

Fourth Quarterly Report of the Independent Monitor for the Virgin Islands Police Department



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Independent Monitors



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Executive Summary

This is the fourth quarterly report of the Office of the Independent Monitor (the “OIM” or the “Monitor”) for the Virgin Islands Police Department (the “VIPD” or the “Department”), covering the quarter ending on December 31, 2010.¹ During the Fourth Quarter, among other things, the OIM conducted two separate, week-long monitoring trips to the Virgin Islands. On those trips, members of the OIM team continued their practice of meeting with VIPD personnel in the St. Thomas, St. John, and Water Island District (the “St. Thomas District”) and the St. Croix District to monitor the VIPD’s on-going efforts to comply with the Consent Decree, as well as to provide technical assistance as needed.

Despite a slow start, the VIPD ultimately made significant progress towards complying with the Consent Decree during the Fourth Quarter (although substantial work remains to be done).² For example, in December, the Police Commissioner invited the OIM to participate in a two-day Consent Decree Summit (the “Summit”) with the VIPD’s executive leadership team (the Police Commissioner, Assistant Police Commissioner, Chiefs, and Deputy Chiefs) and other senior personnel. The Police Commissioner’s vision for the Summit was clear — to strengthen the VIPD’s commitment to the Consent Decree. In order to prepare for the Summit, the VIPD and the OIM spent a significant amount of time during the last two weeks of December discussing specific objectives for the Summit and coordinating logistics.

The OIM is pleased to report that the Summit, which was held on St. Thomas from January 3-4, 2011, appears to have been a success. Among other things, the Police Commissioner appointed specific Chiefs and Deputy Chiefs to lead working groups focused on different provisions of the Consent Decree. While the Police Commissioner encouraged the Chiefs and Deputy Chiefs to prudently delegate discrete tasks, he vowed

¹ This Report references a limited number of events that occurred after December 31, notably a Consent Decree Summit led by the Police Commissioner on January 3-4, 2011 (*See* Consent Decree Summit Addendum). This Report touches upon these events in order to provide the reader with additional context for some of the strides that the VIPD took during the Fourth Quarter and at the beginning of the next quarter, though substantial work remains. The next quarterly report will provide a more extensive treatment of events that occurred after December 31.

² A summary of the Consent Decree requirements is excerpted at Appendix A.

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to hold them ultimately accountable for their respective areas. The OIM applauds the Police Commissioner's initiative to more directly involve the Chiefs and Deputy Chiefs in the Consent Decree compliance process.

The VIPD also made progress at the Summit by further revising a number of key policies, including, but not limited to, the Use of Force Policy and the Complaint Policy. In addition to revising specific policies based on comments from the United States Department of Justice (the "DOJ") and the OIM, the VIPD also made strides toward consolidating its policies (which are currently found in a number of different sources) into a single, user-friendly manual — something that the VIPD does not currently have.

The Summit also provided the VIPD's Policy Consultant (who the VIPD formally engaged, after a lengthy delay, in October) with a needed opportunity to work face-to-face with the VIPD's executive leadership team and other senior personnel. In addition to playing an important role at the Summit, the Policy Consultant spent a significant amount of time leading up to the Summit (particularly in the month of December) working with the VIPD to finalize many of its force-related policies. For additional details about Summit events, the OIM has included a Consent Decree Summit Addendum near the end of this report.

Earlier in the Fourth Quarter, the United States District Court for the Virgin Islands ordered the Parties (the VIPD and DOJ) to propose a timetable by which the VIPD would substantially comply with each provision in the Consent Decree. The Court — much like the OIM — was concerned about the VIPD's relatively slow rate of progress. The Parties conferred and ultimately agreed on a timetable following a November 22 hearing. Thus, on November 24, the Parties jointly filed a timetable setting forth specific dates by which the VIPD would, among other things, submit policies to the DOJ for approval (the "Consent Decree Timetable"). The OIM attributes much of the VIPD's recent progress in revising its force-related policies to the deadlines established by the Consent Decree Timetable. The VIPD deserves recognition for proposing a very ambitious timetable and, with only a few exceptions, meeting its obligations.

The OIM is hopeful that the VIPD will receive final DOJ approval for most (if not all) of its force-related policies during the next quarter. As we have previously reported, the lack of these foundational policies has significantly hampered the VIPD's ability to comply with the Consent Decree. As such, the VIPD should dedicate itself to obtaining DOJ approval for all force-related policies as soon as possible (and preferably before the dates mandated in the Consent Decree Timetable).

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The VIPD should be prepared to implement those policies as soon as the DOJ provides final approval. In order to do so, the VIPD must, among other things, develop training programs and curricula relating to these policies in advance of their final approval. This is particularly true with respect to the Use of Force Policy, given its central role in the Consent Decree compliance process.

While the VIPD made a number of strides during the Fourth Quarter, the OIM was disappointed by the Department's inadequate, truncated, and late Seventh Quarterly Status Report. While the OIM appreciates the Compliance Manager and Compliance Coordinator's overall hard work and enthusiastic efforts to develop the quarterly status reports (among their many other contributions), the VIPD must develop a more robust and systematic reporting process. Thus, rather than restating information from previous quarters, the quarterly status reports should provide a detailed account of everything that the VIPD did during the prior quarter (and only the prior quarter) relating to the Consent Decree. Moreover, quarterly status reports should clearly state in an introductory paragraph the time period that the report covers. If the Compliance Manager and Compliance Coordinator are not receiving complete and timely updates from other VIPD personnel responsible for areas of Consent Decree compliance, that fact should be brought to the attention of the Police Commissioner and the Police Commissioner should hold those personnel accountable. Given that the OIM relies, in part, on the VIPD's quarterly status reports to evaluate the Department's progress each quarter, it is in the VIPD's interest to provide a more complete description of its activities.

In addition, the VIPD sent the OIM and DOJ the Seventh Quarterly Status Report on February 3, almost a month later than expected. The OIM believes that the VIPD fell off schedule this quarter because it was focused on complying with the Consent Decree Timetable (which required the VIPD to submit a significant number of force-related policies to the DOJ in December) and organizing the Summit. Nonetheless, going forward, the VIPD should also submit its quarterly status reports to the DOJ and the OIM within seven business days after the end of the preceding quarter (e.g., for the next quarter, by April 7, 2011).

As discussed in greater detail below, the OIM's monitoring activities during this quarter built upon our previous work and specifically included, among other things: the provision of technical assistance to the VIPD, including the review of draft policies, protocols, and directives; the observation of policy drafting sessions; the monitoring of training programs relating to use of force reporting requirements; the

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review of incident and arrest reports to identify potential use of force events; the review of the adequacy of internal investigations conducted by the VIPD's Internal Affairs Bureau ("IAB") and Zone supervisors; and, the monitoring of the status of the VIPD's citizen complaint intake and tracking processes and related public information campaign.

Use of Force Policy Development

The VIPD took a significant step towards complying with the Consent Decree when it submitted its draft Use of Force Policy (along with a number of other specific use of force policies) to the DOJ during the Fourth Quarter. Although the DOJ asked the VIPD to make further revisions to these policies, it "commended the VIPD for the progress" that it made.³ Given that the VIPD has scheduled training programs relating to these policies for late March and early April, the VIPD must incorporate the DOJ's most recent comments and finalize these policies as quickly as possible.

The OIM attributes the VIPD's recent policy development strides, in large part, to the Consent Decree Timetable, which was described above, and the Department's decision to engage the Policy Consultant. In addition, the Policies and Procedures Committee ("Committee") has dramatically ramped up its level of activity. In addition to holding bi-weekly meetings, the Committee has also invited VIPD personnel with expertise in specific areas to participate in meetings and comment on policies relevant to their areas.

Survey of Use of Force Events

In the Third Quarterly Report, the OIM reported that a significant number of VIPD personnel appeared to be uncertain about the Department's reporting use of force requirements. Unfortunately, much of that uncertainty remained in the Fourth Quarter. Even senior officers are unsure about when they or their subordinates are required to report use of force events. One Zone Commander, for example, instructs subordinates to complete a use of force report "when in doubt." Based on our monitoring, that phrase appears to encompass a range of conduct — including non-resistant handcuffing — beyond the scope of the Use of Force Reporting Directive. Consequently, officers are overreporting use

³ Letter from Marina Mazor, Esq. to Wayne Anderson, Esq. and Frederick Handleman, Esq. regarding "United States v. Virgin Islands, et al." at 1 (Jan. 3, 2011).

of force events because of inadequate policy guidance and related training. Many supervisors are similarly unsure about how to conduct an adequate use of force investigation.

Because of continuing technical roadblocks, the VIPD was still not able to track use of force events using an electronic system during the Fourth Quarter. However, as an interim measure, the VIPD implemented a manual system to track use of force events near the end of the Fourth Quarter; the VIPD also plans to retain the manual tracking system as a backup once its electronic system is operational. The OIM will monitor the VIPD's new manual system in the next quarter.

Public Information Regarding the Citizen Complaint Process

The VIPD has made significant progress implementing its citizen complaint process. At the beginning of the Fourth Quarter, the VIPD held a press conference announcing the Department's citizen complaint process. Since that time, the VIPD has, among other things, run a number of public service announcements on television and radio in order to further increase public awareness. In addition, the VIPD has made progress streamlining its complaint process policies and related materials, including the complaint form and complaint/compliment brochure.

Unfortunately, the Department has lagged behind in training officers on how to investigate citizen complaints. The VIPD just began to train officers on applying the preponderance of the evidence during the Fourth Quarter, and based on its observations, the OIM believes that the VIPD must improve these trainings so that they meet generally accepted police practices.

Risk Management

The VIPD continues to face technological roadblocks with respect to the IAPro system, which is supposed to be an essential part of the Department's risk management system. The OIM is hopeful, however, that the new Director of Management and Information Systems ("MIS"), who started work at the end of 2010, will be able to move this project forward. Thus far, the OIM has been impressed by the Director of MIS' commitment to the Consent Decree compliance process.

The OIM expects the VIPD to finalize its early intervention policies in the next quarter. The OIM is also pleased to note that the Department

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established an Early Intervention Plan Committee to help implement early intervention policies and assist with related tasks.

Training

Given that many of the Department's upcoming training programs are predicated on receiving DOJ approval for various policies, the VIPD should be diligent about meeting the deadlines contained in the Consent Decree Timetable. As the OIM has emphasized a number of times now, the Training Division should not wait for those policies to be approved before updating its corresponding training materials. Because the upcoming use of force training programs are vital to the Consent Decree, and the changes to the Department's policies, procedures, and practices will be significant, the OIM recommends that the Training Division seek input from the Chiefs, Deputy Chiefs, and other senior VIPD personnel on any training materials.

During the Fourth Quarter, the Training Division made progress in maintaining lesson plans, attendance sheets, instructor certification records, and training program evaluations in central repositories in both Districts. In addition, the Training Division adopted several of the OIM's suggestions relating to record keeping.

Unfortunately, the Department's Field Training Officer ("FTO") Program continues to fall short. Overall, there are too few certified FTOs and even some of those individuals need refresher training. Given the importance of the FTO program — supervising and training inexperienced, new officers — the Department must devote significant attention to the administration, supervision, and resources associated with improving this program.

Status of Substantial Compliance

In order to be released from the Consent Decree, the VIPD must substantially comply with each of the Consent Decree's requirements and remain in compliance for two years.⁴ At the end of the Fourth Quarter, the VIPD, as was the case at the end of the Third Quarter, has substantially complied with the following Consent Decree requirements:

- In January 2010, the Parties selected the Monitor (CD ¶¶ 82-86);

⁴ Consent Decree ("CD") ¶ 103.

- In the Spring of 2010, the Police Commissioner appointed a Compliance Coordinator to serve as a liaison between the Parties and the Monitor (CD ¶ 88); and,
- Beginning in June 2009, the VIPD began issuing quarterly status reports delineating the steps taken by the VIPD to comply with the Consent Decree (CD ¶ 98).

As discussed in detail below, the VIPD has not yet substantially complied with any of the other substantive provisions of the Consent Decree, most significantly those relating to use of force. In order to begin that process, the VIPD must finalize its outstanding force-related policies. Given that those policies are very close to being finalized (thanks, in particular, to the hard work of the VIPD's Policies and Procedures Committee), the VIPD should prioritize that task. Once those policies are finalized and approved by the DOJ, the OIM is hopeful that the Department will begin to make more rapid progress.

Conclusion

Overall, the VIPD (more so than ever before) appears to be moving in the right direction with a renewed sense of commitment and purpose. The Summit, for example, produced a significant amount of positive momentum, including the near-finalization of a number of important policies. However, it is worth noting that the Parties entered into the Consent Decree on March 23, 2009 — almost two years ago. Since that time, the VIPD has only achieved substantial compliance with three administrative provisions in the Consent Decree. The time has clearly come for the VIPD to pick up the pace. Over the next two quarters, the OIM expects the VIPD to achieve substantial compliance with a much broader cross-section of the Consent Decree, including, but not limited to, core provisions relating to use of force. In light of the VIPD's recent progress, the OIM believes that this goal is entirely reasonable.

In addition, consistent with the Police Commissioner's appointments at the Summit, the OIM expects the Chiefs and Deputy Chiefs to take a much more active role in Consent Decree compliance efforts. The OIM — like the Police Commissioner — will hold the Chiefs and Deputy Chiefs ultimately responsible for overseeing their respective working groups and complying with the Consent Decree. In the future, the OIM will study and report on the progress that the Chiefs and Deputy Chiefs have made. As always, the OIM stands ready to provide the

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Chiefs and Deputy Chiefs with technical assistance as needed.

Finally, the OIM learned at the end of the quarter that the Police Commissioner, after a long and distinguished career with the Department, will be retiring within the next few months. On a personal note, the OIM appreciates the Police Commissioner's unflagging commitment to the Consent Decree compliance process over the past two years, including his leadership in convening the Summit in January 2011. The OIM looks forward to continuing to work with the Police Commissioner over the next few months and sincerely thanks him for his leadership and contributions to the Consent Decree compliance process.

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Introduction

This is the fourth quarterly report of the Office of the Independent Monitor (the “OIM” or the “Monitor”) for the Virgin Islands Police Department (the “VIPD” or the “Department”), covering the quarter ending on December 31, 2010.¹ The OIM was established in January 2010² to monitor compliance by the Territory of the Virgin Islands (the “Virgin Islands”) and the VIPD with the Consent Decree entered by the United States District Court for the Virgin Islands on March 23, 2009. The Monitor is required by the Consent Decree to “issue quarterly written, public reports detailing the Territory of the Virgin Islands’ compliance with and implementation of each substantive provision” of the Consent Decree.³

The Consent Decree reflects the agreement of the Virgin Islands, the VIPD, and the United States Department of Justice (the “DOJ”) (collectively, the “Parties”) to resolve a lawsuit brought by the United States alleging that the Virgin Islands and the VIPD violated 42 U.S.C. § 14141 by engaging “in a pattern or practice of excessive force by

¹ This Report references a limited number of events that occurred after December 31, notably a Consent Decree Summit led by the Police Commissioner on January 3-4, 2011. See Consent Decree Addendum. This Report touches upon these events in order to provide the reader with additional context for some of the strides that the VIPD took during the Fourth Quarter and at the beginning of the next quarter, though substantial work remains. The next report will provide a more extensive treatment of the events that occurred after December 31.

² After an initial procurement process, the Territory of the Virgin Islands and the VIPD contracted for the services of a monitoring team led by Michael R. Bromwich, a partner in the Washington, D.C. office of Fried, Frank, Harris, Shriver & Jacobson LLP (“Fried Frank”). In June, the Independent and Deputy Independent Monitors joined President Obama’s administration. After interviews and further review, the Parties appointed William F. Johnson and Steven M. Witzel, partners in the New York City office of Fried Frank and former Assistant United States Attorneys in the United States Attorney’s Office for the Southern District of New York, as the Independent Monitors, effective August 13, 2010. Messrs. Johnson and Witzel continue to work with the police practices experts that were hired as part of the original OIM team.

³ Consent Decree (“CD”) ¶ 96. This Quarterly Report, along with the OIM’s prior reports, is available on the internet at <http://www.policemonitor.org/VI/VIindex.html>.

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officers of the Virgin Islands Police Department and by the failure to adequately train, supervise, investigate, and discipline officers.”⁴

The Parties entered into the Consent Decree “to promote police integrity and prevent conduct that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or the laws of the United States.”⁵ The 104 paragraphs of the Consent Decree contain a broad range of substantive requirements for reform in areas such as the revision of the VIPD’s force-related policies; the training of officers to properly use force in accordance with constitutional requirements, VIPD policy, and existing best practices in policing; the reporting and investigation of use of force events; the receipt and investigation of complaints alleging misconduct by VIPD officers; the development of systems for managing and supervising VIPD officers; and, the discipline of officers found to have engaged in misconduct.

The Compliance Assessment section of this report, which follows, details the OIM’s findings and observations based on our monitoring activities during the quarter ending December 31, 2010. In addition, the Compliance Assessment section also includes recommended next-steps relating to each provision in the Consent Decree.

As discussed in greater detail below, the VIPD made significant strides in a number of areas during and immediately following the Fourth Quarter. For example, the Police Commissioner convened a Consent Decree Summit (the “Summit”) from January 3-4, 2011 in order to reinvigorate the Consent Decree compliance process. At the Summit, among other things, the Police Commissioner appointed specific Chiefs and Deputy Chiefs to oversee working groups focused on different components of the Consent Decree. The Police Commissioner also stated that he would hold the Chiefs and Deputy Chiefs ultimately responsible for the success of their respective working groups.

The VIPD also made substantial progress in revising many of its force-related policies during the Fourth Quarter (at the Summit and before). After repeated suggestions by the OIM and DOJ, at the beginning of the Fourth Quarter, the VIPD engaged a Policy Consultant to help the Department revise its force-related policies and generally improve its policy writing infrastructure. Despite coming on board quite

⁴ CD ¶ 6; see also Complaint, *United States v. The Territory of the Virgin Islands*, No. 3:08-CV-00158-CVG-GWB (D.V.I.).

⁵ CD ¶ 3.

recently, the Policy Consultant has already established himself as an invaluable resource to the VIPD.

In addition, on November 24, at the request of the United States District Court for the Virgin Islands, the Parties submitted a timetable (the “Consent Decree Timetable”) to the Court setting forth dates by which the VIPD would, among other things, submit policies to the DOJ for approval. The OIM is pleased to report that the VIPD has thus far satisfied almost all of its obligations under the Consent Decree Timetable. Over the next quarter, the OIM expects the VIPD to obtain final DOJ approval for most (if not all) of its force-related policies. Such an achievement would undoubtedly help pave the road to substantial compliance.

Compliance Assessment

In this section of the report, we describe the VIPD's compliance efforts with respect to each of the substantive provisions of the Consent Decree,⁶ as well as the OIM's monitoring activities during this quarter. The organization of this section of the report parallels the organization of the Consent Decree. Specifically, we provide a *status and assessment* discussion that describes and analyzes the VIPD's progress toward achieving substantial compliance with the Consent Decree's requirements.⁷ Then, we include *recommendations* to assist the VIPD in achieving full and timely implementation of the Consent Decree's requirements.⁸

I. Use of Force Policies (CD ¶ 31) & Specific Use of Force Policies (CD ¶¶ 39-41)

A. Status and Assessment

The VIPD made significant progress in revising its Use of Force Policy and related specific use of force policies (which concern specific use of force tools, such as firearms, TASERS, etc.) during the Fourth Quarter. Although the quarter started out relatively slow, the pace of the Department's policy development increased dramatically in December when the VIPD submitted eleven policies to the DOJ for approval. Although the DOJ asked the VIPD to further revise those policies, it "commended the VIPD for the progress" that it had made.⁹

The OIM attributes much of the VIPD's recent policy development activity to two events. First, the VIPD engaged a Policy Consultant — at the repeated suggestion of the OIM and DOJ, and only after a protracted procurement process — in October to help the Department revise its force-related policies and generally improve its policy writing infrastructure (which is critical for the Department to be able to

⁶ A summary of the Consent Decree requirements is excerpted at Appendix A.

⁷ The Consent Decree provides that "[t]he Monitor shall issue quarterly written, public reports detailing the Territory of the Virgin Islands' compliance with and implementation of each substantive provision of [the] Agreement." CD ¶ 96.

⁸ See CD ¶ 85.

⁹ Letter from Marina Mazor, Esq. to Wayne Anderson, Esq. and Frederick Handleman, Esq. regarding "United States v. Virgin Islands, et al." at 1 (Jan. 3, 2011).

independently draft and revise policies in the future). As discussed further below, the Policy Consultant appears to have reinvigorated the VIPD's Policies and Procedures Committee (the "Committee"),¹⁰ which the Police Commissioner charged with, among other things, developing, reviewing, and revising the Department's policies.

Second, in response to the VIPD's slow progress in prior quarters, the United States District Court for the Virgin Islands ordered the Parties to submit the Consent Decree Timetable. In addition, the Court requested that the Parties also set interim deadlines by which the VIPD would, among other things, submit policies to the DOJ for approval. After conferring and agreeing on deadlines following a November 22 hearing, the Parties submitted an ambitious timetable to the Court on November 24. For example, the Consent Decree Timetable required the Department to submit a significant number of force-related policies to the DOJ by December 17 — less than three weeks after initially submitting the Timetable to the Court. Notably, the VIPD suggested the tight deadlines reflected in the Consent Decree Timetable, which appears to have helped spur the VIPD into action.

During the Fourth Quarter, both prior to and after submitting the previously mentioned policies to the DOJ, the OIM provided the VIPD with extensive comments on those force-related policies — which are foundational to the Consent Decree. The Use of Force Policy, among other things, sets forth the Department's use of force rules as dictated by the United States Constitution and Virgin Islands law. Because the Use of Force Policy serves as a building block for many other policies, including, but not limited to, the specific use of force policies, the Committee appropriately devoted a significant amount of time to that policy over the past two quarters.

For example, in October, the Committee submitted a draft version of the Use of Force Policy to the Policy Consultant for his review. After extensive discussions between the Committee and the Policy Consultant, the Policy Consultant sent a revised draft version of the Use of Force Policy to the VIPD for its review. After making further revisions, the VIPD submitted the Use of Force Policy to the DOJ for approval on December

¹⁰ The Committee has six members, including: a Deputy Chief (chairperson), the Director of IAB, a police Captain, a police Sergeant, the Training Supervisor for the St. Thomas District, and the Training Cadre for the St. Croix District. VIPD July 2010 Status Report at 3.

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17, pursuant to the Consent Decree Timetable deadline.¹¹ In addition to the Use of Force Policy, the VIPD also submitted the following ten force-related policies to the DOJ on December 17: Reportable Use of Force; O.C. Spray; Electronic Control Weapon; Impact Weapon; Firearms; Vehicle Pursuit; Spike Strip; Disciplinary Matrix; Off-Duty Official Action; and, Canine.

Under the terms of the Consent Decree Timetable, the DOJ had 30 calendar days to provide the VIPD with comments on the force-related policies submitted on December 17.¹² However, in light of the Summit — which took place from January 3-4 — the DOJ graciously agreed to provide feedback on an expedited basis. Consequently, the DOJ provided detailed feedback to the VIPD on the evening of January 3 with respect to the following force-related policies: Use of Force; Reportable Use of Force; O.C. Spray; Electronic Control Weapon; Impact Weapon; Firearms; Vehicle Pursuit; and Spike Strip. This quick turnaround by the DOJ was essential to a constructive discussion of the policies at the Summit.

The Summit participants subsequently discussed the DOJ's feedback on January 4 and begin making the required revisions. Shortly after the Summit, on January 13, the DOJ provided comments to the VIPD on three other policies: Disciplinary Matrix; Off-Duty Official Action; and, Canine. The OIM also provided the VIPD with comments on those policies. After reviewing all of the DOJ and OIM's comments and working with the Policy Consultant, the VIPD resubmitted these policies to the DOJ on February 3. On February 11, the VIPD also submitted the Disciplinary Policy. Going forward, the VIPD should strive to respond to any further comments from the DOJ promptly, and, to the extent possible, sooner than the full 21-day period permitted by the Consent Decree Timetable.

Spurred on by the Consent Decree Timetable, the Committee demonstrated tremendous commitment to the Consent Decree compliance process during the Fourth Quarter. The Committee's efforts

¹¹ VIPD February 2011 Status Report at 3-4.

¹² Indeed, "[p]ursuant to the Court's November 22, 2010 Order, after [the] VIPD has submitted a policy to [the DOJ], each [P]arty [has] twenty-one (21) calendar days to complete its review and/or revisions and to return the policy to the other party, except that [the DOJ] shall initially have thirty (30) calendar days to review and submit comments on policies submitted [to it] by December 17, 2010."

are particularly notable given the time-consuming and painstaking nature of its work. The OIM notes that even the most straightforward policies present complex issues. In addition, because the VIPD is concurrently revising a significant number of its force-related policies, the Committee must ensure that each policy “fits” into the desired policy framework. As part of that process, the Committee, among other things, must consistently define terms across different policies and cross-reference relevant policies as well. Moreover, in order to satisfy the Consent Decree Timetable, the VIPD also reports that the Committee is meeting two times per week (up from once a week in previous quarters) to “expedite the process of drafting and reviewing/revising policies.”¹³ Based on the OIM’s observations, Committee meetings also appear to be functioning far more efficiently and productively than in past quarters.

The Committee has taken another positive step by starting to invite VIPD personnel with subject matter expertise relating to particular policies to participate in Committee meetings. For example, at the December 10 Committee meeting, a member of the St. Thomas District Canine Unit participated in a discussion about the Department’s draft Canine Policy. Among other things, that officer discussed the VIPD’s canine training programs, current studies on canine use, and the role that supervisors play during canine deployments with the Committee. The Committee needed to know that information before it could begin to draft a workable Canine Policy.

The OIM also notes that the Training Director attended the December 10 Committee meeting. The OIM has previously stated that the Training Director (or another Training Division representative) should consistently attend Committee meetings given the close relationship that should exist between policy development and training. By participating in policy drafting sessions, the Training Director can begin developing corresponding training programs well in advance of policies actually being finalized. That way, the VIPD will be able to implement new/revised policies as soon as they are approved by the DOJ and/or Police Commissioner. The OIM encourages the Training Director to personally participate in as many Committee meetings as possible.

Finally, the OIM commends the Committee for soliciting feedback from VIPD personnel on draft policies. To that end, the Compliance Coordinator developed a policy questionnaire to obtain feedback from personnel throughout the Department; the OIM provided comments on

¹³ VIPD October 2010 Status Report at 4.

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the questionnaire in mid-December and, among other things, recommended that the Committee seek feedback on policies from a cross-section of VIPD personnel (high level supervisors and rank and file officers). The questionnaire gives VIPD personnel the opportunity to comment on draft policies which should help facilitate Department-wide buy-in for these vital policies that, in certain instances, has been missing. In addition, by seeking feedback from VIPD personnel, the Committee should better be able to align new/revised policies with operational concerns. In order to achieve these goals, however, the Committee must give VIPD personnel enough time to review the relevant policy and complete the policy questionnaire while still being conscientious of the Consent Decree Timetable. The OIM notes that it reviewed a number of completed policy questionnaires during the Fourth Quarter and a number indicated that the officers lacked sufficient time to review the relevant policy and comment.

Despite the Committee's progress, the OIM remains concerned that the Chiefs and Deputy Chiefs have not fully asserted themselves with respect to policy development. Once again, the OIM encourages the Chiefs and Deputy Chiefs to more actively participate in the Committee's activities, particularly as key policies near finalization. As the OIM previously reported, in addition to lending the Committee a wealth of institutional experience, the Chiefs and Deputy Chiefs can help underscore the authority of the Committee throughout the Department by their participation. Likewise, the OIM believes that the Committee would benefit from the regular participation of the Assistant Police Commissioner, who played a helpful and active role at the Summit. The OIM is also hopeful that the Chiefs and Deputy Chiefs will naturally assume a more prominent role in policy development as they begin to lead their respective Consent Decree working groups. In future quarters, the OIM will monitor and assess the progress that the Chiefs and Deputy Chiefs make towards achieving substantial compliance.

B. Recommendations

The OIM is hopeful that the VIPD will receive final DOJ approval for most (if not all) of its force-related policies during the next quarter. The OIM encourages the Committee to keep up its hard work. Given that the VIPD has already exchanged multiple draft versions of each policy with the DOJ, the OIM expects the VIPD to finalize its outstanding force-related policies promptly. Notwithstanding the fact that the Consent Decree Timetable provides the VIPD with twenty-one days to resubmit draft policies to the DOJ after receiving comments, we encourage the Committee, in consultation with the Policy Consultant, to address the

DOJ's comments and resubmit its policies on an expedited basis. As the OIM has repeated often, the lack of these foundational force-related policies will prevent the VIPD from moving forward and complying with the Consent Decree.

The OIM also recommends that the Committee continue holding bi-weekly meetings until the DOJ approves all of the Department's force-related policies. In addition, the Committee should continue to seek participation and input from VIPD personnel with relevant expertise. The Committee should also continue to use the policy questionnaire to seek feedback from across the Department on draft policies. With respect to the questionnaire, the VIPD should provide personnel with ample time to review any such policies and offer thoughtful comments.

Given the close relationship that exists between policy development and training, the OIM reiterates its recommendation that a representative from the Training Division attend each Committee meeting to stay abreast of developing policies. The Training Division should recognize that most of the force-related policy changes are more than incremental modifications to past practices and, thus, will require significant rewrites to any existing lesson plans. Consequently the Training Division must start developing training programs for the new policies well before they are finalized.

Likewise, the Chiefs and Deputy Chiefs should make a concerted effort to attend Committee meetings, particularly as important policies are nearing finalization. In light of their new roles leading the Consent Decree working groups, the OIM believes that it would be helpful for them to take a more direct role in policy development. Without engaging in the policy development process, it has been and will continue to be difficult for them to fully appreciate the number of moving parts that must work together for a policy to function properly.

II. Evaluation, Documentation, and Review of Uses of Force (CD ¶¶ 32-41)

A. Status and Assessment

1. Policies and Directives

The VIPD submitted the Reportable Use of Force Policy to the DOJ, pursuant to the Consent Decree Timetable, on December 17. The DOJ subsequently provided feedback to the VIPD on January 3, 2011. The VIPD reports that the Committee, in consultation with the Policy

Consultant, will revise the Reportable Use of Force Policy and resubmit it to the DOJ “within the required time limit for review and approval.”¹⁴ Like the Use of Force Policy, the Reportable Use of Force Policy is a foundational policy. Without a robust Reportable Use of Force Policy, the VIPD will not be able to effectively monitor use of force events, which is imperative under the Consent Decree. As such, the VIPD should address the DOJ’s comments as soon as possible, preferably before the full 21-day period permitted by the Consent Decree Timetable.

In the interim, the Reporting Use of Force Directive (#005-2010), which was issued on May 5, 2010, remains in effect “to provide guidance relative to reporting use of force within the guidelines as stipulated in the [C]onsent [D]ecree.”¹⁵ Under the Reporting Use of Force Directive, officers are required to report use of force events to their supervisors (and others) by completing the Reporting Use of Force Form (USVIPD/UFF2009).¹⁶ Given that the VIPD is working to replace and/or revise the Reporting Use of Force Directive and Reporting Use of Force Form, the OIM has not opined about whether they satisfy the Consent Decree; the VIPD maintains that the Directive and Form are compliant.

In order to help officers more efficiently document use of force events, the VIPD reports that it recently installed computers at all Zones, with the exception of Zone C in the St. Thomas District, which is undergoing renovations. Once the Blue Team Component of IAPro is operational,¹⁷ officers will be able to enter use of force information directly into IAPro, obviating the need for officers to prepare formal use of force reports and then have to enter that information into a database. In addition, the newly installed computers are equipped with web-based cameras to record officer and witness statements, which are required aspects of use of force investigations under the Consent Decree. The VIPD’s Management and Information Systems Division (“MIS”) is currently coordinating training for supervisors on how to use the web-based cameras.

¹⁴ VIPD February 2011 Status Report at 5-6.

¹⁵ *Id.*

¹⁶ *Id.* at 6-7. Specifically, the VIPD previously reported that the Form has a “section for the type of force used and requires the [s]upervisor to indicate whether he/she concurs with the involved [o]fficers['] action.” VIPD October 2010 Status Report at 4. The form also requires the relevant officer and his/her supervisor to provide narrative descriptions of the circumstances that lead to the use of force event.

¹⁷ *See, infra*, § IV.

Once fully operational, the VIPD plans to track use of force events using IAPro. In the interim, however, the OIM has repeatedly suggested that the VIPD implement a manual tracking system. Moreover, even once IAPro is operational, the OIM recommends that the VIPD continue using a manual tracking system as a back-up, at least until IAPro proves itself to be reliable.

In response to the OIM's recommendations, the VIPD recently began implementing a manual tracking system. On November 5, for example, the VIPD reports that it assigned log books with sequentially numbered pages to all Zone Commanders to record use of force events and citizen complaints.¹⁸ On November 21, the Police Commissioner issued the Use of Force/Citizen Complaint Log Book Directive (#16-2010), which explains the purpose of the log books and sets forth procedures for logging all use of force events and citizen complaints. Among other things, the Directive requires officers to document the following information: Zone; Use of Force number; 1-A or Offense Report number; Citizen Complaint number; date received; and, supervisor assigned. According to the Directive, officers will also be subject to appropriate disciplinary action(s) for failing to log use of force events or citizen complaints.

Although the VIPD assigned log books to each Zone Commander on November 5, a number of Zone Commanders had not yet signed out their log books from their respective Chief or Deputy Chief (as is the protocol). During a December monitoring visit to one Zone, the OIM observed that only seven Zone Commanders had signed for their logbooks, according to records maintained by the Deputy Chief for the St. Thomas District. During the upcoming quarter, the OIM will review the contents of logbooks in both Districts to evaluate compliance with the Use of Force/Citizen Complaint Log Book Directive.

2. Survey of Use of Force Incidents

Since the VIPD continues to lack a reliable use of force reporting program (due, in large part, to the lack of approved Use of Force and Reportable Use of Force policies), the Department continues to generate unreliable statistics concerning use of force events. Therefore, for the fourth straight quarter, the OIM conducted a review of general incident reports (Form 1-As) and arrest reports to identify officers' actions which indicate a possibility that force was used and determine more generally

¹⁸ VIPD February 2011 Status Report at 6.

whether the VIPD is making progress adhering to its reporting obligations.

As part of this review, the OIM looks for information that suggests the use of force by one or more officers. Such evidence includes: (1) statements in the narrative of the incident or arrest report explicitly stating that force was used; (2) information indicating that a suspect fled from, resisted arrest, or otherwise likely had to be subdued with some level of force by the involved officer; and, (3) information indicating that the suspect or an officer was injured during the incident. The OIM then classifies the type of force that appears to have been used under one of the following six categories: (1) hand controls or forcible handcuffing; (2) take down or hand strikes; (3) oleoresin capsicum (“OC”) spray; (4) baton or ASP; (5) pointing of a firearm; and, (6) discharge of a firearm.¹⁹

Whenever an arrest report indicated that a use of force report should have been prepared (including when an arrest report indicated that a subject resisted arrest), the OIM cross-referenced the corresponding Form 1-A for more information. If there remained a question as to whether force was used, the OIM gave the VIPD “the benefit of the doubt” and the incident was not identified as requiring completion of a use of force form. While a more labor-intensive review of all Form 1-As may have exposed additional instances of unreported use of force events, the OIM adopted this approach to determine whether there was any measurable improvement to the reporting requirements during this quarter.

With respect to the St. Thomas District, the OIM identified 25 potential use of force events. However, the OIM was only able to locate 14 related use of force reports; we will try to locate the other 11 reports during the next quarter. With respect to the 14 use of force reports that we located, we found, with few exceptions, that supervisors conducted inadequate and/or improper investigations. For example, we reviewed a use of force event where the supervisor who conducted the investigation and signed off on the use of force report was directly involved in the use of force event, in clear violation of the Consent Decree.²⁰ The OIM also

¹⁹ The OIM classifies use of force according to the minimum level of force that was consistent with the report’s information regarding the facts and circumstances of the underlying events.

²⁰ CD ¶ 34.

found that most of the use of force reports that we reviewed from the St. Thomas District failed to note whether witness canvasses were conducted, and did not include statements or reports from *all* officers on the scene or medical reports when the subject of the use of force was treated for injuries. Nevertheless, the OIM notes some signs of improvement. Importantly, officers in the St. Thomas District appear to be completing (or at least attempting to complete) use of force reports with greater consistency than in past quarters.

For the St. Croix District, the OIM identified 19 1-As as potential use of force cases and ultimately identified 10 use of force events. The OIM subsequently located use of force reports for each of those suspected events — a positive sign that, at a minimum, officers are starting to understand their reporting obligations. With respect to those use of force reports, many were inadequate and lacked necessary information such as evidence or witness (officer or civilian) statements. Also, there were instances when an officer participated in a force event and failed to write a report or a supervisor on the scene of an event failed to write a report.

In the Third Quarterly Report, the OIM reported that there was widespread uncertainty among VIPD personnel (including senior officers) about the Department's use of force reporting process. In response to those concerns, the VIPD, at the OIM's request, held a number of remedial training sessions. Notably, however, the VIPD did not provide details about any of those training sessions in its Seventh Quarterly Status Report. Going forward, the VIPD should provide the OIM with detailed information about, among other things, each force-related training program that was held during the preceding quarter (describing the topics covered, identifying the attendees and instructors, etc.) in its quarterly status reports.

Notwithstanding those remedial training sessions, the OIM still has concerns about the extent to which VIPD personnel understand the use of force reporting process. For example, discussions with command personnel from the St. Thomas District (commanders or acting commanders for Zones A and C and the Special Operations Bureau) indicate that even senior officers are unsure about when they or their subordinates are required to report use of force events. One commander instructs subordinates to complete a use of force report "when in

doubt.”²¹ Based on our monitoring, that phrase appears to encompass a range of conduct—including non-resistant handcuffing—beyond the scope of the Use of Force Reporting Directive. Consequently, officers are overreporting use of force events because of inadequate policy guidance and related training. Many supervisors are similarly unsure about how to conduct an adequate use of force investigation.

During the Fourth Quarter, the OIM reviewed 39 use of force reports from one Zone in St. Thomas. As the chart below demonstrates, officers are routinely completing use of force reports unnecessarily. For example, compliant handcuffing and non-resistant searches—which should not be reported under the Reporting Use of Force Directive or the Consent Decree—accounted for 19 of the 39 use of force reports listed below. While our focus has typically been the underreporting of use of force events, we are also concerned about overreporting. In addition to demonstrating that VIPD personnel are unaware of their reporting obligations, overreporting makes it more difficult for supervisors to effectively investigate use of force events for potential misconduct and places an unnecessary burden on supervisory resources. Overreporting also reinforces the belief among certain VIPD personnel that the Consent Decree’s reporting requirements are overly burdensome.

| Level of Force | Number of events |
|---------------------------|-------------------------|
| Compliant handcuffing | 16 |
| Search, no resistance | 3 |
| Resisted handcuffing | 2 |
| Hard hands | 7 |
| Pointing of firearm | 1 |
| OC Spray | 1 |
| Asp Baton | 1 |
| Canine | 2 |
| Deadly Force | 0 |
| Kicked in a door | 1 |
| Restrain a mental patient | 5 |

Overall, the VIPD must do a better job at educating officers about their reporting obligations. Even though the Reporting Use of Force Directive is temporary, that does not excuse the VIPD’s failure to adequately educate officers about the Directive. Moreover, officers who

²¹ That same commander was also unsure about whether the IAB or Zone commanders are responsible for investigating serious use of force events.

receive training on the Reporting Use of Force Directive should be able to quickly adapt to the Reporting Use of Force Policy once it is approved by the DOJ.

3. Supervisor Review of Uses of Force

The VIPD reports that it incorporated the Reporting Use of Force Directive — which, it claims, satisfies the Consent Decree’s requirement that use of force events be reviewed and evaluated by a supervisor — into the Reportable Use of Force Policy. Once the DOJ approves the Reportable Use of Force Policy, the VIPD plans to hold related training programs in both Districts in March and April.

Based on the OIM’s observations, some of which have been noted above, those training programs are sorely needed. In addition to the issues identified above, a number of supervisors have reported that they were never taught how to conduct basic use of force investigations. Although the VIPD reports that it is making headway in this area, the OIM remains unconvinced. For example, as discussed below (*see infra* III, C), the Training Division’s efforts, after much delay, to train supervisors on the preponderance of the evidence standard have not met generally accepted policing standards. Moreover, the OIM is not aware of any efforts by the Division to train officers on the factors to consider when evaluating the credibility of witnesses.

The Department’s current shortage of supervisors may also be hampering its ability to adequately investigate use of force events. The VIPD’s organizational table calls for each Zone to be commanded by a Captain and each watch to be commanded by a Lieutenant. However, there is only one Captain on the entire island of St. Thomas, and he is not currently assigned to a Zone command. Police operations on St. Croix face similar problems. Specialized units, such as SWAT, Canine and Traffic are also short on command personnel. The Traffic Unit, for example, is commanded by a Sergeant instead of a Captain. Additionally, during conversations with VIPD staff at the Zones, we were frequently informed of first line supervisor shortages such that it is not uncommon to have no Sergeant working on a given shift. With so few supervisors, it is easy to see why the VIPD has had trouble adequately reviewing every use of force event. The OIM encourages the VIPD to address this issue. While we recognize that the Department is operating with significant fiscal restraints, the current situation is untenable.

In addition to providing supervisors with adequate training and providing an adequate supply of supervisors, the VIPD must also

implement an audit function (at the Zone, District, and/or Territorial level) to review the adequacy of completed use of force forms. During the Fourth Quarter, the OIM sought to examine whether the Chiefs and Deputy Chiefs were reviewing use of force forms for completeness. Early in the quarter, at the suggestion of the OIM, one Deputy Chief agreed to review a random sample of use of force forms in his District. However, when the OIM followed up with the Deputy Chief, we learned that he delegated the task to one of his subordinates, who did not complete the review. The OIM subsequently sent the Deputy Chief a checklist to help him (or his subordinates) undertake such a review. The OIM's checklist also helps the Chiefs and Deputy Chiefs document what they did as part of their review. The OIM is hopeful that the Chiefs and Deputy Chiefs will devote more attention to reviewing the adequacy of completed use of force forms during the next quarter. As the Chiefs and Deputy Chiefs are aware, reviewing a relatively small sample of use of force reports provides an opportunity to identify, among other things, deficiencies in use of force investigations, problems with systems, and training and equipment needs.

B. Recommendations

As is the case with the Use of Force Policy, the VIPD is hampered by the lack of an approved Reportable Use of Force Policy. As such, the VIPD should strive to finalize that policy and obtain DOJ approval as quickly as possible. In addition, the VIPD needs to provide additional guidance to VIPD personnel about their use of force reporting responsibilities. Further instruction on the Reporting Use of Force Directive will prime Department personnel to adapt to the Reporting Use of Force Policy (which will be very similar to the Directive) once it is approved. The pervasive confusion surrounding the reporting use of force process cannot continue.

While the Roll Call and Commanders Call training sessions — which the OIM has encouraged the Department to hold — have been helpful and should be continued, the OIM recommends that the Training Division design a more comprehensive, mandatory in-service training program. In addition, we understand that the Committee is currently designing an operational flow chart to provide step-by-step guidance about the use of force reporting process (from the use of force event itself through disposition).

In addition, with respect to use of force investigations, the OIM recommends that the VIPD train all supervisors; the current process

appears to involve Commanders selecting certain supervisors to attend such trainings. Moreover, the VIPD should strive to staff each Zone with an adequate number of trained supervisors given the vital role that supervisors play in the use of force investigation and reporting process.

Finally, during the upcoming quarter, the OIM requests that the Chiefs and Deputy Chiefs audit the use of force forms in their respective Districts. The working group focused on force-related issues, particularly the Chief overseeing it, should take the lead in designing a uniform audit protocol. The OIM will report on those audits in future quarterly reports. In addition, the Chiefs and Deputy Chiefs should also ensure that the Zone commanders within their Districts have signed out and are using their log books. If certain Zone commanders have not yet done so, the Chiefs and Deputy Chiefs should remedy the situation immediately.

III. Citizen Complaint Process (CD ¶¶ 42-58)

A. Public Information (CD ¶¶ 42-43) & Means of Filing & Tracking Complaints (CD ¶¶ 44-45)

1. Status and Assessment

As previously reported, the VIPD has organized the roll-out of its complaint process into two phases.²² The first phase includes completing policies related to the complaint process, reviewing complaint policies with Commanders prior to dissemination department-wide, printing posters, brochures, and compliment/complaint forms, installing compliment/complaint drop boxes throughout the Districts, and holding a press conference to inform the public about the complaint process. The second phase of the complaint process consists of on-going roll call/in-service training regarding the complaint policies.

With respect to the complaint policies, the Committee initially developed a single, overarching policy to govern the complaint process, the Investigation of Employee Misconduct Policy. That policy, among other things, addressed two primary areas: 1) the mechanics of submitting and processing civilian complaints; and 2) how the VIPD should investigate those complaints. After receiving comments from the OIM during the Fourth Quarter, the Committee, in consultation with the Policy Consultant, divided that policy into two separate, but related

²² VIPD July 2010 Status Report at 11; VIPD February 2011 Status Report at 12.

policies, the Acceptance of Citizen Complaint Policy *and* the Investigating Misconduct and Citizen Complaints Policy. The OIM commends the Committee for breaking the Investigation of Employee Misconduct Policy into two, more user-friendly policies. The VIPD ultimately submitted the Acceptance of Citizen Complaint Policy and the Investigating Misconduct and Citizen Complaints Policy to the DOJ on January 18, 2011. The OIM notes that while the Consent Decree does not require the DOJ to review or approve complaint process related policies, the DOJ provides comments on these policies as a matter of technical assistance. To the extent that the comment process regarding these policies is relevant, the OIM will discuss it in the next quarterly report.

Pending issuance of those policies, the VIPD's complaint process continues to be governed by the Processing Citizen Complaints Directive (#014-2010), which the Police Commissioner issued in late October 2010. The Directive provides, among other things, interim guidance on the complaint process. In addition, it requires officers to carry information brochures and complaint forms in their vehicles at all times while on duty and prohibits officers from discouraging any person from filing a complaint.

The VIPD also continued to promote the complaint process through its public awareness campaign during the Fourth Quarter. During the Fourth Quarter, as we previously reported, the VIPD developed compliment/complaint brochures to help promote public awareness about the complaint process.²³ On December 9, the VIPD held a meeting to consider revisions to the complaint form, brochures, and poster prior to reordering additional copies. The OIM subsequently reviewed the poster and brochure and provided comments to the VIPD on two occasions in February, some of which the VIPD incorporated into the current version. Among other things, the VIPD agreed to reduce the size of the warning against filing false complaints and added a new toll-free hotline (1-877-391-7376) and email address for the IAB (internal.affairs@vipd.gov.vi). In addition, the VIPD is considering developing a preformatted notification letter for potential use by Zone supervisors to advise complainants of the resolution of complaints disposed of at the Zone level after investigation.

After holding a press conference on October 13, at the beginning of the Fourth Quarter, to promote the Department's new complaint process, the VIPD began running related public service announcements ("PSAs")

²³ OIM Third Quarterly Report at 25.

on radio and television. Among other things, the PSAs explained the multitude of ways that complaints may be filed. The VIPD plans to evaluate the effectiveness of its public awareness campaign, particularly the PSAs, in the coming months.

In addition to providing complainants with a copy of their complaint and a control number, the VIPD reports that the IAB will notify all non-anonymous complainants in writing about the disposition of their complaints. In order to facilitate that process, the VIPD, as mentioned above, is developing a preformatted notification letter that could be used to advise certain complainants about the disposition of less serious complaints. However, the OIM recommends that the VIPD take a more individualized approach when dealing with complaints alleging more serious misconduct (including any allegations of excessive force).

2. Recommendations

The OIM encourages the VIPD, specifically the Committee, to turn around their revisions to the complaint process policies promptly. Once those policies are issued, the Training Division should immediately begin training VIPD personnel about the complaint process. In addition, during the next quarter, the VIPD should audit the complaint process to determine the extent to which officers are complying with the Processing Citizen Complaint Directive (which is in force pending issuance of the complaint process policies). Among other things, the VIPD should ensure that officers carry complaint-related brochures and forms while on-duty and do not discourage persons from filing complaints, and that supervisors appropriately notify complainants of the disposition of their complaints. The Deputy Chief overseeing the complaint process working group should see that these recommendations are implemented.

B. Investigation of Complaints (CD ¶¶ 46-58)

1. Status and Assessment

As discussed above, the VIPD's investigation of complaints will be governed by the Investigating Misconduct and Citizen Complaints Policy once it is issued. According to the VIPD, all complaint investigations will be evaluated using the preponderance of the evidence standard as required by the Consent Decree. During the Fourth Quarter, the VIPD made some progress developing and implementing training programs relating to the preponderance of the evidence standard. As discussed in

the Third Quarterly Report, on October 12, an Attorney in the Virgin Islands Attorney General's Office conducted a preponderance of the evidence training for Zone Commanders in both Districts.²⁴ On December 20, the Training Director conducted another preponderance of the evidence training in St. Thomas, which was followed by a similar training in St. Croix on January 13.²⁵ The OIM observed this January 13 training and will detail in the next quarterly report how these trainings require improvement in order to meet generally accepted police practices.

The Consent Decree also requires the VIPD to institute a centralized numbering and tracking system for all complaints. While the VIPD reports that it has established a protocol with 911 to issue complaint numbers, it is not possible to use a single set of numbers because 911 operates as two separate systems in the Virgin Islands, one for St. Thomas and another for St. Croix. Because technical difficulties continue to impair the VIPD from implementing a single numbering and tracking system, during a hearing on November 22, the VIPD stated that it would promptly provide the DOJ with a written description of the technical issues it faces so that the Parties can further discuss them. The DOJ reports that despite numerous requests, the VIPD has not provided it with the requested written description. Accordingly, the OIM encourages the VIPD to provide this information to the DOJ so that the Parties can discuss possible solutions. The VIPD also reports that it has a protocol in place to notify the Police Commissioner about certain types of serious complaints within twenty-four hours.

During the Fourth Quarter, the VIPD reports that the IAB continued to use digital voice and video recording devices during all complaint-related interviews. Starting in February, the VIPD also reports that MIS will begin training supervisors to use the web-based cameras that were installed at all Zones (other than Zone C) during the Third Quarter. The Zones have lagged behind the IAB in recording complaint-related interviews because of a number of technical issues. Once MIS completes its training, the OIM expects Zone supervisors to video record

²⁴ *Id.*

²⁵ According to the VIPD, between October 22-26, IAB Agents and Supervisors from both Districts also attended training in St. Croix titled "Internal Affairs, Administrative Investigations, Early Intervention and Legal Issues," which included as a component a discussion on the preponderance of the evidence standard.

all complaint-related witness interviews in accordance with the Consent Decree and Departmental policies.

Finally, the OIM commends the IAB for developing an audit program to review the status of filed complaints. Under this new program, the Assistant Director of the IAB (or the assigned supervisor) will review completed the IAB investigations, discuss any findings with the lead investigator and the assigned supervisor, and seek to identify any deficiencies. In addition, the Assistant Director of the IAB (or the assigned supervisor) will document her/his findings using an audit form and compile statistics to be included in a monthly report. The OIM plans to review the IAB's audit forms during the next quarter.

2. Recommendations

In light of the technical difficulties that are preventing the VIPD from instituting a single numbering and tracking system for complaints, the OIM recommends that the VIPD promptly provide the DOJ with a written description of its difficulties. Once the DOJ receives that information, the Parties should discuss mutually acceptable and technologically feasible alternatives.

With regard to video recording all complaint-related witness interviews, the OIM recommends that MIS complete its training of all officers on the use of video recording devices as soon as possible. Once that training is complete, the OIM will hold the VIPD accountable for the recording of all complaint-related witnesses as required by the Consent Decree.

The OIM also recommends that the VIPD provide the IAB with sufficient staffing to implement a quality control function to review force-related investigations completed at the unit level. Similar to the audit function being implemented at the IAB for its investigations, this quality control function should identify any deficiencies in unit level investigations and, minimally, document any findings in a memorandum to the investigating supervisor's Deputy Chief. Eventually, this review function should be completed in a timely fashion to allow further investigation when deficiencies are identified, and disposition within the restrictive time limitations of the current collective bargaining agreement. In addition, the reviewer's findings should be compiled into a periodic statistical report broken down by each command.

In addition, the IAB should continue to develop an audit system to review the status of complaints. The OIM believes that such an audit

system is absolutely critical, particularly as citizens become more aware of the complaint process and the total number of complaints increases.

IV. Management and Supervision (CD ¶¶ 59-72)

A. Risk Management System (CD ¶¶ 59-68)

1. Status and Assessment

The VIPD hired a new Director of MIS near the end of 2010. During his first week on the job, the Director took an active role in the Summit and provided valuable information about the VIPD's technological capabilities and limitations. One of the biggest challenges facing the Director relates to implementing the VIPD's risk management system ("RMS"), which includes, but is not limited to, the IAPro system and Blue Team component. During the next quarter, the VIPD reports that the Director will assess the VIPD's equipment, hardware, and software to determine how the VIPD will proceed with developing and implementing the RMS required by the Consent Decree.

Unfortunately, technical issues continue to hamper the VIPD's efforts to make IAPro fully operational. Consequently, the VIPD was forced to cancel training programs relating to IAPro that were scheduled to take place in December. The OIM is hopeful that the new Director of MIS will be able to rectify the current technical problems. If not, the VIPD should propose an alternative approach because it needs to make progress in this area soon.

As noted in previous reports, the Consent Decree requires the VIPD to use an electronic system for collecting, analyzing, and tracking data. In the interim, the VIPD reports that it is complying with the Consent Decree by manually collecting the required information, including, but not limited to, all uses of force, critical firearms discharges, and complaints and any related dispositions. According to the VIPD, this information will be entered into IAPro once it is fully operational. The IAB also recently created an internship program to help expedite the data entry in which selected cadets from the VIPD's Cadet Program participate.

The VIPD submitted its Early Intervention Program Policy to the DOJ on December 17. Among other things, that policy seeks to identify potentially problematic behavior by officers at an early stage when corrective measures are likely to be the most effective. The VIPD received

feedback on its Early Intervention Program Policy on January 28, 2011. The Police Commissioner approved the establishment of an Early Intervention Program Committee on January 12, 2011. Committee members include: a Deputy Chief; the Director of the IAB; the Director of Human Resources; the LESU President; a Psychologist; the EIP Coordinator; the Acting Audit Clerk from the Payroll Division; and, a PBA member. The Committee held its first meeting at the end of January 2011. The OIM will provide details about this meeting and the EIP Committee more generally in the next quarterly report.

2. Recommendations

The OIM encourages the newly instituted EIP Committee to work with the Policies and Procedures Committee to finalize the Early Intervention Program Policy as soon as possible. In addition, the OIM would like to learn more about the expected role of the EIP Committee. As such, we request that the VIPD provide a more detailed explanation of the EIP Committee's charge in its next quarterly status report.

Additionally, the OIM recommends that the MIS Director complete his assessment of the Department's current technical capabilities and limitations, and then develop proposed solutions. If some of the systems envisioned by the Consent Decree are not technologically feasible, the Parties should discuss alternatives.

B. Oversight (CD ¶ 69)

1. Status, Assessment, and Recommendations

The VIPD continues to report that it has not yet prepared an audit protocol for the RMS.²⁶ However, the VIPD reports that senior VIPD personnel have discussed the possibility of creating a unit charged with conducting audits of "several areas of the VIPD as an effective means of quality control overall within the Department." It is unclear whether any such unit would have audit responsibility for the RMS.

The OIM recognizes that making IAPro fully operational is a prerequisite to designing and implementing an effective RMS audit protocol. As such, the VIPD must bring IAPro on-line within a reasonable period of time or commit itself to finding a technologically feasible alternative.

²⁶ VIPD February 2011 Status Report at 25.

C. Discipline (CD ¶¶ 70-72)**1. Status, Assessment, and Recommendations**

Pursuant to the Consent Decree Timetable, the VIPD submitted a Disciplinary Policy and Matrix to the DOJ on December 17. The DOJ provided the VIPD with comments on January 13, 2011. The VIPD's revisions to this policy and the matrix will be discussed in greater detail in the next quarterly report.

Based on our discussions with officers during the Fourth Quarter, the VIPD's disciplinary system appears, at least in part, to be broken. For example, many command personnel, who are responsible for reviewing misconduct investigations and conducting disciplinary hearings, have not been adequately trained to carry out those responsibilities. In addition, disciplinary sanctions have been made so inconsequential and inconsistent that any deterrent effect may be lost. For example, we learned that the Department allows officers to add vacation days to the end of suspensions or to split a suspension into some days active and some days held in abeyance, with little likelihood that a subsequent sustained finding for a rule violation would result in activation of the days held in abeyance. Further, in lieu of disciplining officers, the Department sometimes shifts officers between units rather than re-training, suspending, and/or terminating them. According to some officers, the Department also lacks a progressive discipline system, meaning that violators are not punished more severely when they engage in the same prohibited conduct on multiple occasions. As a result of these observations, the OIM encourages the Department to address these concerns with better enforcement of discipline, more strict sanctions, and a progressive system of punishment. The Deputy Chief overseeing the Management and Supervision working group must pay particular attention to these issues.

V. Training (CD ¶¶ 73-81)**A. Management Oversight (CD ¶¶ 73-77) and Curriculum (CD ¶¶ 78-81)****1. Status and Assessment**

The Consent Decree requires the VIPD to coordinate all force-related training, and the Training Director, in consultation with the Attorney General's Office, to regularly review all use of force training programs and policies.

For several months, the Training Division has reported that its Use of Force Policy lesson plan is ready to be implemented once the policy is approved by the DOJ. However, in light of recent revisions to the draft Use of Force Policy that were suggested by the DOJ, the OIM strongly recommends that the Training Division once again examine its Use of Force Policy lesson plan to ensure that it is consistent with those revisions. The same is true for the VIPD's other draft force-related policies. As we have repeatedly stated in prior quarterly reports and in face-to-face meetings with Training Division personnel, the Division must be prepared to expeditiously implement training programs relating to its force-related policies once they are approved. The OIM is mindful that the Training Division plans to hold a number of force-related policy training programs throughout March and April 2011. The Training Division must work quickly to finalize, among other things, the curricula and lesson plans that it intends to use for those trainings. In addition, the Training Division should carefully select the instructors for those training programs and ensure that they are qualified and prepared to teach the subject matter at issue. Instructors with expertise in physical skills, such as martial arts or firearms, should not be primarily responsible for teaching the legal dimensions of policies.

During the Fourth Quarter, the VIPD reports that the Training Division held the following training programs (in addition to the preponderance of the evidence training programs, which were discussed above): (1) Defensive Tactics Training (St. Croix District); and (2) Recruit Class Training (both Districts). Although the Training Division also planned to hold SWAT Training during the Fourth Quarter, it was cancelled at the last minute — after representatives from the OIM arrived in the Virgin Islands, in part, for the purpose of monitoring those training programs. Although we were able to reorganize our monitoring activities, we needlessly lost valuable time. The Training Director later explained to the OIM that the Virgin Islands' Property and Procurement Division had not signed-off on the training program. If unreasonable delay is coming from the Property and Procurement Division, those concerns should be raised immediately with the Police Commissioner. Sending representatives from the OIM to training programs only to find out that they have been cancelled is a significant waste of the OIM's time and, ultimately, the VIPD's resources. As such, the OIM strongly advises the Training Division to satisfy procurement procedures before scheduling training programs.

The OIM also learned that severe weather recently damaged the VIPD's firearms range. As a result, the Training Division was unable to

complete its planned firearms training. While the Training Division has improved its notice to the OIM of upcoming training programs (especially since the Summit in January 2011), there is still room for improvement. Given that training programs should be scheduled well in advance, the OIM should be notified of training programs at least one month ahead of time. Likewise, in the event that a cancellation is necessary, the Training Division should provide as much notice as possible, as we have repeatedly requested. During a recent monitoring trip, a number of officers also expressed a desire to receive advanced notice of upcoming training programs and any related changes. Commanders, in particular, need adequate time to select officers to participate in training programs and to reallocate personnel as needed.

During the Fourth Quarter, the OIM spent a considerable amount of time reviewing, among other things, lesson plans, attendance sheets, instructor certification records, and training program evaluations. While the Training Division is beginning to do a better job of documenting various aspects of their operations, records are still maintained separately in both Districts. There has been some discussion about using IAPro (once it is fully operational) to consolidate the Training Division's records, but that remains aspirational given the Department's technical issues.

With respect to the Training Division's lesson plans, the OIM notes that the Training Director recently obtained "training keys" (i.e., model lesson plans covering a wide range of topics) from the International Association of Chiefs of Police. The Training Director reports that he intends to use the "training keys" to prepare, among other things, roll call training programs and training bulletins. While the OIM commends the Training Director for taking this initiative, he must customize the "training key" based on the unique requirements and characteristics of the VIPD. In addition, the Training Director should also recognize that certain aspects of the "training keys," particularly those dealing with legal developments, may become outdated relatively quickly, and the Director should not hesitate to seek legal counsel as needed.

The OIM previously recommended that the Training Division submit policies with legal components to an attorney to be reviewed for legal sufficiency. As such, the OIM is pleased to report that the Training Director sent a letter on December 9 to the Police Commissioner asking that an attorney be appointed to "review all legal training updates,

training bulletins and decisions.”²⁷ The OIM will follow up about the Training Division’s request in the next quarterly report.

In order to track attendance at training programs, the OIM previously stressed the importance of maintaining accurate attendance sheets for all programs. Therefore, the OIM paid close attention to the Training Division’s attendance sheets during the Fourth Quarter. Overall, these attendance sheets were more complete than in previous quarters. Among other things, the more recent attendance sheets required attendees to sign in and out next to their typed name, solving our previous concern about not being able to identify attendees’ signatures. When officers miss scheduled training programs, the Training Director explained that he notifies the relevant Chief by letter. The Training Director’s expectation is that the Chief would then direct the officer to make up the training or, depending on the circumstances, impose a disciplinary sanction. During the next quarter, the OIM will examine how the Chiefs have responded to those letters from the Training Director (i.e., whether they have directed officers to make up the training or have otherwise taken corrective action). The OIM also encourages the Training Director to follow up proactively with the respective Chiefs on this issue.

The OIM also continued its review of instructor certification records during the Fourth Quarter. Specifically, we reviewed the certification records for seven instructors. We are pleased to report that all of those instructors were appropriately certified in their respective disciplines. In addition, as part of our monitoring activities, we also spoke with two Training Division instructors. In addition to helping to further evaluate their qualifications, these conversations provided insight into the VIPD’s training infrastructure.

In addition, the OIM reviewed a number of training program performance evaluations (completed by Training Division personnel) during the Fourth Quarter. With respect to those performance evaluations, we subsequently learned that the Training Director asked his staff to identify solely training program weaknesses for remediation. Going forward, the OIM suggests that Training Division personnel identify both strengths and weaknesses, and that they complete

²⁷ Letter from Vancito Gumbs, Sr., Training Director to Novelle E. Francis, Jr., Police Commissioner, regarding “Request for Legal Assistance” at 1 (Dec. 9, 2010).

performance evaluations for every class that they observe. In addition, the OIM reviewed a revised version of the class evaluation form, which training program participants will be required to complete after each training program; currently, training program participants do not have a formal means to provide feedback to the Training Division. The OIM will likewise review completed class evaluations in future quarters.

The OIM was pleased to learn that the Training Director recently created an internal committee to help evaluate the efficacy of existing training programs. Thus far, the committee is composed of the following: the Training Director; the Training Manager; a Lieutenant; an IAB Agent; and, a (retired) Captain. The OIM will monitor the work of this committee during the next quarter.

Finally, the OIM identified a number of deficiencies relating to the Department's Field Training Officer ("FTO") program in our Third Quarterly Report. Unfortunately, many of the issues that we identified have not yet been satisfactorily addressed. For example, in St. Croix, the VIPD assigned probationary officers to FTOs who were not certified. When the OIM inquired about this practice, a VIPD representative responded that it was temporary because the Department lacked a sufficient number of certified FTOs.

In one St. Thomas Zone, the Commander told representatives from the OIM that there is one trained FTO for six probationary officers. As a result, the Commander directs a number of other officers, depending on their day-to-day availability, to help supervise and train the probationary officers notwithstanding the fact that none of them are trained to carry out these responsibilities. Because different officers rotate in and out of that role, there is very little continuity of supervision and training.

The OIM also had the opportunity to speak with the lone certified FTO at that Zone, as well as another officer designated as an FTO and a probationary officer. The OIM was impressed by both FTOs, particularly because they expressed a strong desire to acquire additional training. Although the certified FTO previously attended an FTO training program, the FTO was interested in attending a refresher program. The OIM was also impressed with the probationary officer, who generally expressed satisfaction with the field training that he had received. With respect to that probationary officer, the OIM reviewed his FTO folder, which included, among other things, weekly observation reports. According to the certified FTO, weekly observation sheets are not typically reviewed by a supervisor unless the probationary officer is having difficulty. The

probationary officer's FTO file did not, however, contain daily reports, which are best practices in FTO programs and another useful tool for monitoring probationary officers' performance.

2. Recommendations

The Training Division should revise its current force-related lesson plans based on the draft force-related policies that the VIPD most recently submitted to the DOJ. At this point, it appears unlikely that any of those policies will change significantly. They should, however, anticipate that there will be substantive changes to past lesson plans, and that the revised plans will have to be reviewed by both legal advisors and the Department's Policy Consultant. As such, the Training Division cannot wait to revise its force-related lesson plans until the relevant policies are approved.

In preparation for the upcoming force-related trainings (which are scheduled to begin in late March), the OIM recommends that the Training Division conduct "test runs" using its proposed lesson plans. Given the importance of those trainings, the Chiefs, Deputy Chiefs, and other senior VIPD personnel should provide the Training Director with feedback on those "test runs" and on any materials (e.g., handouts) that will be used during the training programs.

VI. Monitoring, Reporting, and Implementation (CD ¶¶ 82-102)

1. Status, Assessment, and Recommendations

The VIPD has fulfilled its obligations with regard to these specific provisions of the Consent Decree. Namely, as discussed in previous reports, the VIPD named a Compliance Coordinator and the Police Commissioner also designated a Compliance Manager for St. Croix.²⁸

On February 3, the VIPD submitted its Seventh Quarterly Status Report to the DOJ and the OIM. The OIM was disappointed by the Department's inadequate, truncated, and late Seventh Quarterly Status Report. While the OIM appreciates the Compliance Manager and Compliance Coordinator's overall hard work and enthusiastic efforts to develop the quarterly status reports (among their many other contributions), the VIPD must develop a more robust and systematic

²⁸ OIM First Quarterly Report at 49; OIM Second Quarterly Report at 45.

reporting process. Thus, rather than restating information from previous quarters, quarterly status reports should provide a detailed account of everything that the VIPD did during the prior quarter (and only the prior quarter) relating to the Consent Decree. Moreover, quarterly status reports should clearly state in an introductory paragraph the time period that the report covers. If the Compliance Manager and Compliance Coordinator are not receiving complete and timely updates from other VIPD personnel responsible for areas of Consent Decree compliance, that fact should be brought to the attention of the Police Commissioner and the Police Commissioner should hold those personnel accountable. Given that the OIM relies, in part, on the VIPD's quarterly status reports to evaluate the Department's progress each quarter, it is in the VIPD's interest to provide a more fulsome description of its activities.

In addition, the VIPD sent the OIM and DOJ the Seventh Quarterly Status Report on February 3, almost a month later than expected. The OIM believes that the VIPD fell off schedule this quarter because it was focused on complying with the Consent Decree Timetable (which required the VIPD to submit a significant number of force-related policies to the DOJ in December) and organizing the Summit. Nonetheless, going forward, the VIPD should also submit its quarterly status reports to the DOJ and the OIM within seven business days after the end of the preceding quarter (e.g., for the next quarter by April 7, 2011).

Status of Substantial Compliance

In order to be released from the Consent Decree, the VIPD must substantially comply with each of the Consent Decree's requirements and remain in compliance for two years.²⁹ At the end of the Fourth Quarter, the VIPD, as was true by the end of the Third Quarter, has substantially complied only with the following Consent Decree requirements:

- In January 2010, the Parties selected the Monitor (CD ¶¶ 82-86);
- In the Spring of 2010, the Police Commissioner appointed a Compliance Coordinator to serve as a liaison between the Parties and the Monitor (CD ¶ 88); and,
- Beginning in June 2009, the VIPD began issuing quarterly status

²⁹ CD ¶ 103.

reports delineating the steps taken by the VIPD to comply with the Consent Decree (CD ¶ 98).


As discussed above, the VIPD has not yet substantially complied with any of the other substantive provisions of the Consent Decree, most significantly those relating to use of force. In order to begin that process, the VIPD must finalize its outstanding force-related policies. Given that those policies are very close to being finalized (thanks, in particular, to the hard work of the VIPD's Policies and Procedures Committee), the VIPD should prioritize that task. Once those policies are finalized and approved by the DOJ, the OIM is hopeful that the Department will begin to make more rapid progress with every other aspect of the Consent Decree.

Conclusion

This Quarterly Report demonstrates that the VIPD, more so than ever before, appears to be moving in the right direction with a renewed sense of commitment and purpose. Despite making relatively little department-wide progress during October and November, the VIPD acquired considerable momentum at the end of the Fourth Quarter. The Consent Decree Time Table and the Summit both spurred the VIPD to a new level of heightened activity.

At the Summit, the VIPD not only improved upon draft use of force and complaint process related policies, but also the Police Commissioner assigned the Chiefs and Deputy Chiefs with specific responsibility for bringing the Department into compliance with the Consent Decree. In the upcoming quarter, the OIM expects the DOJ to approve these force-related policies, among others, and, consistent with the court-approved Consent Decree Timetable, the VIPD must promptly start training its personnel on these policies. Likewise, in the upcoming quarters, the OIM — like the Police Commissioner — will hold the Chiefs and Deputy Chiefs ultimately responsible for overseeing their respective working groups. The OIM will report on the Chiefs and Deputy Chiefs' progress in detail in upcoming quarterly reports.

Finally, the OIM welcomes all opportunities to work with the Police Commissioner in these upcoming months before he retires from the Department.



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Consent Decree Summit Addendum

In an effort to reinvigorate the VIPD's commitment to the Consent Decree compliance process, the Police Commissioner convened a Consent Decree Summit on St. Thomas on January 3-4, 2011.

The OIM and the VIPD spent a significant amount of time during the last two weeks of December discussing mutual goals for the Summit and coordinating logistics. The Commissioner ultimately decided that the Summit would focus on the following goals: (1) ensuring that all participants understood their leadership roles in achieving substantial compliance with the Consent Decree; (2) assigning Chiefs, Deputy Chiefs, and other senior VIPD personnel responsibility for key provisions of the Consent Decree (e.g., Use of Force and Evaluation, Documentation, and Review of Uses of Force; Citizen Complaint Process; Management and Supervision; and Training); (3) requiring these assigned Chiefs, Deputy Chiefs, and senior VIPD personnel to lead working groups focused on these key Consent Decree provisions beyond the Summit; (4) requiring these assigned Chiefs, Deputy Chiefs, and other senior VIPD personnel to work with their respective working groups to establish detailed plans of actions (setting interim timelines, meeting schedules, and quarterly objectives, etc.) to achieve substantial compliance with their assigned provisions; (5) advancing the status of the force-related draft policies that were submitted to the DOJ beginning on December 17; and (6) generally defining a path to compliance. The Commissioner circulated a detailed agenda to the invited participants shortly before the Summit commenced.

In addition to representatives from the OIM, the following VIPD personnel (representing a cross-section of the Department, including its executive leadership team) attended the Summit: the Police Commissioner; the Assistant Police Commissioner; Chief of St. Croix; Chief of St. Thomas/St. John; Deputy Chief of St. Thomas; Deputy Chief of St. John; the Compliance Coordinator; the Territorial Compliance Manager; the Director and Assistant Director of the IAB, as well as an IAB agent; the Director of Training, the Training Manager, and a Training Cadre; two police Captains; two Lieutenants; the Police Benevolent Association President; the new Director of Management Information Systems;

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and the Director of the Planning and Research Bureau. In addition, the VIPD's Policy Consultant attended the Summit.

In line with one of the Police Commissioner's chief goals for the Summit, he appointed specific Chiefs and Deputy Chiefs to oversee four working groups that correlate to the four substantive areas of the Consent Decree — (1) Use of Force Policies & Evaluation, Documentation, and Review of Uses of Force (St. Croix District Chief); (2) Citizen Complaint Process – (St. Thomas District Chief); (3) Management and Supervision (St. Thomas District Deputy Chief); and, (4) Training (St. Croix Former Chief).¹ While the Police Commissioner recognized that those individuals could (and should) prudently delegate certain tasks to others, he stated that he would hold each of them ultimately responsible for the success of their respective working groups. In addition, the Police Commissioner stressed that their oversight responsibilities would continue until their working groups achieved substantial compliance. The Police Commissioner then divided the other participants into working groups.²

Each working group reflected a broad cross-section of the Summit participants and included representatives from the IAB, the Training Division, the Policies and Procedures Committee, and the OIM, as well as a number of Zone Commanders. The Policy Consultant moved between each group to observe their progress and offer technical assistance with regard to policies. For approximately a day-and-a-half, these working groups (1) developed detailed plans of action for achieving substantial compliance with their Consent Decree provisions and (2) revised policies relevant to their working group topic.

The Use of Force working group focused on force-related policies. Among other things, that working group reviewed many of the force-related policies that the VIPD submitted to the DOJ on

¹ The Police Commissioner appointed the Former Chief of the St. Croix District as the Training Director in early 2011. All references to the "Chiefs and Deputy Chiefs" in this section include the Former Chief of the St. Croix District.

² While the Police Commissioner designated Chiefs and Deputy Chiefs to lead four working groups that correlate to the four substantive provisions of the Consent Decree, for Summit related purposes, the Police Commissioner collapsed the four working groups into two groups, Use of Force and Citizen Complaint, with personnel from Training and MIS dispersed between these two groups.

December 17. In addition, the working group also reviewed and incorporated the DOJ's comments on each policy. The discussions that took place at the Summit were reflected in the force-related policies that the VIPD resubmitted to the DOJ later in January.

The Complaint Process working group spent a substantial amount of time reworking the VIPD's complaint policy. The working group ultimately decided to break the complaint policy into two pieces, one relating to how the VIPD accepts complaints and the other relating to how the VIPD investigates complaints. Those comments were reflected in the complaint process policies that the VIPD subsequently submitted to the DOJ.

Each working group also set interim deadlines related to, among other things, upcoming training. That training is contingent on receiving final approval of the relevant policies from the DOJ. Given that both working groups discussed training extensively, the Training Director and his staff spent time working with both groups.

Another important outcome of the Summit involved the consolidation of the VIPD's policies into a single, user-friendly manual. Currently, the VIPD has a policies manual, procedures manual and general orders manual, as well as field manuals, field directives, and training bulletins. As a result, officers often have difficulty locating particular policies. In addition, officers are often confronted with contradictory policies in different sources. The development of a single policy manual represents a significant step forward for the VIPD.

Finally, the Summit provided an invaluable opportunity for the VIPD personnel to work side-by-side with the Policy Consultant, and representatives from the OIM. Moreover, VIPD personnel from the St. Thomas District and the St. Croix District had the opportunity to interact and learn from each others' experiences.

Following the Summit, the Police Commissioner disseminated a memorandum, titled "Meeting Current Standards of Policing," that memorialized the Chiefs and Deputy Chiefs' appointments and provided recommendations for specific actions that each group should take in the short and long-term to achieve substantial compliance with the Consent Decree. Along similar

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lines, the OIM's Police Practices Experts provided the Chiefs and Deputy Chiefs with a memorandum outlining their respective responsibilities and a road map for how to lead their working groups. Each of the OIM's four Police Practices Experts has a direct working relationship with a particular Chief or Deputy Chief.

In the upcoming quarter, the Police Practices Experts will be in regular contact with their respective Chiefs and Deputy Chiefs. In order to ensure that the Summit's goals are realized, the OIM will monitor each working group closely.

Overall, the VIPD recognizes that extensive reform is needed department-wide and the level of activity generated by the Summit demonstrates that VIPD personnel are genuinely committed to the hard work that it will take to achieve institutional reform. The Department recognizes that officers have a right to be trained on how to use force to protect themselves and others. Likewise, citizens have a right to be treated fairly and to expect the Department to review use of force events and take corrective actions when officers improperly use force. Compliance with the Consent Decree is a means to afford officers and citizens these rights, as well as for the VIPD to become a model for other departments in the Caribbean.

Appendix A

Summary of Consent Decree Requirements

Below is a summary of the requirements imposed by each substantive section of the Consent Decree. Because these summaries of the substantive requirements significantly lengthen our reports, we include them here in this Appendix to provide the reader with context concerning the VIPD's progress in implementing the broad range of reforms required under each section of the Consent Decree.

I. Use of Force Policies (CD ¶ 31)

A. Requirements

Under paragraph 31 of the Consent Decree, the VIPD is required to review and revise its use of force policies as necessary to:

- Define terms clearly, including establishing a definition of force that is consistent with the definition of force under the Consent Decree;¹
- Incorporate a use of force model that teaches officers to use, as appropriate, strategies such as disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements, or calling in specialized units to assist with a situation;
- Advise VIPD officers that, whenever possible, individuals should be allowed to submit voluntarily to arrest before force is used;
- Reinforce that the use of excessive force will subject officers to discipline, possible criminal prosecution, and potential civil liability;
- Ensure that sufficient less lethal force alternatives are available to all VIPD officers; and

¹ Under the Consent Decree, "[t]he term 'force' means any physical coercion used to effect, influence or persuade an individual to comply with an order from an officer. The term shall not include ordinary, unresisted handcuffing. The term shall include the use of chemical irritant and the deployment of a canine and/or pointing a firearm at or in the direction of a human being." CD ¶ 21.

- Explicitly prohibit the use of choke holds and similar carotid holds except where deadly force is authorized.²

This provision requires that the VIPD implement its revised use of force policies immediately after the DOJ has reviewed and approved finalized versions of the policies.

II. Evaluation, Documentation, and Review of Uses of Force (CD ¶¶ 32-41)

A. General Use of Force Events (CD ¶¶ 32-38)

1. Requirements

The Consent Decree requires that the VIPD document in writing all uses of force and develop a use of force reporting form on which officers are required to record each and every type of force used in an incident. The use of force reports must include: (1) a narrative description, prepared by a supervisor, of the events preceding the use of force; (2) a narrative description, prepared by the involved officer, of the event relating to the use of force incident; and, (3) audiotaped statements, as appropriate, from those officers.³

The Consent Decree requires officers to notify their supervisors following any use of force or allegation of excessive force. The supervisor must respond to the scene, examine the person who was subjected to the use of force for injury, interview him or her to determine the extent of any injuries, and ensure that the person receives medical attention, if necessary.

A supervisor must conduct a review and evaluation of each use of force by a VIPD officer. The Consent Decree contains the following requirements relating to these evaluations of uses of force:

- The supervisor must prepare a detailed narrative description of the incident that includes all of the facts and circumstances relevant to determining whether or not the involved officers' conduct was justified.

² The Consent Decree defines "deadly force" as "any use of force likely to cause death or serious physical injury, including, but not limited to, the discharge of a firearm." CD ¶ 20.

³ The Consent Decree defines "supervisor" as a "sworn VIPD employee at the rank of corporal or above (or anyone acting in those capacities) and non-sworn personnel with oversight responsibility for other officers." CD ¶ 27.

- The supervisor must evaluate the grounds for the use of force and determine whether the involved officers' actions were consistent with VIPD policy.
- To filter out potential bias, reviews of use of force incidents may not be conducted by any officer who used force during the incident, whose conduct led to an injury, or who authorized action that led to a use of force or allegation of excessive force.
- Supervisors are required to interview all witnesses of a use of force, as well as all witnesses of any incident in which an injury results from a use of force. Supervisors must ensure that all officer witnesses provide a statement regarding the incident, subject to any limitations imposed by any applicable provision of collective bargaining agreements or law.
- Supervisors are not permitted to ask officers or other witnesses leading questions that might, for example, suggest legal justifications for the officers' conduct.
- Supervisors must consider all relevant evidence, including circumstantial, direct, and physical evidence, as appropriate. Supervisors are required to make reasonable efforts to resolve material inconsistencies between statements provided by witnesses and make determinations with respect to the credibility of witnesses when feasible. VIPD is required to train all of its supervisors on methods and factors for evaluating the credibility of a witness.
- Supervisors are responsible for ensuring that use of force reports identify every officer who was involved in a use of force incident or was on the scene when the incident occurred. Supervisors must ensure that use of force reports reflect whether an injury occurred, whether medical care was provided to an injured person, and, if not, whether the person refused medical treatment. Supervisors also must ensure that use of force reports include contemporaneous photographs or video of all injuries resulting from the underlying incident. These images must be taken both before and after any treatment of the injuries, including the cleansing of wounds.
- Supervisors are required to evaluate the performance of all officers under their command who use force or were involved in

an incident that resulted in a subject being injured due to a use of force by an officer.

- Finally, the Consent Decree requires a Deputy Chief to review and evaluate every use of force performance review prepared by a VIPD supervisor. The Deputy Chief's review must include the identification of any deficiencies in the supervisors' reviews and must require supervisors to correct any such deficiencies. The Consent Decree requires the Department to hold supervisors accountable for the quality of their use of force reviews, including subjecting a supervisor to appropriate corrective or disciplinary action in cases where the supervisor failed to conduct a timely and thorough review, or failed to recommend or implement appropriate corrective action with respect to a subject officer.

VIPD also must investigate all critical firearm discharges.⁴ These reviews must account for all shots fired and the locations of all officers who discharged their weapons. In connection with the investigation of all critical firearm discharges, VIPD is required to conduct, as appropriate, ballistic or crime scene analyses, including gunshot residue and bullet trajectory tests.

B. Specific Force Policies (CD ¶¶ 39-41)

1. Requirements

The Consent Decree requires the VIPD to develop a Use of Firearms Policy that is consistent with applicable law and current professional standards. This policy must:

- Prohibit officers from possessing or using unauthorized firearms or ammunition and inform officers that any such use may subject them to disciplinary action;
- Establish a single, uniform system for reporting all firearm discharges;
- Prohibit officers from obtaining service ammunition from any source other than official VIPD channels;

⁴ The Consent Decree defines the term "critical firearm discharge" as "each discharge of a firearm by a VIPD officer with the exception of range and training discharges and discharges at animals." CD ¶ 22.

- Specify the number of rounds VIPD officers are authorized to carry; and,
- Require that all discharges of firearms by officers, including unintentional discharges, whether on duty or off-duty at the time of the discharge, are reported and investigated.

The VIPD also must develop a revised policy regarding officers' off-duty conduct that:

- Provides that, absent exigent circumstances, off-duty officers must notify VIPD or the relevant local law enforcement agency before taking police action; and
- Requires that an officer who responds to an incident while off-duty must submit to field sobriety, breathalyzer, and/or blood tests if it appears that the officer had consumed alcohol or was otherwise impaired at the time of the incident.

Finally, the VIPD is required to implement a policy that provides for an intermediate force device that falls between the use of chemical spray and the use of a firearm on the use of force continuum. This intermediate force device must be one that can be carried by officers at all times while on-duty. The VIPD must incorporate the use of this intermediate force device into its use of force continuum and train officers in the device's use on an annual basis.

III. Citizen Complaint Process (CD ¶¶ 42-58)

A. Public Information (CD ¶¶ 42-43) & Means of Filing & Tracking Complaints (CD ¶¶ 44-45)

1. Requirements

The Consent Decree requires the VIPD to develop and implement a program to inform members of the public that they may file complaints regarding the performance of any VIPD officer. The Consent Decree contains the following requirements with respect to this public information program:

- VIPD must develop and distribute complaint forms, fact sheets, informational posters, and public service announcements that describe its citizen complaint process.
- VIPD must make complaint forms and informational materials available at government facilities, including VIPD stations,

substations, mobile substations, and libraries. These forms and materials also must be available on the Internet and, upon request, with community groups and at community centers.

- Each VIPD station, substation, and mobile substation must permanently post a placard that describes the complaint process and includes relevant contact information, including telephone numbers. These placards must be displayed in English, Spanish, and, where necessary in light of the local community, in French or French Patois.
- VIPD officers are required to carry English, Spanish, French, and French Patois⁵ versions of complaint forms and informational brochures in their vehicles at all times while on duty.
- If a citizen objects to an officer's conduct, the officer is required to inform the citizen of his or her right to make a complaint.
- Officers are prohibited from discouraging any person from making a complaint concerning an officer's conduct.

The Consent Decree imposes the following requirements relating to the availability of means by which members of the public may lodge complaints against VIPD officers and the tracking of such complaints:

- VIPD must be able to receive complaints filed in writing or orally, in person or by mail, and by telephone (or TDD), facsimile, or electronic mail.
- The duty officer at the front desk of each District station shall be authorized to take complaints, including third-party complaints. At the intake stage, an officer taking a complaint is permitted to describe facts that relate to a complainant's demeanor and physical conditions but may not express

⁵ The OIM notes that paragraph 43 of the Consent Decree does not expressly require VIPD officers to carry French language complaint forms and informational brochures in addition to French Patois. However, in light of the third sentence in paragraph 43 (which requires French language placards describing the complaint process), the OIM believes that this was an inadvertent omission. For future printings of brochures and other similar promotional information, the OIM suggests that the VIPD create versions in English, Spanish, French, and French Patois to satisfy the intent of the Consent Decree.

opinions regarding the complainant's mental competency or veracity.

- Upon receipt, VIPD is required to assign each complaint a unique identifier number, which must be provided to the complainant.
- VIPD must track each complaint according to the type of misconduct alleged in the complaint – e.g., excessive force, discourtesy, and improper search.
- Copies of all allegations of misconduct against a VIPD officer that are filed with the Zone Commands shall be referred to the IAB within five business days.

B. Investigation of Complaints (CD ¶¶ 46-58)

1. Requirements

The Consent Decree establishes numerous specific requirements relating to the investigation of complaints against VIPD officers, including the following:

- Complaints must be evaluated based on a preponderance of the evidence standard. The VIPD is required to develop and implement appropriate training regarding application of the preponderance of the evidence standard in internal investigations of allegations of officer misconduct.
- VIPD must explicitly prohibit an officer from being involved in the investigation of a complaint or incident if the officer used force during the underlying incident, was involved in conduct that led to the injury of a person during the incident, or authorized the conduct that led to the reported incident.
- VIPD must investigate every citizen complaint and the resolution of each complaint shall be documented in writing.
- VIPD must develop a clear policy and procedure regarding the intake of complaints, including anonymous and confidential complaints, against VIPD officers.
- The Department must implement a centralized system for numbering and tracking all complaints.

- IAB is responsible for determining whether each individual investigation of a complaint will be assigned to a Zone, retained by IAB, or referred for possible criminal investigation.
- If IAB refers a complaint to one of the Zones for investigation, the Zone must immediately forward to IAB copies of all documents, findings, and recommendations so that IAB is able to track and monitor the investigation.
- The Police Commissioner must be notified of all complaints alleging excessive force or violation of a person's Constitutional rights within twenty-four hours of VIPD's receipt of the complaint.

The VIPD also is required to develop a single policy governing the investigation of misconduct complaints, regardless of whether the investigation of such complaints is conducted by IAB or a Zone command. This policy must:

- Provide guidance concerning factors for investigators to consider in evaluating the credibility of the complainant and other witnesses, examining and interrogating accused officers and other witnesses, identifying potential misconduct that is not specifically referred to in the complaint, and applying the preponderance of evidence standard. VIPD also must train all officers who perform internal investigations on these issues.
- Require that VIPD investigators ensure that all officers present at the scene of the underlying incident provide a statement and that all interviews be recorded, as appropriate, on audio or video.
- Require that investigation findings include conclusions regarding whether:
 - The police action was in compliance with policy, training, and legal standards, regardless of whether the complainant suffered harm;
 - The incident involved misconduct by any officer;
 - The use of different tactics could have, or should have, been employed;

- The underlying incident indicates a need for additional training, counseling, or other non-disciplinary corrective measures; and,
 - The incident suggests that VIPD should revise its policy, training, or tactics.
- Establish that each allegation investigated must be resolved by a finding of either “unfounded,” “sustained,” “not sustained,” or “exonerated.”⁶
 - Provide guidance to all investigators regarding procedures for handling allegations of potential criminal misconduct, including the referral of such allegations to the Virgin Islands Attorney General’s Office or other appropriate agency for possible criminal prosecution. The policy must establish the entity or individual responsible for making the determination as to whether a matter should be investigated criminally. The policy also must require the completion of VIPD’s administrative investigations of potentially criminal misconduct, regardless of the initiation or outcome of any criminal proceedings.
 - Require that all relevant police activity, including each use of force, be investigated, even if the activity or force was not specifically complained about.
 - Require that investigations evaluate any searches or seizures that occurred during the underlying incident.
 - Prohibit investigators from closing an investigation solely because a complaint is withdrawn, the alleged victim is unwilling or unable to provide medical records or proof of an injury, or the complainant will not provide additional statements or written statements. The policy shall require that, under such circumstances, investigators must continue the

⁶ Under the Consent Decree, a finding of “unfounded” means that there are insufficient facts establishing that the alleged incident actually occurred. A finding of “sustained” means that there is sufficient evidence to determine that the alleged incident occurred and that the officer’s actions were improper. A finding of “not sustained” means that there is insufficient evidence that the alleged misconduct occurred. Finally, a finding of “exonerated” means that the alleged conduct occurred but that the conduct did not violate VIPD policies, procedures, or training. Each of these findings must be based on a preponderance of the evidence. CD ¶ 57.

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investigation as necessary to determine whether the allegations can be resolved based on available information, evidence, and investigative techniques.

- Prohibit investigators from considering the fact that a complainant pleaded guilty to, or was found guilty of, an offense as evidence of whether or not an officer used a type of force or as a justification for the investigator to close the investigation.

The VIPD must keep complainants periodically informed of the status of the investigation of their complaints. Upon the completion of each investigation, the VIPD must notify the complainant of the outcome of the investigation, including an appropriate statement regarding whether any disciplinary action or non-disciplinary corrective action was taken against any officer.

Finally, the Consent Decree requires that unit commanders evaluate each investigation of an incident under their command in order to identify potential problems or training needs. Unit commanders must report any such issues to the appropriate VIPD entity in the form of a recommendation that appropriate action in response to the identified issues be taken.

IV. Management and Supervision (CD ¶¶ 59-72)

A. Risk Management System (CD ¶¶ 59-68)

1. Requirements

The Consent Decree requires the VIPD to develop and implement a Risk Management System (“RMS”) that includes a computerized relational database or a paper system for maintaining, integrating, and retrieving information necessary for the supervision and management of VIPD personnel. The VIPD is required to use this data regularly to promote respect for civil rights and the employment of best police practices, manage risks, and potential liability for the Department, and evaluate the performance of VIPD officers and personnel across all ranks, units, and shifts.

The Consent Decree specifically requires the VIPD to collect and record the following information in its new RMS:

- All uses of force;
- Canine bite ratios;⁷
- The number of canisters of chemical spray used by officers;
- All injuries to prisoners;
- All instances in which a VIPD officer used force and the subject was charged with resisting arrest, assault on a police officer, disorderly conduct, or obstruction of official or police business;
- All critical firearm discharges, whether they took place on duty or off-duty;
- All complaints against officers and the dispositions of those complaints;
- All criminal proceedings, civil or administrative claims, and civil lawsuits resulting from VIPD operations or the actions of VIPD personnel;
- All vehicle pursuits;
- All incidents involving the pointing of a firearm;
- All disciplinary action taken against VIPD officers; and,
- For incidents included in the database, appropriate identifying information for each involved officer (e.g., the officer's name, badge number, shift, and supervisor) and member of the public (including race and ethnicity or national origin, if such information is available).

The VIPD has the option either to purchase the RMS "off the shelf" and customize the system to VIPD's requirements or to develop and

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A canine bite ratio relates to apprehensions in which a canine unit participated. It is the ratio of incidents that involved the canine biting or otherwise coming into physical contact with the suspect compared to the overall number of such apprehensions in which a canine unit participated.

implement the RMS pursuant to a contracting schedule set forth in the Consent Decree.⁸

Within 120 days of the effective date of the Consent Decree, the VIPD is required to prepare a protocol for the use of the RMS, which must be submitted to DOJ for review and approval. Any proposed modifications to the RMS protocol also must be submitted to DOJ for review and approval prior to the implementation of the proposed modifications. The RMS protocol must contain:

- Provisions regarding data storage, data retrieval, data analysis, pattern identification, supervisory assessment, supervisory intervention, documentation, and audit;
- Requirements that the automated system be able to analyze data according to the following criteria:
 - The number of incidents for each data category by individual officer and by all officers in a unit;
 - The average level of activity for each data category by individual officer and by all officers in a unit; and,
 - The identification of patterns of activity for each data category by individual officer and by all officers in a unit.
- Requirements relating to the generation of reports on a monthly basis that describe data contained in the RMS and identify patterns of conduct by individual officers and units;
- Requirements that VIPD Deputy Chiefs, managers, and supervisors initiate appropriate interventions with individual officers, supervisors, and units based on activity and pattern assessments derived from the information contained in the RMS and that VIPD have the following intervention options available:
 - Discussions among Deputy Chiefs, managers, supervisors, and officers;
 - Counseling;
 - Training; and,

⁸ See CD ¶ 66.

- Documented action plans and strategies designed to modify officer conduct and activity.
- A requirement that all interventions be documented in writing and entered into the RMS;
- A provision that actions taken as a result of information derived from the RMS be based on all relevant and appropriate information – including the nature of the officer’s assignment, crime trends, and crime problems – and not solely on the number or percentage of incidents in any category of information recorded in the RMS;
- A requirement that VIPD Deputy Chiefs, managers, and supervisors promptly review the RMS records of all officers who transfer into their sections or units;
- A requirement that VIPD Deputy Chiefs, managers, and supervisors be evaluated based on their ability to use RMS to enhance the effectiveness of their units and to reduce risks associated with officer conduct;
- Provisions that IAB shall manage and administer the RMS and that IAB shall conduct quarterly audits of RMS to ensure compliance with the RMS protocol; and,
- A requirement that appropriate managers conduct regular reviews, at least quarterly, of relevant RMS information to evaluate officer performance across the Virgin Islands. The purpose of such reviews is to evaluate and make appropriate comparisons regarding the performance of all VIPD units in order to identify significant patterns or series of incidents.

Within 120 days of the implementation of the RMS (or later with the agreement of DOJ), the VIPD must prepare, for the DOJ’s review and approval, a Data Input Plan for including appropriate fields and values for new and historical data entered into the RMS.

- The Data Input Plan must identify the data to be included in the RMS and the means for inputting the data, the specific fields of information to be included in the RMS, the historical time periods for which information will be inputted into the system, deadlines for inputting data, and the persons responsible for the input of data.

- The Data Input Plan must provide for the input of historical data that is up to date and complete into the RMS.
- Once the RMS is operational, VIPD is required to enter information into the RMS in a timely, accurate, and complete manner and to maintain the RMS data in a secure and confidential manner.

The VIPD must maintain all personally identifiable information about individual officers that is contained in RMS for at least five years. The VIPD shall maintain information necessary for aggregate statistical analysis in the RMS indefinitely.

The Consent Decree requires the VIPD, even prior to the implementation of the RMS, to use existing databases and resources to the fullest extent possible to identify patterns of conduct by individual VIPD officers or groups of officers.

Following the initial implementation of the RMS, the VIPD may propose to add, subtract, or modify data tables and fields in the system, modify the types of documents entered into the RMS, or modify the standardized reports generated by the RMS. The VIPD is required to submit all such proposals to the DOJ for review and approval prior to implementing the proposed changes.

B. Oversight (CD ¶ 69)

1. Requirements

The Consent Decree requires the VIPD to develop a protocol for conducting audits within the RMS, which must be followed by the VIPD personnel responsible for conducting audits. The protocol must establish a regular and fixed audit schedule to ensure that such audits occur with sufficient frequency and cover all VIPD Zones.

C. Discipline (CD ¶¶ 70-72)

1. Requirements

The VIPD is required to use a disciplinary matrix to take into account a subject officer's violations of various rules, as opposed to considering only repeated violations of the same rule. The VIPD must revise its disciplinary matrix to increase penalties for uses of excessive force, improper searches and seizures, discrimination, and dishonesty. The revised disciplinary matrix, which must be reviewed and approved by DOJ, is required to provide the VIPD with the discretion to impose any

appropriate punishment when the VIPD believes an officer's misconduct reflects a lack of fitness for duty.

- Absent exceptional circumstances, the VIPD is not permitted to take mere non-disciplinary corrective action against an officer in cases in which the revised disciplinary matrix indicates that the imposition of discipline is appropriate.
- In cases in which disciplinary action is imposed on an officer, the VIPD is required to also consider whether non-disciplinary corrective action is necessary.

The VIPD's policy must identify clear time periods by which each step — from the receipt of a complaint through the imposition of discipline, if any — of the complaint adjudication process should be completed. Absent exigent circumstances, extensions of these deadlines must not be granted without the Police Commissioner's written approval and notice to the complainant. The policy must outline appropriate tolling provisions in the limited circumstances when an extension of these deadlines is necessary.

V. Training (CD ¶¶ 73-81)

A. Management Oversight (CD ¶¶ 73-77)

1. Requirements

The Consent Decree requires the VIPD to provide training to its officers that is consistent with VIPD policy, the law, and proper police practices. Accordingly, the Consent Decree requires that:

- VIPD review all use of force policies and training to ensure quality, consistency, and compliance with applicable law and VIPD policy;
 - After completing its initial review of its force-related policies and training programs, VIPD must conduct regular reviews of its use of force training program at least semi-annually.
- VIPD must ensure that only mandated objectives and approved lesson plans are taught by training instructors; and,
- VIPD must make best efforts to train each work shift as a team in its use of force training.

Under the Consent Decree, VIPD's Director of Training, either directly or through his or her designees, is responsible for:

- Ensuring the quality of all use of force training;
- Developing and implementing use of force training curricula;
- Selecting and training VIPD officer instructors;
- Developing, implementing, approving, and overseeing all in-service training;
- In conjunction with the District Chiefs, developing, implementing, approving, and overseeing a protocol for patrol division roll calls that is designed to effectively inform officers of relevant changes in law, policies, and procedures;
- Establishing procedures for evaluating all training curricula and procedures; and,
- Conducting regular training needs assessments to ensure that use of force training is responsive to the knowledge, skills, and abilities of the officers being trained.

The VIPD must keep complete and accurate records of force-related lesson plans and other training materials. These lesson plans must be maintained in a central, commonly accessible file and must be clearly dated.

The VIPD also must maintain training records for every VIPD officer. These records must reliably reflect the training that each officer has received. These records must include, at a minimum, the course description, duration, curriculum, and instructor for each training program in which each individual officer participated.

B. Curriculum (CD ¶¶ 78-81)

1. Requirements

The Consent Decree requires the VIPD's Training Director to review all use of force training and use of force policies on a regular basis to ensure that the training program complies with applicable laws and VIPD policy. Moreover, the Training Director must consult with the Virgin Island Attorney General's Office concerning any additions, changes, or modifications regarding use of force training or policies to ensure compliance with applicable laws.

The VIPD must provide all recruits, officers, supervisors, and managers with annual training on the use of force. This use of force training must address the following topics:

- VIPD's use of force model;
- Proper use of force decision-making;
- VIPD's use of force reporting requirements;
- The Fourth Amendment and other Constitutional requirements;
- Examples of scenarios faced by VIPD officers that illustrate proper use of force decision-making;
- De-escalation techniques that encourage officers to make arrests without using force;
- Instruction that disengagement, area containment, surveillance, waiting out a suspect, summoning reinforcements, calling in specialized units, or delaying an arrest may be appropriate responses to a situation even when the use of force would be legally justified;
- Threat assessment; and,
- Appropriate training regarding conflict management.

The VIPD also is required to provide training to all officers regarding the citizen complaint process. VIPD must develop a protocol, to be used by all VIPD officers, that sets forth an appropriate process for handling and responding to complaints by members of the public. VIPD must train officers regarding this protocol.

- VIPD also is required to train all supervisors with respect to appropriate burdens of proof in conducting misconduct investigations. This training also must include a discussion of the factors investigators should consider in evaluating complainant or witness credibility.

Finally, the VIPD must provide training to all supervisors regarding leadership and command accountability, including techniques designed to promote proper police practices.

- This training must be provided to all officers promoted to supervisory rank within 90 days of the officer's assumption of

supervisory responsibilities. This training also must be made a part of the annual in-service training of supervisors.

**VI. Monitoring, Reporting, and Implementation
(CD ¶¶ 82-102)**

1. Requirements

The Consent Decree requires the VIPD to appoint a full-time Compliance Coordinator to serve as a liaison among the Virgin Islands Attorney General's Office, VIPD, the OIM, and DOJ. The Compliance Coordinator's responsibilities include:

- Coordinating VIPD's compliance and implementation activity relating to the Consent Decree;
- Facilitating the provision of data and documents and access to VIPD employees and materials to the Monitor and DOJ as needed;
- Ensuring the proper maintenance of relevant documents and records relating to the Consent Decree; and,
- Assisting the Police Commissioner and his designees in assigning compliance-related tasks to appropriate VIPD personnel.

In addition to fulfilling these functions, the VIPD must file with the Monitor and the Virgin Islands Attorney General's Office, with a copy to DOJ, quarterly status reports describing the steps taken during the reporting period to comply with each provision of the Consent Decree.

Finally, the Virgin Islands and the VIPD are required to implement the provisions of the Consent Decree "as soon as reasonably practicable" and, in any event, no later than 150 days after the March 23, 2009 effective date of the Consent Decree.