOC/DDC) facility immediately upon arrest; and as of the end of October 2013, all DPD holding facilities have been closed. We note that upon review of DPD's arraignment times for those facilities that have been closed, we have found that extreme times in custody have been significantly reduced. We continue to stress that if warrant submittals to the prosecutor were made timelier, violations of the prompt judicial policies would be reduced significantly; therefore reducing the amount of unnecessary work and documentation by DPD staff.
- Command reviews of auditable forms (U49-56) have improved during this reporting period, but the progress must be sustained. The timeliness and signature verification of the reviewing commanding officer is crucial for compliance purposes. We noted during this reporting period that there are commanders who do not understand the difference between time requirements in U59 and U60.
- We have observed the recurrence of certain commanding officers failing to properly complete or approve auditable forms in a timely fashion.
- We have previously recommended that DPD explore other methods of capturing information related to investigatory stops and frisks. The current method does not capture sufficient data for management and accountability purposes. In addition, the Activity Log currently used for this purpose is difficult to read and does not allow accurate review by supervisors. DPD has made significant progress during this reporting period towards achieving compliance with U59 and U60. Due to more detainees being arraigned and holds cleared within the 48-hour time frame from arrest; there are fewer auditable forms generated, and thus fewer opportunities for command level review. Therefore, it is imperative that timely command level review occurs according to the requirements of the paragraphs.
- We observed that during this and the previous reporting period that recently promoted command personnel do not have an understanding of the time frame requirements for review of U60.

Next Steps:

During the next reporting period, we will:

- Meet with DPD's Civil Rights Integrity Bureau (CRIB) to discuss our investigatory stop concerns, and the failure of commanding officers to conduct proper reviews as it relates to auditable forms. U60 requires daily review (24 hours). Completeness, accuracy, and timeliness of all reports and auditable forms continue to affect field units and the quality of administrative review.

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- Until this and the previous reporting period, command reviews of auditable forms (U60) have been conducted as required. DPD needs to determine the cause of the Department's recent backslide, and provide appropriate remedies, in this area.
- We have been advised that the recent retirements and transfers of commanding officers continue to have an effect on DPD's ability to maintain compliance in this area.
- Conduct reviews of in-car video for investigatory stops/frisks with supervisors and commanders during the site visit.
- Meet with the commanders, if possible, of each district and precinct to discuss issues relating to auditable forms and their role in ensuring compliance.
- Review and discuss with OCR the implementation of the new Investigatory Stop/Frisk form to ensure it captures the appropriate information and that officers are complying with the provisions of the paragraph.

¶	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	In Compliance
45	Written account of stops and frisks	In Compliance	Not in Compliance
46	Revise witness policies	In Compliance	In Compliance
47	Revise above in three months	In Compliance	In Compliance
48	Document content, etc. of interviews, etc.	In Compliance	In Compliance
49	Arrests receive prompt judicial review	In Compliance	In Compliance
50	Charges to Prosecutor within 48 hours	In Compliance	In Compliance
51	Document of late warrant requests	In Compliance	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	In Compliance
60	Required written review of violations	In Compliance	Not in Compliance

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VI. EXTERNAL COMPLAINTS

The stated mission of the Internal Affairs Division (IAD) is to assure 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.

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 again met with the BOPC Staff, the Chief Investigator, and supervising investigators assigned to OCI. We discussed with specificity the cases that were deemed noncompliant during the last reporting period. At the request of the Chief Investigator, we provided a training session covering general investigative techniques and specific issues related to compliance with the Order to all of OCI's staff.

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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.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

CJ Requirement U62

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

- a. informing persons that they may file complaints regarding the performance of any DPD employee;*
- b. distributing complaint forms, fact sheets and informational posters at City Hall, OCI, all DPD precincts, libraries, on the internet and, upon request, to community groups and community centers;*
- c. broadcasting public service announcements that describe the complaint process; and*
- d. posting permanently a placard describing the complaint process, with relevant phone numbers, in the lobby of each DPD precinct*

Comments:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

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.

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Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

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.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

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.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

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).

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

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B. External Complaint Investigations

CJ Requirement U67

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

- a. provide that all complaints shall be referred for investigation and resolution by OCI or, if the complaint alleges potentially criminal conduct by an officer, by IAD;*
- b. permit the informal resolution of complaints alleging only inadequate service or the complainant's innocence of a charge and require the investigation and formal resolution of all other complaints;*
- c. refer all complaints to the appropriate agency within five business days of their receipt;*
- d. require that the complainant shall be periodically kept informed regarding the status of the investigation;*
- e. develop written criteria for IAD and OCI investigator applicants, including the applicant's complaint and disciplinary history and investigative experience;*
- f. implement mandatory pre-service and in-service training for all IAD and OCI investigators, including intake, investigations, interviews and resolutions of external complaints;*
- g. require IAD and OCI to complete all investigations within 90 days of receiving the complaint and*
- h. require that: (1) upon completion of the investigation by a command other than OCI, the complainant shall be notified of its outcome and, if the complaint is sustained, whether disciplinary or non-disciplinary corrective action has been recommended; and (2) upon completion of an investigation by OCI the complainant shall be notified of its outcome and, if the complaint is sustained, its referral to the Chief of Police for appropriate disciplinary or non-disciplinary corrective action.²⁵*

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

Office of the Chief Investigator: For this reporting period, we reviewed 100 randomly selected OCI cases closed during January, February, and March 2014. Six of the cases were transferred to IAD, and one was transferred to Force Investigations. The cases transferred to IAD involved allegations of theft, as well as an off-duty domestic violence incident. One case was also transferred to the Transit Center Police Department. The complainant alleged inappropriate force while he was being detained in a transit facility. Five of these transfers were closed within 20 days, but the remaining took between 24 and 78 days to close. In the 78-day case, unbeknown to each other, OCI and IAD were conducting duplicate investigations.

²⁵ Amended by Court Order dated September 15, 2008.

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Four cases were resolved informally, and all met the criteria for an Informal Complaint Resolution (ICR), as they involved complaints of inadequate service or innocence of the charge. In one case, the complainant believed that he was inappropriately charged with possession of narcotics at the scene of a drug raid. In another case, the complainant was upset with the process required to retrieve his towed vehicle. In two other cases, complainants were upset with the quality of the investigations of their reported crimes. Once it was determined that the investigations were handled appropriately and in accord with DPD policy, the cases were closed as service complaints.

Three cases in our sample were administratively closed, and all were appropriate for such closure. In one case, a complainant alleged that her car should not have been towed, even though she admitted to the violation that resulted in the towing of her vehicle. In another case, the complainant alleged that her daughter should not have been arrested for domestic violence, even though the daughter admitted in the complainant's presence that she was the aggressor. These were administratively closed, as no violation of law or policy was alleged. In the third case, the complainant alleged that her motor vehicle accident report contained an error. The error was corrected pursuant to Department policy.

All of the 100 cases we reviewed were referred to OCI within five business days, as required by DPD policy; most cases were transferred within one to three days. However, we also noted the untimely transfer of cases from OCI to other investigating entities, as described earlier.

In all 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 previous site visits, we verified 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 urge OCI to explore training specific to OCI's responsibilities, in order to address knowledge and skill gaps that impact the quality of its investigations. The Chief Investigator continues to develop OCI specific training, and her staff meetings frequently have a training component. During this review period, OCI personnel received training regarding Effective Time and Case Management from the Chief Investigator.

With a compliance rate of greater than 94%, the City is in Phase 2 compliance with the OCI portion of this paragraph.

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

IAD Standard Operating Procedures and OCI policy require that all complaints be referred to the appropriate agency within five business days of their receipt. Historically, we discovered significant delays in transferring appropriate cases from OCI to IAD. During the current

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reporting period, we reviewed 34 IAD cases, and determined that three of the complaints had been referred from OCI. Two of the transferred complaints were in excess of the five-day period. They were transferred after 63 and 160 days at OCI.

The IAD Standard Operating Procedures contains criteria for investigator applicants and training. IAD is current in its training requirements and the members have recently received advanced Internal Investigations training. During the last reporting period, a new supervising lieutenant and three new investigators were assigned to IAD. Additionally, the entire command staff was replaced. We reviewed available training course lesson plans, and DPD command staff advise us that they expect to receive appropriate training before the next reporting period.

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 both the opening and the closure of all investigations, and in those cases where the investigator was changed.

During our review of 34 investigations in this reporting period, five exceeded the 90-day time limit. One was delayed due to criminal prosecution, two delayed for re-interviews of officers, and two due to late transfer from the Office of the Chief Investigator. Each investigative folder contained appropriately requested and approved extension requests. There were no cases that were inappropriately delayed during this period.

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

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: 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;²⁶ 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.*

²⁶ Amended by Court Order dated July 18, 2003.

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Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

During this reporting period, the Chief Investigator (or in her absence, her designee) reviewed all investigations submitted to her within the prescribed seven-day period.

The Board of Police Commissioners completed all of its reviews within the prescribed forty-five-day period.

During our most recent site visit, we reviewed the correspondence documenting the exchange of cases between OCI and the Chief's Office, and the timely review by the Chief's staff.

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

During this 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 do not concur with the findings assigned to one or more allegations in eight cases. Three cases involved demeanor allegations, and we believe that the available audio recordings support sustained findings, which is contrary to OCI's determinations. In another case, we believe that the investigator improperly exonerated the actions of officers who were never identified. The complainant and several witnesses alleged that a "stop and frisk" of three teens was not justified. Given the available evidence, a finding of not sustained would have been more appropriate. In another case, the finding in the investigative summary did not match the finding

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sent to the Board of Police Commissioners. We are not certain which finding OCI asserts is the correct finding – but in any event, one of them is inappropriate.

OCI must not only make one of the findings specified above, but the findings must be consistent with the defined requirements and supported by the investigations conducted. With a compliance rate of 92%, the City remains in Phase 2 compliance with this portion of the requirement, but risks falling out of compliance during the next review period if the compliance rate is again below 94%.

In addition, we reviewed all 34 IAD cases – including internal and external complaints – that were completed during this reporting period. During earlier reviews, there were dispositions in each of the investigations. We did not always agree with the dispositions, especially those that were derived from faulty interviews and/or the failure to gather pertinent evidence. When we discussed this issue with IAD personnel, IAD accepted the advice and made corrections as needed.

During this reporting period, all IAD investigations contained the required dispositions. Included in the 34 investigations were 41 allegations of misconduct. The following is a breakdown of the dispositions of the 41 allegations: 14 unfounded; 16 sustained; 10 not sustained; and one exonerated. Based on our review of the investigative documents, these are appropriate dispositions. IAD is in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

We examined 34 closed IAD cases and 100 closed OCI cases for the period of January 1, through March 31, 2014. Our review disclosed that the following issues continue to require attention:

- *IAD New Investigator Recruitment and Training:* During the last reporting period, four new investigators and a supervising lieutenant were assigned to Internal Affairs. A commensurate number transferred out of Internal Affairs. Additionally, the entire command staff was replaced. It is expected that they will experience a learning curve and receive the appropriate training during the current reporting period.
- *Case Tracking of Cases at the Wayne County Prosecutor's Office:* In spite of an apparent shortage of staff at the Prosecutor's Office, IAD appears to have eliminated the backlog of overdue cases, including most of the cases that are awaiting disposition or prosecution at the Prosecutor's Office. The Prosecutor sets the priorities of the cases to be filed. The new IAD Manager has mandated that each investigator who has cases pending must call on a biweekly basis the Wayne County Prosecutor's Office to discuss the viability of the cases still awaiting decisions.

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- *Quality of OCI Investigations:* OCI's Chief Investigator and its supervising investigators need to redouble their efforts in addressing the quality issues associated with their investigations. They have long since addressed their backlog of cases, and have put systems in place to ensure that investigations will be completed in a timely manner moving forward. We routinely review cases, however, with mistakes that should be caught during the supervisory review process, and suggest that supervisors are scanning investigations rather than reading them. Clearly, not all of these errors affect compliance with the Consent Judgment, but they are indicative of a process that also allows the cases with actual compliance issues to slip through. OCI has made significant progress in the past two years, and is at the point where it must pay close attention to the details of every case to ensure that it remains in compliance with applicable requirements and does not backslide. During every site visit, we discuss numerous cases in detail from our most recently completed assessment. We note many deficiencies that can be addressed with a thorough review of the cases and independent verification of the content of interviews.

Next Steps:

During the next reporting period, we will:

- Review a sample of the cases closed by OCI and IAD for the months of April, May, and June 2014.

¶	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	In Compliance
68	Time limits for review of investigations/complaints	In Compliance	In Compliance
69	Required finding categories specified	In Compliance	In Compliance

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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.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)***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.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)***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.

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Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

CJ Requirement U73

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

In the past, we have reviewed the Daily Details for the platoons that operated on three randomly selected days during the quarter preceding our site visit to determine if units were in compliance with a 1:10 supervisory ratio. From our April 2011 review and report until the second quarter of 2013 we found DPD in compliance with the 1:10 supervisory ratio in over 94% of the assignments that we surveyed. During the second quarter of calendar year 2013, however, we found that only 91% of the randomly selected platoons and specialized units were in compliance with the required 1:10 ratio of supervisors to officers in patrol and specialized units on the dates surveyed.

Since DPD had been in compliance since April 2011, we continued it in that status. We noted in our second quarter report that if during next review, we found the Department below >94%, we would take it out of compliant status. During the October 2013 site visit, we again surveyed Daily Details for three days selected at random and found that 102 (92%) of 111 DPD Platoons and 1,227 (90%) of the 1,362 officers working on those days met the required 1:10 ratio. Inasmuch as DPD had dropped below the >94% compliance test on two consecutive reviews and we advised the Department that it was jeopardy of losing its compliance, we found DPD no longer in compliance with U73.

During our third and fourth quarter 2013 reviews, we surveyed Daily Details for three days selected at random and found that in both quarters only 90% of the officers and 91% of squads that were deployed met the required 1:10 supervisory ratio.

During our most recent site visit, we again surveyed Daily Details for three days selected at random (Wednesday, January 8; Saturday, February 15; and Friday, March 14, 2014). We found that of the 1,771 officers deployed, 1,694 (96%) were assigned within the mandated span of control. Of the 166 squads deployed on those dates, 160 (96%) were within the span of control. The results of our survey are shown on the chart below.

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Span of Control Survey, 4th Quarter, 2013						
DATE	OFFICERS SURVEYED	OFFICERS W/I SPAN OF CONTROL	%	SQDS SURVEYED	SQDS W/I SPAN OF CONTROL	%
Saturday, January 18, 2014	629	575	91%	55	51	93%
Saturday, February 15, 2014	542	530	98%	56	55	98%
Friday, December 19, 2014	600	589	98%	55	54	98%
TOTALS	1,771	1,694	96%	166	160	96%

DPD is in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U74

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

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CJ Requirement U75

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

- a. provide that off-duty officers shall notify on-duty DPD or local law enforcement officers before taking police action, absent exigent circumstances, so that they may respond with appropriate personnel and resources to handle the problem;*
- b. prohibit off-duty officers from carrying or using firearms or taking police action in situations where an officer's performance may be impaired or the officer's ability to take objective action may be compromised; and*
- c. provide that, if it appears the officer has consumed alcohol or is otherwise impaired, the officer shall submit to field sobriety, breathalyzer, and/or blood tests.*

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

In the previous reporting period, we identified one instance of off-duty police actions by DPD members. The case was investigated by FI, as it involved a firearm discharge by an officer striking a suspect who was threatening another member. The officer who fired the round struck the offender in the buttocks. Since this incident occurred in another jurisdiction, the criminal investigation was conducted by the city of Livonia. Our concern was that a Breathalyzer test was not performed on the subject officers shortly after the incident took place. FI closed the investigation in January 2014 with recommendations for corrective action and that the context of the incident be reviewed by training.

During this reporting period, we identified one instance of off-duty police action by a DPD member. The incident occurred in a pharmacy involving a sergeant and another female and included an assault on the sergeant. The sergeant correctly identified the incident as requiring a use of force report. There was in-store video and the report indicates it was reviewed but there is no indication of a chronological review of the video or what the reviewer observed. The synopsis of the event is verbatim from the sergeant's use of force report (u002). The interviews were poorly conducted, with no follow-up questions, and the command lieutenant was unaware that a use of force report was required. CLFRT reviewed the case and submitted it back to the original command, with four areas to be addressed.

There was an extension request made due to workload issues that should not have been granted. This was a relatively easy investigation compared to others we have reviewed and it should not have contained the amount of issues it had.

DPD is in compliance with the three subsets of this paragraph. The issues discovered during this weak and incomplete command level investigation conducted by the assigned supervisor were addressed in Section IV, paragraphs U27-36.

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.*

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

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.*

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

Critical Issues:

The issue of DPD member involvement in off-duty incidents merits further attention by DPD command staff as the numbers of incidents have increased over the past two or three reporting periods. We recommend that the DPD take steps to ensure that on-duty personnel are called to handle incidents involving off-duty personnel, in particular when the involved off-duty personnel have or appear to have consumed alcoholic beverages.

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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.
- Monitor the presence of arresting or transport officers in the holding cell areas.

¶	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, 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.*

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

This requirement established the general requirements of the risk management system that are spelled out in greater detail in the requirements that immediately follow. It has now been eight quarters since DPD achieved Phase 2 compliance with this requirement. The overall system now functions well and is used to assess and manage risk in the Department. The individual focus of the system with its attention to officer behavior is buttressed by the use of data at the organizational level as seen in the Department's Command Accountability Meetings.

We noted in our last report that even with these indicators of stability there were significant transitions occurring with the risk management process. The Risk Management Unit is continuing the process of identifying outliers using risk indicators normed by officers' numbers of arrest. That process was occurring during the site visit for use in selecting officers for review in the upcoming quarter. The Risk Management Unit is also continuing to conduct initial reviews prior to engaging supervisors. This has reduced the workload on first-level supervisors and standardized components of the process.

This requirement has been understood as requiring an overall assessment of the functioning and use of the risk management system. The current review supports the view that compliance levels remain unchanged.

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Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U79

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

This requirement also involves a broad assessment of the risk management process. This review and interviews with the Risk Management Unit supports the view that the compliance status of this requirement remains unchanged. To assess compliance, we review monthly MAS status reports. For this reporting period, we also reviewed the monthly command reviews that document the use of MAS, and the results of PEERS reviews that are now completed through the Risk Management Unit. We also reviewed the reports of the intervention processes used by supervisors.

There has been one significant development in the risk management process over the quarter. In their review of Force Investigation (FI) cases, Risk Management Unit staff noted that the FI reviews showed that some officers involved in the incidents had substantial histories of risk reviews and monitoring or intervention. The Risk Management Team is currently developing a protocol to identify and address the problem of some officers continuing to meet risk thresholds after identification and remedial steps are taken. Addressing these repeaters to reduce individual and Departmental risk will be an important advancement. We will consider progress in this area in our next review.

Based on our examination of the use of the system, including the input of data, the use of that data; the identification, review and intervention with officers exceeding thresholds established in the system; and our review of the continued development and use of this system, we again recognize the achievement of Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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CJ Requirement U80

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

- a. *all use of force reports and use of force investigations;*
- b. *all canine deployments;*
- c. *all canine apprehensions;*
- d. *all canine bites;*
- e. *all canisters of chemical spray issued to officers;*
- f. *all injured prisoner reports and injured prisoner investigations;*
- g. *all instances in which force is used and a subject is charged with "resisting arrest," "assault on a police officer," "disorderly conduct" or "interfering with a city employee;"*
- h. *all firearm discharge reports and firearm discharge investigations;*
- i. *all incidents in which an officer draws a firearm and acquires a target;*
- j. *all complaints and complaint investigations, entered at the time the complaint is filed and updated to record the finding;*
- k. *all preliminary investigations and investigations of alleged criminal conduct;*
- l. *all criminal proceedings initiated, as well as all civil or administrative claims filed with, and all civil lawsuits served upon, the City, or its officers, or agents, resulting from DPD operations or the actions of DPD personnel, entered at the time proceedings are initiated and updated to record disposition;*
- m. *all vehicle and foot pursuits and traffic collisions;*
- n. *all reports regarding arrests without probable cause or where the individual was discharged from custody without formal charges being sought;*
- o. *all reports regarding investigatory stops and/or frisks unsupported by reasonable suspicion;*
- p. *all reports regarding interviews, interrogations or conveyances in violation of DPD policy;*
- q. *the time between arrest and arraignment for all arrests;*
- r. *all reports regarding a violation of DPD prompt judicial review policy;*
- s. *all reports regarding a violation of DPD hold policy;*
- t. *all restrictions on phone calls or visitors imposed by officers;*
- u. *all instances in which the DPD is informed by a prosecuting authority that a declination to prosecute any crime was based, in whole or in part, upon concerns about the*

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credibility of a DPD officer or that a motion to suppress evidence was granted on the grounds of a constitutional violation by a DPD officer;

- v. all disciplinary action taken against officers;*
- w. all non-disciplinary corrective action required of officers, excluding administrative counseling records;*
- x. all awards and commendations received by officers;*
- y. the assignment, rank, and training history of officers; and*
- z. firearms qualification information of officers.*

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

Again this reporting period, we find that the expected information is present for all the mandated data categories. The totals for data entered during the reporting period for all relevant subtasks are presented below. Our review of MAS reports also 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 reporting period. The data below show that there is a general consistency in the numbers across most categories for the time periods shown. The dashboard data (found at the end of the report), which are normed by the total arrest figures, also show no major changes in patterns over the previous 12 months based.

Even noting the general consistency of data, there are several areas that show unusual patterns in the information. Although the number for canine deployments remains small at 11, it is a substantial increase from earlier periods. Likewise, the use of force in disorderly conduct cases is elevated in the last two reporting periods compared with previous periods. Finally, the number of Stops where there was no probable cause shows a dramatic decline to zero. This is explained as a correction in reporting practice because some supervisors had made reporting errors in the past. All of these issues will be reconsidered during our next site visit.

Another area of concern, raised in our last report, deals with the number of times it is reported that an officer “draws a firearm and acquires a target.” That is reported as 10 for this quarter, the same number as in the previous quarter. We remain concerned with the lack of reporting of this activity, particularly in connection with narcotics enforcement. We understand, however, that the Risk Management Unit is reviewing this issue, and we look forward to further discussion of the matter. Accurate data are, of course, the foundation of the entire risk management process.

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U80 Data Requirements –							
Quarterly Department Totals							
Subtask	Text	10/1-12/31, 2012	1/1-3/31, 2013	4/1-6/30, 2013	7/1-9/31, 2013	10/1-12/31 2013	1/1-4/31 2014
a	use of force reports	222	209	249	194	249	260
a	use of force investigation	86	63	97	72	91	83
b	canine deployments	5	5	1	0	4	11
c	canine apprehension	3	4	1	0	2	0
d	canine bites	0	0	0	0	0	0
f	injured prisoner reports	16	15	19	26	10	6
g	injured prisoner investigations	14	9	19	26	10	6
g	force and arrests for resisting arrest	102	94	120	78	94	87
g	force and arrests for assault on an officer	69	50	44	37	45	62
g	force and arrests for disorderly conduct	19	12	13	10	35	32
g	force and arrests for interfering with city employee	11	3	13	17	16	18
h	firearm discharge reports	12	9	11	7	11	5
h	firearm discharge investigations	12	9	11	7	11	5
i	officer draws a firearm & acquires target	15	10	23	12	10	10
j	Complaints	247	178	250	303	323	287
k	investigations of criminal misconduct by officers	0	12	17	10	6	19
l	criminal proceedings against members	2	4	2	1	0	0
l	all civil lawsuits	29	4	27	7	1	0
m	vehicle pursuits	30	20	17	36	25	24
m	foot pursuits	8	16	21	17	4	9
m	traffic collisions	31	33	25	26	35	35
n	reports of arrests w/o probable cause	4	3	3	9	2	2
n	individuals discharged from custody w/o charges	453	444	473	582	384	296
o	investigatory stops and frisks w/o reasonable suspicion	Frisks=4 Stops=3	Frisks=4 Stops=7	Frisks=20 Stops=23	Frisks=78 Stops=123	Frisks=31 Stops=145	Frisks=21 Stops=0
p	reports of interviews, interrogation, or conveyances in viol of policy	Interviews=1, Interrogation=0, Conveyances=0	Interviews=10, Interrogation=27, Conveyances=6	Interviews=2, Interrogation=77, Conveyances=2	Interviews=8, Interrogation=18, Conveyances=0	Interviews=18, Interrogation=31, Conveyances=0	Interviews=16, Interrogation=44, Conveyances=6
r	reports of violations of prompt judicial review	769	825	899	850	458	313
s	reports of violation of DPD hold policy	431	528	553	460	301	296
t	reports of restrictions on phone calls or visits	35	9	0	0	0	0
u	report of declination to prosecute due to police conduct or suppressed evidence	0	0	0	0	0	0
v	disciplinary action taken against officers	3	0	0	81	57	52
w	non-disciplinary corrective action	135	161	178	89	79	77

*Note: Under category o (Stops and Frisks), only those for which no reasonable suspicion is reported are collected in MAS.

The quarterly review of these data provides a means by which DPD can assess Department activity and also examine the quality of information entered into MAS. With the exceptions

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noted above, this analysis continues to indicate that, in general, the appropriate data are collected and entered into the risk management system.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U81

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

CJ Requirement U82

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

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

There are no changes in the compliance status of this requirement. The current Data Input Plan was submitted for review and approved by the Department of Justice. Our observations and interviews with DPD continue to support the conclusion that the provisions of the Data Input Plan are reflected in the practices of the Department. We have identified no significant deviations from the existing plan during this quarter. We will continue to monitor this, however, paying special attention to changes resulting from the revision of forms as part of the revisions to the Records Management System.

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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;*
- b. establish thresholds for the numbers and types of incidents requiring a review by an officer's supervisor of whether the officer or group of officers is engaging in at-risk behavior (in addition to the regular reviews required by paragraph 84); and*
- c. require the database to generate reports on a monthly basis describing the data and data analysis and identifying individual and unit patterns.*

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

There are no changes in the compliance status of this requirement. The Department's revised Report Protocol was also approved by the Department of Justice in a letter dated June 9, 2011. Our observations and interviews with DPD continue to support the conclusion that the provisions of the Report Protocol are reflected in the practices of the Department. To consider this, we once again examine command monthly reviews in MAS, and confirm both the availability and use of the MAS data at the command level. The Department was in the process of norming data by arrests during our visit. These norms will provide the foundation for risk review in the coming quarter. In reviewing this process, Risk Management Unit leadership pointed out the in some periods, norming by arrest numbers identifies few outliers. This is particularly true with regard to identifying complaint outliers. It was decided that the best procedure would be to norm the data quarterly but always look back at six months of data. This will create overlapping review periods that will provide further assurance that no one "slips through the cracks" under the system.

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The Department also issues a Monthly MAS Status Report to document and report on changes in the system and other relevant issues. No major changes were reported in the most recent document covering the reporting period.

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:

- 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;*

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- i. *commanders and supervisors to promptly review records of all officers recently transferred to their sections and units;*
- j. *commanders and supervisors to be evaluated on their ability to use the risk management database to enhance effectiveness and reduce risk;*
- k. *that a designated DPD unit be responsible for managing and administering the database, including conducting quarterly audits of the system to ensure action is taken according to the process described above; and*
- l. *that aggregated information from the risk management database be shared on a regular and periodic basis with training and policy planning staff.*

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

There are no changes in the compliance status of this requirement. The Review Protocol was last revised, submitted for review, and approved by DOJ on June 9, 2011. Quarterly interviews with staff assigned to MAS continue to support the conclusion that the review process is being implemented consistent with policy. To further assess that, we examine all Personnel Evaluation and Enhancement Review Sessions (PEERS) completed and signed off in the reporting period for the quarter. The data comparing this reporting period to the previous reporting period are presented below.

Again this quarter, the chart shows the revised PEERS process in which, as thresholds were met, PEERS were completed by the Risk Management Unit. This process is reflected in the number of PEERS conducted (26) and the level of PEERS returned to supervisors. The data show a decline for the quarter under review in the number of PEERS (six) that did not include adequate documentation on the monitoring process. To address the number of PEERS returned to supervisors, Risk Management Unit leadership has been meeting with Captains, Lieutenants and Sergeants to address issues. Special attention is being paid to new sergeants. These meetings appear to be beneficial in addressing the problem. While the completion of reviews with the risk management unit accomplished the goal of reducing false positives findings, the data also show the important of management of the process to assure its effectiveness. We will continue to examine the supervisors' responses to the revised review process.

PEERS and Their Outcomes								
	April-June 2012	July 1-Sept 30 2012	Oct 1-Dec 31 2012	Jan-March 2013	April-June 2013	July 1-Sept 30, 2013	Oct 1 - Dec 31, 2013	Jan-March 2014
Total PEERS	68	58	27	25	23	26	21	26
No Action Needed	55 (81%)	41 (84%)	0	0	0	0	0	0
Monitoring	8 (12%)	6 (12%)	13	10	11	7	9	11
Other/Pending	5 (7%)	2 (4%)	7	4	4	13	8	9
PEERS Pending Further Review by OCR	0	0	7	24	0	6	0	0
PEERS returned for correction or completion	3 supervisors 5 reviews	3 supervisors 5 reviews				6	20*	6*
Total PEERS Created				141	153	127	155	131

*Supervisors failed to properly document Monitoring information on the PEERS.

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As noted, for the cases shown above, the Risk Management Unit now performs an initial review of officers who exceed thresholds to determine if they are suitable for review. The unit also selects officers for review based on the MAS indicators as normed by arrest numbers. Eleven of 26 reviews (42%) resulted in monitoring. Nine remained pending, awaiting completion and, as noted above, 6 were returned to supervisors for correction or completion. With the exception of the decline in PEERS returned to supervisors for additional work, the numbers are similar to that of the previous reporting period.

All of the above data indicate that the system is heavily used and administered in a manner consistent with risk reduction goals. The decline in the number of reviews returned to supervisors for revision indicates that the transition to internal reviews by the risk unit is moving forward successfully. DPD is in Phase 2 compliance with this paragraph.

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.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)***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.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

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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.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

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*

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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.²⁷

- e. By May 31, 2004, the DPD shall select the contractor to create the risk management database.*
- f. By June 30, 2005, the City shall have ready for testing a beta version of the risk management database consisting of: i) server hardware and operating systems installed, configured and integrated with the City and DPD's existing automated systems; ii) necessary database software installed and configured; iii) data structures created, including interfaces to source data; and iv) the information system completed, including historic data. The DOJ and the Monitor shall have the opportunity to participate in testing the beta version using new and historical data and test data created specifically for purposes of checking the risk management database.*
- g. The risk management database shall be operational and fully implemented by December 31, 2005.*

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (See Executive Summary)

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.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (See Executive Summary)

²⁷ Amended by Court Orders dated November 9, 2007, and July 22, 2008

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CJ Requirement U90

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

There are no changes in the Phase 2 compliance status of this requirement. We will continue to monitor the risk management system to ensure that any significant changes are handled in a manner consistent with this requirement. DPD has incorporated descriptions of its data norming process in the relevant Standard Operating Procedures operating procedures. The Department is currently redesigning the Use of Force Form (UF-002) to improve direct entry into the database. This is the first form to be changed in the overall revision of forms in conjunction with development of the records management system. The changes are reported in the Monthly MAS Status Report.

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:*²⁸

- a. *civil rights integrity;*
- b. *adherence to law, including performing duties in a manner consistent with the requirements of the Fourth and Fifth Amendments to the Constitution and the Civil Rights laws of the United States; and*
- c. *supervisor's performance in identifying and addressing at-risk behavior in subordinates, including their supervision and review of use of force, arrests, care of prisoners, prisoner processing, and performance bearing upon honesty and integrity.*

²⁸ Amended by Court Order dated October 4, 2004.

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Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

DPD has been in Phase 2 compliance with this paragraph for the past 11 reporting periods. To verify continued compliance for the current reporting period, we examined a random sample of 120 evaluations drawn from all a list of all personnel. All evaluations were accounted for, with 10 employees from the sample excluded because they were in probationary status as new employees, or on leave from the Department. All completed evaluations included the appropriate forms and included references to civil rights integrity and review of the relevant information from the Management Awareness System.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

C. Oversight

CJ Requirement U92

*The DPD shall develop a protocol for conducting annual audits to be used by each officer or supervisor charged with conducting audits. The protocol shall establish a regular and fixed schedule to ensure that such audits occur with sufficient frequency and cover all DPD units and commands. The annual audit period for conducting the audits required by paragraphs 93 to 97 for the first year shall end on August 31, 2004. The subsequent annual periods shall end on July 17, 2005, and every year thereafter.*²⁹

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

This requirement, and the five that follow it, establish the structure and processes for auditing key functions in the Department. The Department has implemented a process of monthly audits that are consolidated into quarterly and an annual report consistent with these requirements.

Phase 2 compliance with this requirement is linked to compliance with the requirements of U93-97. As noted in our last report, the audit protocol was revised, past audits were completed on schedule, and all new audits are now scheduled. The new protocol is in place and being followed. It requires monthly reports by the auditors that are presented in a quarterly written and verbal audit briefing. These have been completed for the year and were in the process of review for command signatures during our most recent site visit.

DPD continues in Phase 2 compliance with this requirement.

²⁹ Amended by Court Order dated October 4, 2004.

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Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U93

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

The DPD is also in Phase 2 compliance with this requirement. As noted below, completed audits contained Corrective Action Notices and corresponding plans submitted and signed by the appropriate command staff. The consolidated audit report was in command review during our most recent site visit.

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.³⁰

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

The DPD is also in Phase 2 compliance with this requirement. As noted below, completed audits contained Corrective Action Notices and corresponding plans submitted and signed by the appropriate command staff. The consolidated audit report was in command review during our most recent site visit.

³⁰ Amended by Court Order dated October 4, 2004.

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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.*³¹

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

There are no changes in the compliance status of this requirement. DPD has been in Phase 2 compliance with this requirement since our second quarterly report. Stop and frisk audits were completed on schedule, and corrective action reports were completed. The consolidated audit report was in command review during our most recent site visit.

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.*³²

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

The DPD has been in Phase 2 compliance with this requirement since the second reporting period. Custodial detention audits of all relevant facilities were completed on schedule last year.

³¹ Amended by Court Order dated October 4, 2004.

³² Amended by Court Order dated October 4, 2004.

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As in the past, there have been areas recognized as needing improvement and subject to corrective action notices regarding detention practices. With the removal of responsibilities for detention under the Conditions of Confinement Agreement, the Department does not plan on additional audits of custodial detention practices. The Department thus remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U97

*The Chief Investigator of OCI shall designate an individual or entity to conduct regularly scheduled annual audits that examine external complaints and complaint investigations. The audit shall include reviewing a statistically valid sample of complaints that were resolved informally, reviewing a sample of OCI investigations of complaints, and contacting the complainants to evaluate whether the actions and views of the complainant were captured correctly in the complaint report and/or investigation. The Chief Investigator shall review all audit reports regarding officers under OCI command and, if appropriate, shall take non-disciplinary corrective action or disciplinary action.*³³

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

There are no changes in the compliance status of this requirement. This last annual audit was completed for the reporting period ending August 31, 2013. The report was completed on May 31, 2013 for review up the chain of command. The Department now conducts monthly audits that are reviewed quarterly and consolidated into an annual report. Consistent with the other oversight-related requirements, the Department has been in Phase 2 compliance with this requirement since the second reporting period. The Department remains in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

³³ Amended by Court Order dated October 4, 2004.

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CJ Requirement U98

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

While our past audits found DPD in compliance with U98, the random reviews that were conducted by DPD supervisors produced few substantive results for the DPD. Since February 2013, the Department has instituted and revised the random selection process whereby the Office of Civil Rights directed the traffic stops be reviewed and tasked the field operations units to review them. The new process was announced by message order that was effective beginning on February 2, 2013, that stated, "The Office of Civil Rights (OCR) shall notify individual commands specific traffic stop events that require a supervisory review of the in-car video/audio system."

Our 2013 second quarter review found the process improved; however, DPD failed to conduct any random reviews during the third quarter of 2013. When conducting our October 2013 review, we learned that the data had not been collected. Inasmuch as DPD erases video older than 90 days, it was impossible to review data for July 2013. DPD subsequently conducted the random reviews for traffic stops in August and September 2013.

During our January 2014 site visit, we found that DPD had conducted random reviews throughout the fourth quarter of 2013 (October 1, through December 31, 2013). DPD supervisors conducted a total of 181 random reviews during the reporting period.

During this review, we found that in January 2014, CRIB forwarded a list of traffic stops to the precincts and commands and directed that each select and review eight random traffic stops for their own officers. We pointed out that it was critical that an entity other than the reviewing command should select the events to be reviewed. In February 2014, CRIB selected the events and tasked the commands to conduct the reviews. A total of 216 traffic stops were reviewed in the two months (108 for each month). March 2014 random reviews were not available to us during our most recent site visit.

We surveyed the DPD's random reviews by examining 26 of the reviews conducted in January and 39 of those conducted in February. Our reviews were intended to determine if the supervisors conducted quality reviews.

Our 26 January reviews were selected from those done by six DPD precincts. Two of these reviews did not contain sufficient information for us to be able to readily identify the event sampled. In the remaining 24, 23 (96%) were recorded as having video and 12 (50%) audio. Significantly, in 12 cases corrective action was required but was taken in only nine (75%) instances.

Our 39 February reviews were selected from five precincts and were more revealing. In these CRIB selected the events to be examined by DPD commands. We found that one precinct

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simply ignored the direction to review the eight specific events selected by CRIB and picked its own eight from the traffic stops conducted by its officers. No one in that precinct's command noticed the wrong traffic stops had been selected and reviewed. We examined the eight reviews conducted by that precinct's supervisors and found that four of the eight reported that audio was not obtained. In each case the supervisor excused the failure indicating it was result of technical failure. One of the systems cited was repaired five days after it had "failed" but none of the others appeared on the list of repairs to DPD MVS equipment after the date of the review.

We excluded the precinct that did not review the correct traffic stops and examined the remaining 31 February traffic stops reviews. We excluded another three that involved broken MVS equipment. Of the remaining 28 random reviews, supervisors found 28 had video and 19 had audio. There were six instances where corrective action relating to mobile videos should have been taken by the supervisor and his/her command. In three of these cases the supervisor took the necessary corrective action. We noted in our last report that what is important for there to be compliance with this requirement is that random reviews are performed, not that they find any particular level of compliance percentage. The reason for doing random reviews is for the Department's leaders to have the information necessary for them to know whether their subordinates are complying with the policy and direction they have set for the Department. We show the percentages since they are indicative of the quality of the random reviews being conducted. In the previous reporting period, we found the results appeared to be inflated by about 10% when compared to the results we found in our random survey of traffic stops for the same period. During the first two months of 2014, DPD supervisors found 98% video and 62% audio compliance; our survey for this reporting period indicated 92% video and 54% audio compliance. The results we found from the random reviews are depicted in the following chart.

SURVEY OF DPD SUPERVISORS' RANDOM REVIEWS							
Month	Equipped & Ready	Video	%	Audio	%	Corrective Action Required	Corrective Action Taken
January 2014	24	23	96%	13	54%	12	9
February 2014	28	28	100%	19	68%	6	3
	52	51	98%	32	62%	18	12

Supervisors' random reviews are the tool that will enable DPD to bring itself into compliance with the MVS requirements (U101 and U102). While the new random review process still requires some refinement, the overall quality of the random reviews being conducted has improved. We found that, as expected, the compliance rates reported by supervisors were more realistic than those found in previous "random" reviews in which the reviewing supervisor

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simply selected the event and reviewed it. Further, in a number of instances supervisors commented on safety and tactical methods employed by the officers. Overall, the random review process has been substantially improved.

DPD is in Phase 2 compliance with this requirement.

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.

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

DPD has been in Phase 2 compliance with this requirement since the second reporting period. To verify continued compliance with this requirement for this reporting period, we reviewed the minutes of the February 12, 2114 quarterly meeting involving DPD and members of the Prosecutor's Office. Consistent with previous meetings, a wide range of topics were discussed and reported in the meeting minutes including those relating to warrant processes, interpreting services, dismissed court cases and the witness interview process. The next meeting was scheduled for May 8, 2014.

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.

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

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. In July 2011, DPD estimated that it had about 300 MVS units installed in its fleet. The complement of MVS equipment actually installed has remained the same, about 300 vehicles, since that time. At any

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one time, however, the number of units that are *operational* totals fewer than 300. We found that in October 2013, 166 different DPD cars were operational and uploaded video; in November 2013, the total was 177; in December 2013, the total was 155; and in March 2014, 212. Overall, the balance of new MVS systems that have been deployed between old Insight systems and the newer Data 911 systems has shifted. In October, 54% of the units that uploaded video were D911-equipped; in December 65% of the units that uploaded were D911-equipped and in March 2014, D911 systems dropped to 60% of DPD MVS uploads.

The MVS system has functioned well since January 2013, and no major failures have been experienced in which significant amounts of data could not be uploaded throughout 2013. The challenge to the DPD remains to ensure its members record the events as required by DPD policies.

We reviewed the service log for the period of January 1, through March 31, 2014, and found that the DPD handled 436 MVS-related service actions during the quarter. Eleven were classified as "Active," five as "Closed Unresolved," and 15 as "Pending Vendor Issue." A total of 410 (94%) were classified as "Completed."

Compliance Status:

Phase 1: In Compliance

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.*

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

During past site visits, we found:

1. 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. The equipment is set so that whenever the emergency lights are activated, the units switch to full-video mode and capture 28 frames per second. The Department now erases the one frame per second video recorded on the D911 MVS equipment after it has been stored for 24 hours.
2. DPD preserves and retains videos in the central server as required by U101c.

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U101b requires that video be activated for each of the incidents specified and that supervisors' review the video where one is available.

Uses of Force: Our review of first quarter 2014 data found that in 39 of 61 incidents, the units had recording devices. Of those 39 cases, we found that there were 38 (97%) in which video was recorded and 33 (85%) in which audio recordings were captured. All 38 (100%) were reviewed by supervisors.

Injuries: In past reporting periods, DPD has been unable to produce a report that identified a comprehensive list of incidents involving injuries to officers or subjects in which MVS should have been recorded by officers and reviewed by supervisors. Beginning in January 2013, the Department has tracked injuries to both officers and subjects. During the first quarter of 2014 (January 1, through March 31, 2014), the DPD identified 87 instances in which DPD officers and prisoners suffered injuries during the first quarter of 2014. Many injuries occurred in circumstances in which MVS was not applicable or where video capability was not present. A total of 43 instances involved circumstances where video capability was not present or video would have been unexpected. Of the remaining 44 instances where injury occurred, supervisory review was documented in 30 (68%).

	Injuries to Officers and Prisoners			
	Number Reported	# Not Equipped	Supervisory Review Documented	%
Q1 2014	87	43	30	68%

Pursuits: Eleven DPD officers wrote pursuit reports pertaining to pursuits that occurred during the first quarter of 2014. Seven cars in these pursuits were equipped with operational MVS systems. We found that six (86%) of the cars recorded video pictures and two activated audio when the officers exited the cars at the end of the vehicle chase. Audio is particularly important when officers leave their car to arrest or chase a subject on foot. Six of the seven pursuits ended under circumstances where the officers exited their vehicles and audio would be expected. The following chart depicts these data.

Pursuits - 1st Quarter 2014								
# Pursuits	Cars Equipped	Video	%	Audio Appropriate	Audio	%	Supervisory Review	%
11	7	6	86%	6	2	33%	6	86%

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External Complaints: We reviewed a total of 34 IAD cases for this reporting period. In 21 cases, video was not expected; and in all the remaining 13 cases, the IAD investigator submitted requests for video/audio footage to Technical Services. Video was located in five of the 13 cases and reviewed. Of the remaining eight cases, one vehicle's MVS was operating but did not capture the event and the remaining seven were vehicles which had not been equipped with MVS (six vehicles) or in which the MVS system was not working (one vehicle).

OCI Investigators checked for the presence of scout car video and audio in 100 cases with the following results:

- In 46 cases, video would have been expected; video equipment was present and operational and the circumstances were such that video should have been gathered.
- In 17 cases, or 37%, both video and audio were available.
- In two cases, or 4%, only video was available.
- In one case (2%), only audio was available.

The Department is not in Phase 2 compliance with any section of U101.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U102

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

DPD has never achieved Phase 2 compliance with this requirement. The DPD MVS system has been stable since January 2013 and, since that time, we have been able to review a full set of data for the Department's traffic stops.

During each of our site visits, we selected a random sample of traffic stops performed by DPD vehicles that were equipped with working MVS systems. We found continued improvement in the activation of the systems and resultant capture of video pictures throughout 2013. DPD captured 92% of video pictures in our random sample of Q4 2013 and 70% of audio.

In the first quarter of 2014, DPD improved significantly in capturing video, but audio declined. We surveyed 221 traffic stops and found that 207 (94%) contained video pictures and 142 (64%) contained audio. The March results were particularly encouraging: DPD achieved 94% video and 84% audio compliance.

The chart below depicts the three months of the first quarter of 2014.

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Traffic Stops - 1st Quarter 2014					
Month	Equip	Video	%	Audio	%
Jan-14	73	67	92%	37	51%
Feb-14	73	68	93%	42	58%
Mar-14	75	72	96%	63	84%
	221	207	94%	142	64%

In addition, DPD advised that seven vehicles were searched with canines during the period of January 1, through March 31, 2014. In four of the seven, the car was equipped with an operational MVS in which both the video and microphones were working. Two (50%) of the four deployments recorded video and two (50%) recorded both video and audio. The following chart reflects these data.

Vehicle Narcotics Searches 2014								
Quarter 2014	# Searches	Car Equipped w/Video	Video Working	Mic Working	Search captured on video	%	Search captured on audio	%
Q1	7	5	4	4	2	50%	2	50

The Department is not in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

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.

Comments:

This requirement, and the two that follow, address the Department's disciplinary process. When the City of Detroit signed the Use of Force Consent Judgment, the Department's disciplinary process was almost completely dysfunctional. Again this reporting period, no backlog of cases exists, an efficient process is in place, and sanctions are consistent with an established matrix of expected sanctions based on charges.

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With regard to this specific requirement, DPD is in Phase 1 compliance. See Appendix A.

There are no changes in the compliance status of this requirement. The DPD has been in Phase 2 compliance with this requirement since the second reporting period. For this reporting period, we reviewed all 176 disciplinary cases that were closed during the quarter. There were no administrative closures. There is no backlog of cases from earlier periods and case-flow is being managed sufficiently. The large number of closures for the quarter is consistent with expectations given the large number opened this quarter and the last. We will continue to track closures next quarter to assure that the large number of newly opened cases does not result in case flow problems. During the current reporting period, a total of 137 new disciplinary cases were opened.

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.

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

There are no changes in the compliance status of this requirement. The DPD has been in Phase 2 compliance with this requirement since the second reporting period. As noted above, for this reporting period, we reviewed all disciplinary cases that were closed during the quarter. The status of all open cases is tracked by the disciplinary unit and reported quarterly. All open from previous years reflect appropriate scheduling and steps toward closure. For 2013 a total of 86 cases remain open at the end of the quarter. Six cases remain open from 2011, and 11 from 2012. The earlier cases remain open due to extraordinary circumstance such as military leaves or extending sick time making officers unavailable.

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 U105

The DPD shall create a disciplinary matrix that:

- a. establishes a presumptive range of discipline for each type of rule violation;*
- b. increases the presumptive discipline based on both an officer's prior violations of the same rule as well as violations of other rules;*
- c. requires that any departure from the presumptive range of discipline must be justified in writing;*
- d. provides that the DPD shall not take only non-disciplinary corrective action in cases in which the disciplinary matrix calls for the imposition of discipline; and*
- e. Provides that the DPD shall consider whether non-disciplinary corrective action also is appropriate in a case where discipline has been imposed.*

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

There are no changes in the compliance status of this requirement. The DPD has been in Phase 2 compliance with this requirement since our second quarterly report. For this reporting period, we reviewed all disciplinary cases that were closed during the quarter. The disciplinary matrix is provided for use at disciplinary trial boards and other disciplinary processes. All decisions during this reporting period fell within the matrix and were consistent with this requirement. The matrix underwent minor revisions earlier this month.

DPD continues to be in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 - Implementation
78	Comprehensive Risk Management Plan	In Compliance	In Compliance
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

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¶	Requirements	Phase 1 – Policy	Phase 2 - Implementation
87	Data retention	In Compliance	In Compliance
88	Database schedule (expired)	In Compliance	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
105	Disciplinary matrix of responses/sanctions	In Compliance	In Compliance

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IX. TRAINING

The DPD revises and updates its training courses annually and introduces the new material in July of each year. During our October 2013 site visit, we reviewed the memoranda, lesson plans, scenarios, and policy material for use during the 2014 Training Year (July 1, 2013, through June 30, 2014). We found the materials adequate.

The DPD division overseeing the Department's training has been renamed the Professional Education and Training Division.

A. Oversight and Development

CJ Requirement U106

The DPD shall coordinate and review all use of force and arrest and detention training to ensure quality, consistency and compliance with applicable law and DPD policy. The DPD shall conduct regular subsequent reviews, at least semi-annually, and produce a report of such reviews to the Monitor and the DOJ.

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

The required review was conducted in December 2013, and documented in a DPD report entitled, "Training Oversight and Development Report – Semi-Annual Review, December 2013." We reviewed this report during our January 2014 site visit, and found that it contained the necessary evaluation of use of force, arrest, and detention training; and covered all elements of this requirement. The report is prepared twice each year. The next such report will be produced in June 2014.

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;*

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- e. establish procedures for evaluating all training curricula and procedures; and*
- f. conduct regular needs assessments to ensure that training governing use of force and arrest and detention are responsive to the knowledge, skills and abilities of the officers being trained.*

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

To assess compliance with this requirement for this reporting period, we interviewed the Training Director and staff and reviewed training records and materials. 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. During our October 2013 site visit, we reviewed the lesson plans, scenarios and training materials that are being used in the 2014 Training Year (July 1, 2013 – June 30, 2014) and found them to be adequate. During the January, 2014, review we reviewed the report entitled, "Training Oversight and Development Report – Semi-Annual Review," dated December 2014, which documents the DPD's semi-annual review and evaluation of its training during the 2013 Training Year. The next such report will be completed in June 2014.
- b. As we observed in past reviews, DPD policy, curricula, and lesson plans prepared for the 2014 Training Year adequately addressed this requirement.
- c. DPD selected two new officer trainers during the previous reporting period; one was selected during the first quarter of 2014. Both instructors selected during the previous reporting period were to be scheduled to attend an instructor development course in March 2014. These officers did not attend the instructor development course, but have been scheduled to attend the course in June 2014. The instructor selected during the first quarter 2014 has training experience gained in the military and has been scheduled to attend a July 2014 instructor development course.
- d/e. As we observed in past reviews, DPD policy, curricula, and lesson plans address these provisions. As noted above, we reviewed DPD training materials prepared for the 2014 Training Year and found them to be adequate.
- f. Directive 304.5-3.4, revised July 10, 2012, places responsibility on the Commander of Training to conduct training needs assessments and Directive 304.5-6.2, requires that such assessments be conducted and documented every two years. As noted previously, in July and December 2012, and again in June 2013, the DPD conducted and documented training needs assessments.

DPD conducted another needs assessment in March 2014 that included the following:

- A meeting chaired by the City of Detroit Supervising Assistant Corporation Council and a DPD Assistant Chief. Representatives of Detroit Corporation Council, Court Prosecution Unit, Legal Advisor Department and DPD command officers and mid-level supervisors from a variety of DPD commands including the

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CRIB, the Professional Education and Training Division and Police Law Unit. DPD performance issues were discussed.

- A survey of DPD commands and officers.
- Periodic contact with commanders and officers in which training deficiencies are identified.

The needs assessment identified a number of issues in which it is believed that training can address. Specific training to be incorporated into the revised curricula for the 2014-2015 training year that will be instituted on July 1, 2014, includes the following:

- Use of force – increased focus on de-escalation and documentation of elements that caused the officer to employ force.
- The Supervisory Leadership and Accountability course will be modified to address the supervisor's role in identifying proper documentation of use of force.
- In Use of Force Report Writing officers and supervisors will review examples of narratives to identify inconsistencies and errors.
- The Supervisory Leadership and Accountability course was amended in July, 2013 to incorporate more training re documentation of use of force.
- A new course, Supervisory Report Writing, will be added to supervisory in-service training for the 2014-2015 training year.
- Officer Survival Tactics will include a realistic scenario utilizing the Range 300 simulator. After the scenario, officers will write a narrative and submit it.

The Department remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U108

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

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

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 conducted audits of its accuracy during the current and

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past reporting periods. Inasmuch as the DPD has been in compliance with this requirement for two years, we reduced the sample to 22 officers.

We randomly selected 22 officers (including two supervisors) who were listed on the spreadsheet as having completed in-service training from July 1, 2013, through March 31, 2014. To complete their in-service training, these officers would have to attend and sign attendance sheets for three courses: Legal/Use of Force for sign-in sheets are combined since both are taught on the same day (22 signatures expected); PR-24 (22 signatures expected); and Firearms Qualification (22 signatures expected). In addition, if the officer selected on the random sample list was a supervisor or investigator, they would have attended the Leadership In-Service as well (two signatures expected). DPD was able to locate 68 (100%) of 68 records of the expected signatures.

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 has now entered all DPD training records for years 2003 through the present. During this reporting period, the same training records for the 22 officers in our random sample relating to Use of Force, Legal, PR-24 and Firearms Qualification, were checked in the MITN system to see if they had been recorded. All (100%) were entered into MITN.

DPD is in Phase 2 compliance with this paragraph.

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.

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

We reviewed DPD training directives and lesson plans for the 2014 Training Year (July 1, 2013 – June 30, 2014), and found that they appropriately direct and instruct on the relevant provisions of the Consent Judgment.

The Department remains in Phase 2 compliance with this paragraph.

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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.

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

The DPD met with the City Law Department pursuant to this requirement on March 26, 2014. Meetings are held quarterly. The DPD remains in compliance with U110.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U111

The City and the DPD shall distribute and explain this Agreement to all DPD and all relevant City employees. The City and the DPD shall provide initial training on this Agreement to all City and DPD employees whose job responsibilities are affected by this Agreement within 120 days of each provision's implementation. Thereafter, the DPD shall provide training on the policies contained in this Agreement during in-service training.

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

This training is conducted by CRIB for both civilian and sworn personnel. The Department trained 11 persons, including seven new DPD employees and four OCI employees during the reporting period. DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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B. Use of Force Training

CJ Requirement U112

The DPD shall provide all DPD recruits, officers, and supervisors with annual training on use of force. Such training shall include and address the following topics:

- a. The DPD's use of force continuum; proper use of force; decision making; and the DPD's use of force reporting requirements;*
- b. The Fourth Amendment and other constitutional requirements, including recent legal developments;*
- c. Examples of scenarios faced by DPD officers and interactive exercises that illustrate proper use of force decision making, including the use of deadly force;*
- d. The circumstances in which officers may draw, display, or point a firearm, emphasizing:*
 - i. Officers should not draw their firearm unless they reasonably believe there is a threat of serious bodily harm to the officer or another person;*
 - ii. The danger of engaging or pursuing a suspect with a firearm drawn; and*
 - iii. That officers are generally not justified in drawing their firearm when pursuing a subject suspected of committing only a misdemeanor;*
- e. The proper use of all intermediate force weapons;*
- f. Threat assessment, alternative and de-escalation techniques that allow officers to effect arrests without using force and instruction that disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements, calling in specialized units or even letting a subject temporarily evade arrest may be the appropriate response to a situation, even when the use of force would be legally justified;*
- g. Interacting with people with mental illnesses, including instruction by mental health practitioners and an emphasis on de-escalation strategies;*
- h. Factors to consider in initiating or continuing a pursuit;*
- i. The proper duration of a burst of chemical spray, the distance from which it should be applied, and emphasize that officers shall aim chemical spray only at the target's face and upper torso, and*
- j. Consideration of the safety of civilians in the vicinity before engaging in police action.*

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

During this and past reviews, we assessed training policy directives, curricula, lesson plans, special orders, training needs assessment and teletypes, among other materials that were prepared to address the requirements of U112 during the 2014 Training Year (July 1, 2013, through June 30, 2014). Our review showed that the course content requirements of U112 and its subparagraphs a, b, c, d, f, g, h, i and j were met for all in-service trainees in the Legal and Use

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of Force blocks of instruction. The requirements for subparagraph e were met in the PR-24 block of instruction.

We found that during the first three quarters of the new Training Year (July 1, 2013, through March 31, 2014), 1,364 (68%) of the 2,011 DPD officers available to train attended and completed the in-service blocks for Use of Force and Legal training in which the requirements for U112 are primarily fulfilled. In addition, 1,375 officers (68%) attended the PR-24 block of instruction.

The new Commander of Training has noted that the department is running behind the level required to train all of its officers in use of force and legal issues; 75% would be expected to have been trained after 3 quarters. He has brought the lag in attendance to the attention of the various DPD commanders whose responsibility it is to ensure their members attend.

The Training Commander has determined each commands' compliance rates and identified the officers who have not yet attended. He has advised the various commanders of the number and identities of the officers the commands must send to the remaining in-service classes in order to be in compliance.

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:*

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- 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.*

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

The requirements specified in U113 are addressed in the Department's firearms training, which officers are required to attend and qualify in every six months. During the previous six-month firearms qualification period (July 1, through December 31, 2013), 99% of the officers who were available to train attended firearms and qualified.

During this reporting period, we found that at the end of the first quarter 2014 firearms training period (January 1, through March 31, 2014), 911 (45%) of the 2,011 officers available to train attended firearms training and qualified. DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

D. Arrest and Police-Citizen Interaction Training

CJ Requirement U114

The DPD shall provide all DPD recruits, officers and supervisors with annual training on arrests and other police-citizen interaction. Such training shall include and address the following topics:

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

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between probable cause, reasonable suspicion and mere speculation; and voluntary consent from mere acquiescence to police authority.

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

The topics required by U114 were taught in the 2013 Training Year (July 1, 2012 through June 30, 2013) in the Legal and Use of Force blocks of training. During the 2013 Training Year, 99% of the DPD officers available to train completed the Legal and Use of Force blocks of instruction. In the current 2014 Training Year (July 1, 2013 through June 30, 2014), these topics are all covered in the Legal block of instruction. At the three quarter mark of the current training year, 1,364 (68%) of the 2,011 officers available to train had completed the Legal and Use of Force blocks of instruction. DPD remains in Phase 2 compliance with this paragraph.

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.

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

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. All officers who attend the Use of Force and Legal in-service receive training regarding arrest, arraignment, holds, restrictions, material witness and detention records specified by this requirement. Officers who serve in the detention cell areas were required to receive *additional* annual detention officer training, which was more specifically related to detention responsibilities. In spite of the fact that the Department transferred the responsibility for detention to the State of Michigan, many of the topics will remain important for officers to understand. This training will be continued until the end of the current training cycle at which time it will be reassessed.

During the training year that ended on June 30, 2013, 99% of DPD members attended the Use of Force and Legal in-service training sessions and received this training. At the end of the first nine months of the current training year, 1,364 (68%) of the 2,011 DPD officers available to train have attended the Use of Force training and the Legal training.

The 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 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.

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

DPD has incorporated these training requirements into its Use of Force and Legal lesson plans. During the 2013 Training Year, the Department trained 99% of its officers in its Use of Force and in its Legal in-services.

At the end of the first nine months of the new 2014 Training Year, DPD remains in compliance, having trained 1,364 (68%) of the 2,011 officers available to train in these in-services. 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.

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

Material witness training has been incorporated into the Use of Force and Legal lesson plans. At the conclusion of the 2013 Training Year, DPD was in compliance, having trained 99% of its officers available to train in these in-services. At end of the first nine months of the new 2014 Training Year, DPD has trained 1,364 (68%) of the 2,011 officers available to train in the Legal and Use of Force blocks of instruction.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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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.

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

The DPD fulfills Consent Judgment requirements U118-122 through its annual Supervisory Leadership and Accountability in-service training that is required for both supervisors and investigators. During the training year that ended on June 30, 2013, the Department trained 98% of its supervisors in its Supervisory Leadership and Accountability in-service.

During the first nine months of the current training year (July 1, 2013 through March 31, 2014), 277 (62%) of the Department's 446 supervisors who were available to train attended the Leadership and Accountability in-service training. DPD remains in compliance, but we note that it is lagging behind where it would be expected to be at the three quarter point in the training year in training its supervisors and investigators. The Training Commander is aware of the lag in attendance and has brought the matter to the attention of the various DPD commanders whose responsibility it is to ensure their members attend.

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.

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix A.

The DPD fulfills Consent Judgment requirements U118-122 through its annual Supervisory Leadership and Accountability in-service training that is required for both supervisors and investigators. During the training year that ended on June 30, 2013, the Department trained 98% of its supervisors in its Supervisory Leadership and Accountability in-service.

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During the first nine months of the current training year (July 1, 2013, through March 31, 2014, 277 (62%) of the Department's 446 supervisors who were available to train attended the Leadership and Accountability in-service training. DPD remains in compliance with this paragraph, but we note that it is lagging behind where it would be expected to be at the three quarter point in the training year in training its supervisors and investigators in this area.

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.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

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.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

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.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

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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.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
106	Coordination and review of training	In Compliance	In Compliance
107	DPD will meet state training standards	In Compliance	In Compliance
108	Maintain individual training records	In Compliance	In Compliance
109	Train from approved objectives and plans	In Compliance	In Compliance
110	Quarterly meetings with Law Department	In Compliance	In Compliance
111	Distribute and training on the agreement	In Compliance	In Compliance
112	Annual use of force training required	In Compliance	In Compliance
113	Develop firearms training protocol	In Compliance	In Compliance
114	Annual arrest, citizen interaction training	In Compliance	In Compliance
115	Annual training on custodial detention	In Compliance	In Compliance
116	Prohibition of arraignment delays	In Compliance	In Compliance
117	Material witness custody	In Compliance	In Compliance
118	Supervisory training-report evaluation	In Compliance	In Compliance
119	Supervisory training-leadership	In Compliance	In Compliance
120	Supervisory training-risk management	In Compliance	In Compliance
121	Investigator training-procedures	In Compliance	In Compliance
122	Supervisory training-external complaints	In Compliance	In Compliance
123	Enhance the FTO program	In Compliance	In Compliance

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APPENDIX A: Use of Force – Directives/Policies

USE OF FORCE POLICY	
14	DPD Directive 304.2, Use of Force, effective March 19, 2012; and DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013).
15	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013); and Training Directive 04-3, Use of Force Continuum, effective May 9, 2005.
16	See paragraph #15 above.
17	DPD Directive 304.2, Use of Force, effective March 19, 2012; and DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013).
18	DPD Directive 304.2, Use of Force, approved by DOJ April 14, 2005, effective March 19, 2012; and DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013).
19	DPD Directive 304.2, Use of Force, effective March 19, 2012; and DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013).
20	DPD Directive 304.1, Firearms, effective September 27, 2012, which replaced DPD Directive 304.1, Firearms, effective August 4, 2011 which replaced DPD Directive 304.1, effective November 2010; and Directive 304.5, Training, effective July 10, 2012, which replaced Directive 304.5, Training, effective May 13, 2011.
21	DPD Directive 304.1, Firearms, effective September 27, 2012, which replaced DPD Directive 304.1, Firearms, effective August 4, 2011, which replaced DPD Directive 304.1, effective November 2010, and in Directive 304.5, Training, effective July 10, 2012, which replaced Directive 304.5, Training, effective May 13, 2011.
22	DPD Directive 304.1, Firearms, effective September 27, 2012, which replaced DPD Directive 304.1, Firearms, effective May 2, 2005 (revised November 1, 2010, and August 4, 2011).
23	See paragraph #22 above. Also, Directive 304.5, Training, effective July 10, 2012, which replaced Directive 304.5, Training, effective May 13, 2011.
24	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 304.4, PR 24 Collapsible Baton, effective July 1, 2008 (revised November 1, 2010 and May 15, 2013); DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013); and Training Directive 04-3, Use of Force Continuum, effective May 9, 2005.
25	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 304.3, Chemical Spray Device, effective July 2, 2008 (revised November 1, 2010); and DPD Directive 201.11, Use of Force

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	& Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013).
26	See paragraph #25 above.
INCIDENT DOCUMENTATION, INVESTIGATION, AND REVIEW	
27	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013); 102.4, Discipline/Misconduct Investigations, effective May 2, 2012; DPD Directive 102.6 Citizens Complaints, effective July 1, 2008 (revised November 2010) (revised April 13, 2011) (revised December 29 2012); Training Directive 04-4, Garrity Protocol, effective February 9, 2006 (revised October 24, 2009); Office of the Chief Investigator, Standard Operating Procedure (August 29, 2013); and Internal Affairs Standard Operating Procedure, January 2011.
28	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013); DPD Directive 102.4, Discipline/Misconduct Investigations, effective May 2, 2012.
29	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012; DPD Directive 102.4, Discipline/Misconduct Investigations, effective May 2, 2012; DPD Directive 203.3, Notifications, effective February 22, 2012; Training Directive 04-4, Garrity Protocol, effective February 9, 2006 (revised October 24, 2009); Internal Affairs Standard Operating Procedure, (January 2011); and Office of the Chief Investigator Standard Operating Procedure (August 29, 2013).
30	See paragraph #29 above.
31	Training Directive 04-4, Garrity Protocol, dated February 9, 2006 (revised October 24, 2009).
32	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013); DPD Directive 102.4, Discipline/Misconduct Investigations, effective May 2, 2012; Training Directive 04-4, Garrity Protocol, effective February 9, 2006 (revised October 24, 2009); Internal Affairs Standard Operating Procedure (January 2011); and Office of the Chief Investigator Standard Operating Procedure (August 29, 2013).
33	See paragraph #32 above.
34	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013); DPD Directive 304.1, Firearms, effective May 2, 2005 and revised August 4, 2011 (revised September 27, 2012); and Training Directive 11-01, Reporting/Documenting The "Acquiring of a Target" effective August 4, 2011, Training Directive 11-01a, Reporting/Documenting The "Acquiring of a Target" Audio/Video Review of the Incident, effective April 11, 2012.
35	See paragraph #34 above and DPD Directive 203.3, Notifications, effective February 22, 2012.
36	See paragraph #34 above.
37	See paragraph #34 above. Also DPD Joint Incident Shooting Team Standard Operating Procedures and DPD Training Directive 04-07, Use of Force/Detainee Injuries or Allegations of Injuries

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	Reporting and Investigating, effective November 21, 2005.
38	See paragraph #37 above.
39	DPD Special Order 09-13, Command Level Force Review Team (CLFRT) dated March 2, 2009, replaced with DPD Special Order 11-02, effective January 1, 2011; and DPD Directive 101.9, Special Purposes Committees, effective February 22, 2012 (revised September 27, 2012).
40	See paragraph #39 above.
41	See paragraph #39 above.
ARREST AND DETENTION POLICIES AND PRACTICES	
42	DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 2010 (revised December 6, 2012 and March 7, 2013).
43	See paragraph #42 above.
44	See paragraph #42 above (202.1); 202.2, Search and Seizure, effective May 2, 2005; revised November 2010 and October 10, 2013; 203.9, Custodial Questioning, effective November 20, 2010 (revised February 6, 2013); and 404.1, Definitions, effective November 20, 2010.
45	See paragraph #42 above.
46	DPD Directive 203.9, Custodial Questioning, effective July 1, 2008, and revised November 20, 2010 (revised November 17, 2011 and February 6, 2013).
47	See paragraph #46 above.
48	See paragraph #46 above.
49	DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010 (revised December 6, 2012 and March 7, 2013).
50	See paragraph #49 above.
51	See paragraph #49 above.
52	DPD Directive 305.2, Detainee Registration, and effective September 12, 2005 (revised July 26, 2012).
53	See paragraph #52 above.
54	See paragraph #52 above.
55	See paragraph #52 above.
56	DPD Directives 202.1, Arrests, effective July 1, 2008 (revised November 20, 2010) (revised December 6, 2012 and March 7, 2013) and 305.2, Detainee Registration, effective September 12,

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	2005 (revised July 26, 2012). Also Training Directive #04-01, Confinement of Material Witness, effective March 1, 2005.
57	See paragraph #56 above.
58	See paragraph #56 above.
59	See paragraph #56 above.
60	DPD Directive 202.1, Arrests, effective July 1, 2008 (revised November 20, 2010) (revised December 6, 2012 and March 7, 2013); and DPD Directive 305.4, Holding Cell Areas, effective May 9, 2005 (revised March 3, 2010 and January 9, 2013).
EXTERNAL COMPLAINTS	
61	DPD Directive 102.6, Citizen Complaints, effective July 1, 2008 (revised November 2010) (revised December 29, 2012); IAD Standard Operating Procedures, Sections 1 and 3 (January 2011); and OCI Standard Operating Procedure, effective July 24, 2003 (revised April 29, 2004; July 1, 2010; and August 29, 2013).
62	Office of the Chief Investigator Standard Operating Procedures, effective July 24, 2003 (revised April 29, 2004; July 1, 2010; and August 29, 2013).
63	DPD Directive 102.6, Citizen Complaints, effective July 1, 2008 (revised November 2010) (revised April 13, 2011) (revised December 29, 2012).
64	See paragraph #61 above. Also see DPD Directive 102.6 (revised December 29, 2012).
65	See paragraph #63 above.
66	See paragraph #61 above.
67	See paragraph #61 above.
68	See paragraph #65 above.
69	See paragraph #61 above. Also DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008; and Training Directive 04-4 Garrity Protocol, effective February 9, 2006 (revised October 24, 2009).
GENERAL POLICIES	
70	DPD Directives 101.1, Directive System, effective July 1, 2008 (revised November 1, 2010) (revised May 2, 2012) and 404.1, Definitions, effective July 1, 2008 (revised November 1, 2010).
71	DPD Directive 101.1, Directive System, effective July 1, 2008 (revised November 1, 2010) (revised May 2, 2012). The 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.

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72	DPD Directive 102.3, Code of Conduct, effective November 1, 2009 (revised November 1, 2010) (revised July 24, 2012) (revised December 6, 2012).
73	On November 6, 2007, the DPD agreed to a 1:10 ratio of supervisors to officers in patrol and specialized units. ³⁴ Also Directive 101.10, Organization and Management, effective March 30, 2011.
74	DPD Directive 102.3, Code of Conduct, effective November 1, 2009 (revised November 1, 2010) (revised July 24, 2012) (revised December 6, 2012).
75	See paragraph #74 above. Also DPD Directive 304.1, Firearms, effective May 2, 2005 (revised November 1, 2010 and August 4, 2011) (revised September 27, 2012).
76	Directives 305.4, Holding Cell Areas, effective May 9, 2005 (revised effective March 1 2010) (revised July 6, 2012 and January 9, 2013) and 305.7, Transportation of Detainees, effective February 29, 2012.
77	DPD Directive 202.7, Foot Pursuits, effective July 1, 2008 (revised November 1, 2010) (revised May 26, 2011).
MANAGEMENT AND SUPERVISION	
78	DPD Directive 401.13, Management Awareness System, effective November 6, 2008 (revised November 1, 2010).
79	See paragraph #78 above.
80	See paragraph #78 above.
81	See paragraph #78 above. Also see the DPD Data Input Plan, approved by the Department of Justice, June 9, 2011.
82	See paragraph #81 above.
83	See paragraph #78 above.
84	See paragraph #78 above.
85	See paragraph #78 above.
86	See paragraph #81 above.
87	See paragraph #78 above.
88	See paragraph #78 above.

³⁴Section 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.

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89	See paragraph #78 above.
90	See paragraph #81 above.
91	DPD Directive 401.2, Performance Evaluation Ratings, effective July 1, 2008 (revised November 1, 2010 and June 20, 2013).
92	DPD Audit Protocol, effective September 30, 2011. Annual revision required.
93	See paragraph #92 above.
94	See paragraph #92 above.
95	See paragraph #92 above.
96	See paragraph #92 above.
97	See paragraph #92 above.
98	DPD Directive 303.3, In-Car Video, effective March 8, 2012 (revised September 4, 2012 and March 7, 2013).
99	DPD Directive 304.5 Training, effective May 13, 2011 (revised July 10, 2012).
100	DPD Directive 303.3, In-Car Video, effective March 8, 2012 revised September 4, 2012 and March 7, 2013).
101	See paragraph #100 above. Also, Teletype #11-1468, Roll Call Informational Bulletin, Use of Department Issued In-Car Video Equipment and Body Microphones.
102	See paragraph #100 above.
103	DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008 (revised November 1, 2010) (revised May 2, 2012) and the related DPD Discipline Matrix (DPD22a).
104	See paragraph #103 above.
105	See paragraph #103 above.
TRAINING	
106	DPD Directive 304.5, Training, effective May 13, 2011 (revised July 10, 2012).
107	See paragraph #106 above.
108	See paragraph #106 above.
109	See paragraph #106 above.

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110	See paragraph #106 above.
111	See paragraph #106 above.
112	See paragraph #106 above.
113	See paragraph #106 above. Also Directive 304.1, Firearms, effective August 4, 2011 (revised September 27, 2012).
114	See paragraph #106 above.
115	See paragraph #106 above.
116	See paragraph #106 above.
117	See paragraph #106 above.
118	See paragraph #106 above.
119	See paragraph #106 above.
120	See paragraph #106 above.
121	See paragraph #106 above.
122	See paragraph #106 above.
123	See paragraph #106 above.

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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
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
CMMHSP	Comprehensive Medical and Mental Health Screening Program
CO	Commanding Officer
COC CJ	Conditions of Confinement Consent Judgment
CRIB	Civil Rights Integrity Bureau
DDC	Detroit Detention Center
DDHWP	Detroit Department of Health and Wellness Program
DFD	Detroit Fire Department
DFF	Detainee File Folders
DDHWP	Detroit Department of Health and Wellness Promotion
DIF	Detainee Intake Form
DOJ	Department of Justice
DPD	Detroit Police Department

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DRH	Detroit Receiving Hospital
EMS	Emergency Medical Services
EPP	Emergency Preparedness Program
ERP	Emergency Response Plan
FI	Force Investigations (<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
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
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

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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 U16-17 and U19, 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.

Commander (Ret.) John M. Girvin

Evaluates compliance with U27-33, General Investigations of Police Action; U61-63, External Complaints; U64-66, Intake and Tracking; and U67-69, External Complaint Investigations.

John M. Klofas, Ph.D.

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

Chief (Ret.) Billy R. Riggs

Evaluates compliance with 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; 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; and U70-72 and U74-77, General Policies.

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Asst. Director (Ret.) Joseph R. Wolfinger

Evaluates compliance with U20-21 and U23, Use of Firearms Policy; U73, Pre-Service and In-Service Training for all Detention Officers; 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

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APPENDIX D:**Roll Call Informational Bulletins**

ROLL CALL INFORMATIONAL BULLETINS <i>(January, February, and March 2014)</i>			
Date	Number	Subject	Teletype
01/10/14	14-01	Allegations of Force Reporting	14-0039
01/17/14	14-02	Declarative statement for video reviews	14-0072
02/07/14	14-02	DDC Medical Staff (minor injuries)	14-0168
02/20/14	No listed number	Code of Conduct	14-0237

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APPENDIX E:

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 Monitoring Team with the consent of the Police Department; they serve simply as a means to provide information relevant to issues raised in the Consent Judgments.

Detroit Dashboard Data													12 month graph
	April	May	June	July	August	Sept	OCT	Nov	Dec	Jan. 2014	Feb	Mar	
Total Arrests	1583	1760	1494	1827	1728	1460	1928	1377	1602	1483	1693	1881	
Number of Events per 1000 Arrests													
Uses of Force	46.11	54.55	53.55	49.26	63.08	46.58	45.12	47.20	59.93	58.66	38.98	56.88	
Firearms Discharge	3.79	0.57	2.68	3.28	3.47	2.05	1.56	2.18	3.12	2.70	0.00	0.53	
Citizen Complaints	57.49	41.48	57.56	67.87	54.40	46.58	93.36	52.29	44.32	86.99	46.07	42.53	
Traffic Crashes	2.53	6.82	6.02	3.83	3.47	10.27	6.74	7.99	6.87	8.09	14.77	9.57	
Civil Litigation	8.21	6.82	1.34	10.95	13.31	3.42	0.52	0.00	0.00	0.00	0.00	0.00	
Vehicle Chases	4.42	3.98	2.01	2.74	4.05	6.16	3.63	7.26	4.99	6.07	2.95	5.32	
Disciplinary Action Closed Date	6.32	9.09	18.07	5.47	14.47	4.11	11.41	18.16	6.24	7.42	20.67	3.19	
Arrests for Assault and Battery on a PO	6.95	6.82	14.06	10.40	10.42	10.27	9.85	5.81	11.24	14.83	8.86	13.29	
Resisting or Obstructing Arrests	22.74	28.98	22.09	21.35	29.51	24.66	21.27	18.88	16.85	11.46	15.95	22.86	
Disorderly Conduct Arrests	0.00	6.82	0.67	3.28	5.21	4.11	6.22	8.71	6.87	6.07	9.45	3.72	
Interfering Arrests	1.90	1.70	4.69	3.83	2.89	0.00	4.15	1.45	3.75	4.72	1.18	4.78	
Total Consent Judgment noted Arrests (above 4)	31.59	44.32	41.50	38.86	48.03	39.04	41.49	34.86	38.70	37.09	35.44	44.66	