

SEVENTEENTH QUARTERLY REPORT

Independent Monitor for the Detroit Police Department



Robert S. Warshaw

Independent Monitor

Office of the Independent Monitor
Police Performance Solutions, LLC

January 16, 2014



Table of Contents

SECTION ONE: INTRODUCTION	9
EXECUTIVE SUMMARY	10
SECTION TWO: COMPLIANCE ASSESSMENTS - THE USE OF FORCE AND ARREST AND WITNESS DETENTION CONSENT JUDGMENT	16
III. USE OF FORCE POLICY	16
A. General Use of Force Policy	18
CJ Requirement U14.....	18
CJ Requirement U15.....	18
CJ Requirement U16.....	19
CJ Requirement U17.....	20
CJ Requirement U18.....	20
CJ Requirement U19.....	21
CJ Requirement U20.....	21
CJ Requirement U21.....	22
B. Use of Firearms Policy	22
CJ Requirement U22.....	22
CJ Requirement U23.....	22
C. Intermediate Force Device Policy	23
CJ Requirement U24.....	23
D. Chemical Spray Policy	23
CJ Requirement U25.....	24
CJ Requirement U26.....	24
IV. DOCUMENTATION, INVESTIGATION, AND REVIEW.....	26
A. General Investigations of Police Action.....	26
CJ Requirement U27.....	26
CJ Requirement U28.....	28
CJ Requirement U29.....	31
CJ Requirement U30.....	34
CJ Requirement U31.....	36
CJ Requirement U32.....	36
CJ Requirement U33.....	41

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

January 16, 2014

Page 2

B. Use of Force and Prisoner Injury Investigations	42
CJ Requirement U34.....	42
CJ Requirement U35.....	43
CJ Requirement U36.....	45
CJ Requirement U37.....	46
CJ Requirement U38.....	47
CJ Requirement U39.....	49
CJ Requirement U40.....	50
CJ Requirement U41.....	51
V. ARREST AND DETENTION POLICIES AND PRACTICES	53
A. Arrest Policies.....	54
CJ Requirement U42.....	54
CJ Requirement U43.....	55
B. Investigatory Stop Policies	55
CJ Requirement U44.....	55
CJ Requirement U45.....	56
C. Witness Identification and Questioning Policies	58
CJ Requirement U46.....	58
CJ Requirement U47.....	59
CJ Requirement U48.....	59
D. Prompt Judicial Review Policies	60
CJ Requirement U49.....	60
CJ Requirement U50.....	61
CJ Requirement U51.....	61
E. Hold Policies	62
CJ Requirement U52.....	62
CJ Requirement U53.....	63
F. Restriction Policies.....	64
CJ Requirement U54.....	64
CJ Requirement U55.....	65
G. Material Witness Policies	65
CJ Requirement U56.....	65
CJ Requirement U57.....	65
H. Documentation of Custodial Detention	66
CJ Requirement U58.....	66

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

January 16, 2014

Page 3

I. Command Notification.....	66
CJ Requirement U59.....	66
CJ Requirement U60.....	67
VI. EXTERNAL COMPLAINTS	70
CJ Requirement U61.....	71
CJ Requirement U62.....	71
CJ Requirement U63.....	72
A. Intake and Tracking	72
CJ Requirement U64.....	72
CJ Requirement U65.....	72
CJ Requirement U66.....	73
B. External Complaint Investigations.....	73
CJ Requirement U67.....	73
CJ Requirement U68.....	76
CJ Requirement U69.....	76
VII. GENERAL POLICIES	79
CJ Requirement U70.....	79
CJ Requirement U71.....	79
CJ Requirement U72.....	79
CJ Requirement U73.....	80
CJ Requirement U74.....	80
CJ Requirement U75.....	81
CJ Requirement U76.....	82
CJ Requirement U77.....	82
VIII. MANAGEMENT AND SUPERVISION	83
A. Risk Management Database.....	83
CJ Requirement U78.....	83
CJ Requirement U79.....	84
CJ Requirement U80.....	85
CJ Requirement U81.....	89
CJ Requirement U82.....	89
CJ Requirement U83.....	90
CJ Requirement U84.....	91

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

January 16, 2014

Page 4

CJ Requirement U85.....	93
CJ Requirement U86.....	93
CJ Requirement U87.....	93
CJ Requirement U88.....	94
CJ Requirement U89.....	95
CJ Requirement U90.....	95
B. Performance Evaluation System.....	96
CJ Requirement U91.....	96
C. Oversight.....	97
CJ Requirement U92.....	97
CJ Requirement U93.....	97
CJ Requirement U94.....	98
CJ Requirement U95.....	98
CJ Requirement U96.....	99
CJ Requirement U97.....	99
CJ Requirement U98.....	100
CJ Requirement U99.....	102
D. Use of Video Cameras.....	102
CJ Requirement U100.....	102
CJ Requirement U101.....	103
CJ Requirement U102.....	105
E. Discipline	107
CJ Requirement U103.....	108
CJ Requirement U104.....	108
CJ Requirement U105.....	108
IX. TRAINING.....	110
A. OVERSIGHT AND DEVELOPMENT	110
CJ Requirement U106	110
CJ Requirement U107.....	111
CJ Requirement U108.....	112
CJ Requirement U109.....	113
CJ Requirement U110.....	113
CJ Requirement U111.....	114
B. USE OF FORCE TRAINING	114
CJ Requirement U112.....	115

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

January 16, 2014

Page 5

C. FIREARMS TRAINING	115
CJ Requirement U113.....	116
D. ARREST AND POLICE-CITIZEN INTERACTION TRAINING	116
CJ Requirement U114.....	117
E. CUSTODIAL DETENTION TRAINING	117
CJ Requirement U115.....	118
4CJ Requirement U116.....	118
CJ Requirement U117.....	119
F. SUPERVISORY TRAINING	119
CJ Requirement U118.....	119
CJ Requirement U119.....	120
CJ Requirement U120.....	120
G. INVESTIGATOR TRAINING	120
CJ Requirement U121.....	120
CJ Requirement U122.....	121
H. FIELD TRAINING	121
CJ Requirement U123.....	121

**SECTION THREE: COMPLIANCE ASSESSMENTS - THE CONDITIONS OF CONFINEMENT
CONSENT JUDGMENT..... 121**

III. FIRE SAFETY POLICIES	123
CJ Requirement C14.....	123
CJ Requirement C15.....	124
CJ Requirement C16.....	124
CJ Requirement C17.....	125
CJ Requirement C18.....	125
CJ Requirement C19.....	126
CJ Requirement C20.....	126
CJ Requirement C21.....	127
CJ Requirement C22.....	127

IV. EMERGENCY PREPAREDNESS POLICIES	128
CJ Requirement C23.....	128
CJ Requirement C24.....	128
CJ Requirement C25.....	129

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

January 16, 2014

Page 6

V. MEDICAL AND MENTAL HEALTH CARE POLICIES.....	130
CJ Requirement C26.....	130
CJ Requirement C27.....	130
CJ Requirement C28.....	131
CJ Requirement C29.....	132
CJ Requirement C30.....	132
CJ Requirement C31.....	134
CJ Requirement C32.....	134
CJ Requirement C33.....	135
CJ Requirement C34.....	137
CJ Requirement C35.....	137
CJ Requirement C36.....	138
CJ Requirement C37.....	139
CJ Requirement C38.....	139
VII. ENVIRONMENTAL HEALTH AND SAFETY POLICIES.....	140
CJ Requirement C39.....	141
CJ Requirement C40.....	141
CJ Requirement C41.....	142
CJ Requirement C42.....	142
CJ Requirement C43.....	142
CJ Requirement C44.....	143
CJ Requirement C45.....	143
CJ Requirement C46.....	144
VIII. POLICIES CONCERNING PERSONS WITH DISABILITIES.....	144
CJ Requirement C47.....	144
CJ Requirement C48.....	145
IX. FOOD SERVICE POLICIES	146
CJ Requirement C49.....	146
CJ Requirement C50.....	146
X. PERSONAL HYGIENE POLICIES	147
CJ Requirement C51.....	148
CJ Requirement C52.....	149

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

January 16, 2014

Page 7

CJ Requirement C53	149
CJ Requirement C54	149
XII. INCIDENT DOCUMENTATION, INVESTIGATION AND REVIEW	150
CJ Requirement C55	151
CJ Requirement C56	151
CJ Requirement C57	151
XIII. EXTERNAL COMPLAINTS	152
CJ Requirement C58	152
CJ Requirement C59	152
XIV. GENERAL POLICIES.....	153
CJ Requirement C60	153
CJ Requirement C61	153
XV. MANAGEMENT AND SUPERVISION	153
CJ Requirement C62	154
CJ Requirement C63	154
CJ Requirement C64	155
CJ Requirement C65	156
CJ Requirement C66	157
CJ Requirement C67	158
CJ Requirement C68	158
CJ Requirement C69	159
CJ Requirement C70	160
CJ Requirement C71	161
CJ Requirement C72	162
CJ Requirement C73	162
CJ Requirement C74	162
CJ Requirement C75	163
CJ Requirement C76	163
CJ Requirement C77	164
CJ Requirement C78	164

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

January 16, 2014

Page 8

APPENDIX A: USE OF FORCE - DIRECTIVES/POLICIES	166
APPENDIX B: CONDITIONS OF CONFINEMENT - DIRECTIVES/POLICIES	172
APPENDIX C: ACRONYMS	176
APPENDIX D: MONITORING TEAM	179
APPENDIX E: Detroit Police Department Management Dashboard Data.....	181

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

January 16, 2014

Page 9

SECTION ONE: INTRODUCTION

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

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

Similar to previous reports, the issuance of this report follows an onsite visit to assess and guide the Department's ongoing efforts. This report includes our assessment of the Department's compliance with each of the requirements contained in Judgments. Our findings are based on the results of discussions and meetings with City and DPD staff, observations of operational activities, inspections of facilities, and our review of documents and data covering the period of July 1, through September 30, 2013.

The body of this report is comprised of our assessments of compliance with the individual requirements of the Consent Judgments. We include introductory narratives for each major section of the Use of Force Judgment and one overall narrative for the Conditions of Confinement Judgment. Following these narratives are their respective requirements and our comments regarding the compliance status for each. After these are summary notations of Phase 1 and Phase 2 compliance. A statement of "Critical Issues" follows the reviews of the requirements in each major section of the Judgment. A brief statement of "Next Steps" follows, in which we describe a plan of work for the next visit including a discussion of the data we plan to review. Finally, a table summarizes the compliance finding for that particular section of the Judgment.

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

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

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

January 16, 2014

Page 10

Verification of compliance with the many parts of the Consent Judgments requires the analysis of multiple instances of activity, reviewing cases, or observations of the practical application of policies and procedures. In those circumstances, our first option is to conduct an analysis-based on a review of all cases or data. Where that is not appropriate or possible, we rely on statistically valid samples of the population. To reach conclusions based on analyses of cases, a minimal standard must be met. To achieve compliance based on these analyses, we have determined that more than 94% of relevant indicators must conform to the provisions articulated in the Judgments.

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

EXECUTIVE SUMMARY

This is the seventeenth quarterly report of the Independent Monitor in the case of United States of America v. City of Detroit No. 03-72258. The report covers the period of July 1, through September 30, 2013; and is based on our site visit of October 14, through October 18, 2013; and our subsequent analyses of relevant data from this period. Consistent with the practice we established in our first review, we continue to assess all requirements of both active Judgments for compliance. Our report has generally assessed 110 requirements in the Use of Force Judgment, and an additional 65 requirements in the Conditions of Confinement Judgment. During this quarter, DPD's agreement with the State of Michigan regarding detention was not yet fully implemented and we, therefore, again provide a review of compliance with those requirements. In future reports, we will consider only those Condition of Confinement requirements that remain pertinent to the work of the Detroit Police Department. In this executive summary, I will review the levels of compliance found for this reporting period.

Consistent with our agreement with the Parties, we again limited our assessments to include: all requirements that are not in compliance; as well as particular requirements that were selected by the Parties (specifically, 25% of the compliant requirements) and the Monitor. The specified requirements selected for assessment by the Monitor, which represent 50% of remaining compliant requirements, are randomly selected and may vary from report to report. This resulted in 39 requirements – 36 from the Use of Force Consent Judgment, and three from the Conditions of Confinement Consent Judgment – that we did not assess during this reporting period; we are considering these requirements to be in *sustained* compliance.¹

With regard to Phase 1 (policy) compliance, for the ninth consecutive reporting period, we found the City and the Police Department in compliance with all requirements of both Judgments.

¹ The requirements that we did not assess include: U14; U19; U20; U21; U23; U26; U31; U41; U44; U54; U55; U56; U57; U58; U61; U62; U63; U64; U65; U66; U70; U71; U72; U74; U76; U77; U81; U85; U86; U87; U88; U89; U120; U121; U122; U123; C54; C75; and C78.

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

January 16, 2014

Page 11

Following the practice we established in previous reports, all references to supporting policies, directives, and other relevant documents are listed in Appendices A (Use of Force) and B (Conditions of Confinement).

As noted above, the Department is again in Phase 1 compliance with all 110 (100%) of the Use of Force requirements. For the current reporting period, we also found the Department in Phase 1 and Phase 2 compliance (full compliance) with 96 (87%) of the 110 Use of Force requirements. This is a decline of one requirement from the level found in our last report, which showed a decline of one requirement from the previous report. The specific changes are discussed below. During this reporting period, one Use of Force requirement (U18, regarding the use of force policy) is again deferred.

The Department is again in Phase 1 compliance with all 65 (100%) of the Conditions of Confinement requirements. This level has been maintained since the fourth reporting period. Noting an achievement first reported in our last report, we again found the Department in Phase 1 and Phase 2 compliance (full compliance) with all of the 65 requirements. The current figures are presented in the table below.

Seventeenth Quarterly Report Summary						
	Use of Force		Cond of Conf		Total	
	Phase 1	Phase 2	Phase 1	Phase 2	Phase 1	Phase 2
Paragraph Numbers	14-123		14-78			
Number of Requirements	110	110	65	65	175	175
Pending Compliance	0	0	0	0	0	0
Not in Compliance	0	13	0	0	0	13
Deferred	0	1	0	0	0	1
In Compliance	110	96	65	65	175	161
Percent in Compliance	100%	87%	100%	100%	100%	92%

In summary, this is the ninth consecutive report in which we have found DPD in Phase 1 compliance with all (100%) of the 175 monitored requirements. We found the Department to be in full compliance (that is, both Phase 1 and Phase 2 compliance) with 161 (92%) of the 175 monitored requirements of the applicable paragraphs of both Consent Judgments. One additional compliance determination is deferred. The overall level reflects a decrease of compliance, by one requirement, from what was reflected in our last report. As shown in the table below, the net decrease was the result of a *decline of compliance with three requirements* and an improvement in two.

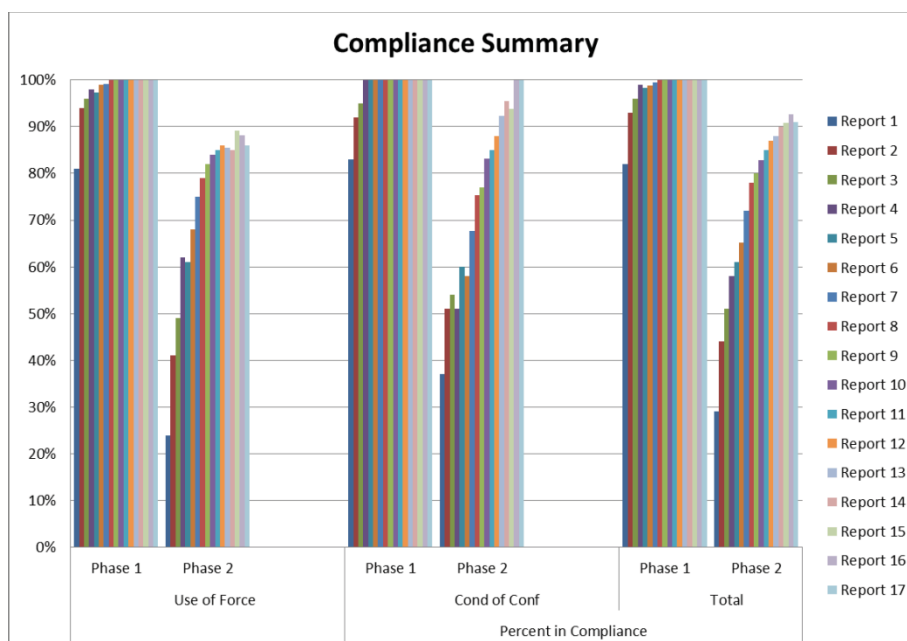
**SEVENTEENTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

January 16, 2014

Page 12

Change in Status from Last Report			
Requirement	Report 16	Report 17	Direction
U67, Revision of complaint investigations	Not in Compliance	In Compliance	Positive
U69, Required finding categories specified	Not in Compliance	In Compliance	Positive
U73, Adequate officer/supervisor ratio	In Compliance	Not in Compliance	Negative
U75, Revise policies regarding off-duty officers	In Compliance	Not in Compliance	Negative
U98, Random reviews of in-car camera videos	In Compliance	Not in Compliance	Negative

The chart below illustrates the levels of compliance achieved on both Judgments and across all 17 reporting periods. It shows the nearly continuous improvement in overall compliance levels since our first report, but the setback in this report with the decline in compliance with one requirement.



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

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

January 16, 2014

Page 13

Quarterly Report	Percent in Compliance					
	Use of Force		Cond of Conf		Total	
	Phase 1	Phase 2	Phase 1	Phase 2	Phase 1	Phase 2
Report 1	81%	24%	83%	37%	82%	29%
Report 2	94%	41%	92%	51%	93%	44%
Report 3	96%	49%	95%	54%	96%	51%
Report 4	98%	62%	100%	51%	99%	58%
Report 5	97%	61%	100%	60%	98%	61%
Report 6	99%	68%	100%	58%	99%	65%
Report 7	99%	75%	100%	68%	99%	72%
Report 8	100%	79%	100%	75%	100%	78%
Report 9	100%	82%	100%	77%	100%	80%
Report 10	100%	84%	100%	83%	100%	83%
Report 11	100%	85%	100%	85%	100%	85%
Report 12	100%	86%	100%	88%	100%	87%
Report 13	100%	85%	100%	92%	100%	88%
Report 14	100%	85%	100%	95%	100%	90%
Report 15	100%	89%	100%	94%	100%	91%
Report 16	100%	88%	100%	100%	100%	93%
Report 17	100%	87%	100%	100%	100%	91%

Perhaps the most noteworthy finding from the above chart is not the apparent progress from our first report but the counterpoint; there have really been no appreciable gains in compliance over the past year. That returns us to a now familiar conclusion. The road forward has gotten tougher. The path to constitutional policing, as reflected in the requirements of the Consent Judgments, is on an incline, where the steps have gotten progressively more challenging. As we stated in our sixteenth report:

...some of the most complex and difficult requirements – those that lie closest to the core of sound and constitutional police practice – are the ones that remain to be fully embraced, despite the Department’s laudable successes on the large volume of other requirements. It should not be surprising that those that remain pose the greatest challenge.

The table below is proof of that point. It identifies the requirements that remain out of compliance. The reader should consult the report below to consider the full text of these requirements. But it is fair to ask; what issues could be more basic to constitutional policing than the appropriateness of force when it is used, the ability of a department to properly supervise its officers, and its ability to scrutinize its own conduct through internal review processes and investigations? Many of the other requirements, for which the Department has been found to be in compliance, pale in significance when compared with those that remain outstanding.

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

January 16, 2014

Page 14

Requirements Not in Compliance, Report 17		
¶	Requirement	Phase 2 – Implementation
U15	The use of lethal, less lethal force	Not in Compliance
U18	Approval of policy	Deferred
U28	Investigation by uninvolved supervisor	Not in Compliance
U29	Procedures for investigative interviews	Not in Compliance
U32	Revise investigatory report policies	Not in Compliance
U33	Chain of command reviews	Not in Compliance
U36	Completion of command investigations	Not in Compliance
U38	Protocol for critical discharge investigations	Not in Compliance
U45	Written account of stops and frisks	Not in Compliance
U73	Adequate officer/supervisor ratio	Not in Compliance
U75	Revise policies regarding off-duty officers	Not in Compliance
U98	Random reviews of in-car camera videos	Not in Compliance
U101	Revision of video camera policy	Not in Compliance
U102	Record all vehicle stops, searches, etc.	Not in Compliance

The difficulty in making progress on these requirements is compounded by a sense of racing to a finish line that may now seem just out of reach. We understand and appreciate the external factors and circumstances that contribute to a sense of urgency, but to stumble now could erase the gains from more than a decade's effort. This is why we are concerned about the potential shift of the Department's emphasis from the goal of bringing about the substantive and cultural changes supporting constitutional policing as envisioned by the Judgment, to a focus on the mechanics of compliance such as achievement of the 94% compliance rate required by our methodology.

Consideration of the creation of a specialized unit in Force Investigations to conduct the Command Level Investigations is an example that illustrates our concern about a change in focus. From the inception of our Monitoring of this judgment, we have consistently encouraged DPD to focus more heavily on the command reviews of these investigations, believing that critical reviews at the command level were the key to implementing the requisite changes. Unfortunately, with some rare command level exceptions, that emphasis did not materialize, and errors in investigative and documentation practices continue. Issues with documenting de-escalation techniques also continue to plague DPD, as do the problems making efforts to resolve material inconsistencies. Video and audio recordings of uses of force are almost non-existent; and rather than address the problem, we are informed that DPD does not believe that audio is included in the requirements that state the need for video recordings. Such self-deception cannot be acceptable. DPD must continue to demonstrate the substantive interest in reform that has brought it to this point. Compliance cannot be achieved through specious arguments that have nothing to do with the goal of constitutional policing.

We all agree that the Detroit Police Department has made significant progress on implementation of its Consent Judgments. We have also seen that the structure and reporting relationships within the local government have been altered as a result of financial and legal matters between the City and the State of Michigan. Oversight and supervisory processes normally vested in the Board of

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

January 16, 2014

Page 15

Police Commissioners, the elected Mayor, and City Council, have, for now, been set aside. Whether or not these developments have had an impact on compliance is a matter worth scrutinizing. Checks and balances in the course and conduct of police service delivery is an essential requirement in the furtherance of constitutional policing.

The Department remains out of compliance. Now is the time to recommit to the path to reform.



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Robin Busch-Wheaton, *Editor*

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

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

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

To assess implementation of these policies for this and previous reporting periods, we visited police districts, precincts, and other commands; met and discussed operational activities with command, supervisory, and training staff; observed training classes; reviewed arrest, use of force, and related police reports; and reviewed investigations of force, detainee injuries, and allegations of force.

To assess compliance with the requirements relating to the issuance and carrying of authorized weapons and ammunition, we examined the investigations of critical firearm discharges by FI. During this reporting period, we reviewed documentation that included six critical firearm discharges.

The DPD selected the PR-24 collapsible baton as its impact device, and provided training on its use to 463 members (22%) through the first quarter of the fiscal year. In the use of force reports we reviewed during this reporting period, there was one PR-24-related incident where a subject was inadvertently struck in the head by an officer. Though the command level review supported the inadvertent strike, FI was notified and assumed responsibility for the review. We reviewed instances of chemical spray deployments during this reporting period, and found that there were five cases in which chemical spray was utilized. A warning was articulated or danger documented prior to its use in all five of those cases.

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

January 16, 2014

Page 17

There were 267 use of force report numbers issued during the third quarter of 2013, a decrease of 9% from the 293 issued during the last quarter.

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

- During our last site visit, DPD informed us that it had expanded the Force Investigations program to more closely monitor and enforce corrective actions provided to the districts/precincts regarding their Command Level Investigations. Force Investigations had previously implemented a program in which it identified issues in completed Command Level Investigations regarding policy and Judgment requirements. FI then generates a Corrective Action Notice (CAN) that is transmitted to the command, requiring that the command document any actions that it has taken to remedy the issues identified in the Corrective Action Plan (CAP).
- FI members responsible for administering this CAN program identified problems with the responses they were receiving from the commands; as a result of their identification of those problems, FI developed an additional level of monitoring, the command responses. During our last site visit, the two DPD sergeants administering this program provided a firsthand explanation of the program and a demonstration of how they deal with the response issue. They have created a computer program that allows them to track members as well as commands – and they have the ability to drill down to the core issues. They issue memorandums (DPD 568) to the commands when the CAP are identified as being incomplete or poorly completed, requesting supplemental information from the commands. To address the amount of movement of members currently being experience at DPD, this program now issues profiles to the receiving entity of transferred members, ensuring that the new Command is aware of patterns and trends being exhibited by the member with the preparation, response or review of SIRs and UF002 reports. We believe that this is the type of program that maintains the focus on gaining compliance at the appropriate level in the agency.

Below are some examples of some of the pertinent bulletins relating to both Judgments; these were issued between August 5, and September 20, 2013.

DATE	NUMBER	SUBJECT	TELETYPE #
07/05/13	13-27	Transfers Updating MAS	13-0674
07/12/13	13-28	Reporting/Documenting the “Acquiring Of a Target”	None
07/19/13	13-29	Crime Scene Preservation	03-0736
07/26/13	13-30	Pat Down Search Frisk	13-0766
08/02/13	13-31	Traffic Stops – Notification to Dispatch	13-0798
08/09/13	13-32	Updated City Ordinances	13-0815

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

January 16, 2014

Page 18

DATE	NUMBER	SUBJECT	TELETYPE #
08/16/13	13-33	Enforcement of Loitering Ordinances	13-0861
09/04/13	13-35	Conveying Sick or Injured Detainees to Detroit Receiving Hospital.	13-0947
09/11/13	13-36	Prohibited Harassment or Discrimination Activity By Members	13-0962
09/20/13	13-37	Documenting MICR Arrest Charge Codes	13-1005

A. General Use of Force Policy

CJ Requirement U14

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

Compliance Status:

Phase 1: In Compliance

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

CJ Requirement U15

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

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

Comments:

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

Our previous reviews of use of force reports found that they lacked sufficient documentation or specificity with regards to de-escalation and details of actual disengagement to make a definitive determination regarding Phase 2 compliance. In the last reporting period, we found that 84% of the Command Level Investigations we reviewed contained sufficient explanations of officers' efforts to de-escalate or implement some of the disengagement responses suggested in U15c.

Command Level Investigations: During this reporting period, we reviewed 82 Command Level Investigations, which described the conduct of individuals against whom force was used and the

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

January 16, 2014

Page 19

corresponding response from the involved officers.² In evaluating officers' de-escalation techniques, we eliminated 22 cases, 11 incidents in which there were no opportunities to attempt de-escalation, and 11 cases involving detainee injuries in which force was not used. We evaluated 60 cases; in 52 (87%) of them, we found evidence of some efforts at de-escalation, a 9% increase from the last reporting period. We continue to recommend that DPD emphasize the importance of de-escalation techniques as a means of avoiding violent confrontations between citizens and police, and to emphasize the importance of adequately documenting the steps taken by the officers to minimize the use of force. Increased video/audio recordings of encounters with the citizens would prove beneficial in documenting compliance with this requirement.

DPD is not in Phase 2 compliance with this requirement for Command Level Investigations.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U16

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

Comments:

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

Use of Force Reports: To assess compliance for this reporting period, we reviewed 183 uses of force reports, of which 156 were applicable to this paragraph. We found that 150 (96%) of the 156 included verbal commands and an opportunity to submit to arrest prior to the use of force; or provided a reason why the verbal command was not given.³

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

Force Investigations: During this reporting period, we reviewed five force investigations. The five cases were not applicable due to exigent circumstances existing that prevented the use of verbal commands, or because DPD personnel did not use force. One of the cases included an on-duty accidental discharge, and another involved an off-duty suicide that was investigated by another agency.

² We randomly selected 99 cases for review. Of these, 17 had no SIR investigations, leaving 82 cases for review. Of the 17 cases eliminated, 13 were assumed by Force Investigations; and four were acquired target incidents which do not require SIR investigations.

³ The base was reduced from 183 to 156, due to 18 being detainee injuries with no force used and nine with reflected there was no time for commands to be given due to the exigency of the situations.

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

January 16, 2014

Page 20

In one of the above cases, the officer's use of force on a person was found to be not within policy and the arrest was determined to be improper; the officer is currently facing disciplinary action.

This represents a 100% compliance rate. DPD is in Phase 2 compliance with the Force Investigations portion of this paragraph.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U17

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

Comments:

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

Use of Force Reports: To assess compliance with this requirement for this reporting period, we reviewed 183 uses of force reports and 82 Supervisory Investigation Reports (SIRs).⁴ There was one case in which a subject claimed that he was choked. Although the investigation and interview of independent witnesses disproved the allegation, Force Investigations (FI) was notified – but did not assume the case. DPD remains in Phase 2 compliance with this paragraph for Command Level Investigations.

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

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U18

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

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

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

January 16, 2014

Page 21

Comments:

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Deferred

CJ Requirement U19

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

Comments:

During this reporting period, there was what was reported as an inadvertent PR-24 to the head, which caused bleeding. FI was notified and has assumed the investigation.

Compliance Status:

Phase 1: In Compliance

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

CJ Requirement U20

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

Compliance Status:

Phase 1: In Compliance

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

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

January 16, 2014

Page 22

CJ Requirement U21

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

Compliance Status:

Phase 1: In Compliance

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

B. Use of Firearms Policy

CJ Requirement U22

The firearm policy shall prohibit shooting at or from a moving vehicle except in exceptional circumstances. The policy shall also prohibit officers from intentionally placing themselves in the path of a moving vehicle.⁵

Comments:

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

Use of Force Reports: During this reporting period, we reviewed 183 uses of force reports and 82 Supervisory Investigation Reports (SIRs). We found one incident in which officers placed their scout car in front of a stolen vehicle, and as the officers exited the scout car, the driver of the stolen vehicle accelerated towards them, striking the scout car and forcing the officers to jump to their safety. The officers did not fire any shots, though one acquired a target.

Force Investigations: During this reporting period, we reviewed five FI investigations, and found no incidents involving an officer firing at a moving vehicle. DPD is in Phase 2 compliance for Force Investigations in this requirement.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U23

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

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

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

January 16, 2014

Page 23

Compliance Status:

Phase 1: In Compliance

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

CJ Requirement U24

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

Comments:

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

Use of Force Reports: During this reporting period, we reviewed 183 uses of force reports, and found one strike to the head, characterized as inadvertent, with the designated intermediate force device (PR-24). FI was advised of the strike and assumed the investigation. DPD reported it had provided training on its use to 463 members (22%) through the first quarter of the fiscal year. DPD remains in Phase 2 compliance with this paragraph for use of force reports.

Force Investigations: During this reporting period, we reviewed five cases completed by FI; there was one case where an intermediate force device (PR-24) was used. DPD remains in Phase 2 compliance with this paragraph for Force Investigations.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

C. Chemical Spray Policy

CJ Requirement U25

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

- a. provide a verbal warning and time to allow the subject to comply prior to the use of chemical spray, unless such warnings would present a danger to the officer or others;*
- b. provide an opportunity for decontamination to a sprayed subject within twenty minutes of the application of the spray or apprehension of the subject;*
- c. obtain appropriate medical assistance for sprayed subjects when they complain of continued effects after having been de-contaminated or they indicate that they have a pre-existing medical condition (e.g., asthma, emphysema, bronchitis or heart ailment)*

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

January 16, 2014

Page 24

that may be aggravated by chemical spray and if such signs are observed the subject shall be immediately conveyed to a local hospital for professional medical treatment; and

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

Comments:

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

Use of Force Reports: To assess compliance for this reporting period, we reviewed 183 uses of force reports and 82 Command Level Investigations. We found five deployments of chemical spray, with warnings or danger articulated in all five (100%) of the cases.⁶ This maintains the 100% compliance rate registered during the last reporting period. During our evaluation of decontamination requirements, we found that all five cases (100%) provided details of decontamination within 20 minutes of spraying or capture. This is an increase from the 80% registered during the last reporting period. There were three individual complaints of ill effects from the spraying noted in the five cases and all were dealt with appropriately.⁷

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

DPD is in Phase 2 compliance for Command Level Investigations.

Force Investigations: During this reporting period, we reviewed five cases completed by FI, and there were no cases of chemical spray being used during our assessment of FI cases submitted for this reporting period. DPD remains in Phase 2 compliance with the reporting of the use of chemical spray in use of force investigations.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U26

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

⁶ This number includes one case in June, no cases in July, and four cases in August.

⁷ This number includes three subjects sprayed in June. (June included one SIR investigation with three subjects sprayed, two adults to Detroit Receiving Hospital and a juvenile to Children's Hospital.)

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

January 16, 2014

Page 25

Compliance Status:

Phase 1: In Compliance

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

Critical Issues:

- The issue of how best to determine DPD's efforts at deescalating and disengaging with respect to use of force situations remains a perplexing issue, and one that affects DPD's compliance with several of the requirements. As we have noted above, an improved reliance on body microphones and a strict requirement that officers utilize them when engaging Detroit citizens could prove beneficial to better documenting the de-escalation techniques. Unfortunately, in spite of our recommendations regarding attention to this detail, there has been no improvement in reliance on the video/audio equipment. While DPD previously advised that the issues experienced with the Data 911 Video System have been resolved and the system operational again, we find officers continuing to experience difficulties with their microphones. We again strongly recommend that DPD conduct an Investigation and Report regarding the microphones in an effort to determine if, in fact, they will ever be made to work properly. If following that review the determination is made that the issues are related to user errors, DPD must implement procedures to address the user errors effectively. The proper use of the recording equipment is one of the cornerstones of the use of force investigative process and remains one which is not only unavailable to the investigators, but also to the Monitoring Team, which is charged with verifying that the information in the investigative reports is accurate.

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

Next Steps:

During the next reporting period, we will:

- Continue to monitor the numbers of use of force reports generated during the next reporting period, and continue to discuss with DPD the issue of documenting the de-escalation of use of force situations in an effort to identify a sound methodology for measuring the effort. We will monitor any increase in the reliance on audio recordings to enhance the documentation provided by the officers. If DPD continues to ignore the recommendations regarding the investigation of its failure to record encounters with citizens, it may become necessary to obtain a court order directing DPD to conduct the investigation and report of the problems associated with obtaining video/audio recordings of DPD the encounters. We will also meet with CRIB personnel to further discuss issues associated with use of force compliance.

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

January 16, 2014

Page 26

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

IV. DOCUMENTATION, INVESTIGATION, AND REVIEW

A. General Investigations of Police Action

CJ Requirement U27

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

Comments:

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

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

Command Level Investigations: To assess DPD's Phase 2 compliance with this paragraph for this reporting period, we again met with relevant staff and reviewed 183 uses of force reports resulting in 82 SIRs.⁸ There were no instances where a SIR was closed simply because a subject

⁸ Many of the command-level investigations contained multiple uses of force forms. Acquired target cases, and cases assumed by FI were removed from the numbers reported as SIRs.

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

January 16, 2014

Page 27

or complainant was unavailable, unwilling, or unable to cooperate, including a refusal to provide medical records or proof of injury. We also found sufficient justification for officers' conduct in all 82 (100%) of the SIRs.

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

Force Investigations: In our previous reports, we noted that our reviews of FI and JIST investigations – which included critical firearm discharges, pursuits, and allegations of excessive force – found these investigations sufficiently detailed to support the findings relating to the conduct of the officer(s) in each case. In addition, no investigations were closed because the subject or complainant was unavailable, unwilling, or unable to cooperate. Although we noted lack of detail or required specificity in early cases, FI addressed these issues with strengthened supervision and in-service training.

During this reporting period, we reviewed five FI cases, and found all in compliance with the requirements. DPD is in Phase 2 compliance with the FI cases portion of this paragraph.

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

To assess Phase 2 compliance with this paragraph for this reporting period, we reviewed 100 randomly sampled cases from the 348 cases that were closed in July, August, and September 2013. (This represents a 27% increase in closed cases over the previous reporting period.) Generally, the investigations established sufficient facts to support determinations that justified or did not justify the actions of the officer(s) or non-sworn member of the Department.⁹

We noted five cases that we believe were closed prematurely, as compared to six such cases during the previous reporting period. In one of these cases, the investigator failed to attempt to contact a potential witness. She indicated in her summary that no witnesses were identified, despite the fact that the potential witness – the other party in a dispute the complainant was involved in – was referenced in the Citizen Complaint Report (CCR) and in the complainant's statement. In another case, the investigator also made no attempts to identify and interview a potential witness – the passenger in the complainant's vehicle during a traffic stop. In this same case, the investigator failed to ask the subject officer questions about three of the allegations lodged by the complainant. In two other cases, potentially involved officers were not interviewed. One was administratively closed because one of the subject officers retired from the Department, but before another subject officer was interviewed. In the other case, OCI did not question the subject officer's partner and a sergeant who responded to the scene. In the remaining case, during his interview, the complainant expressed his displeasure with the demeanor of the sergeant who took his complaint. This new allegation was never explored.

⁹ If an allegation appropriately received a finding of unfounded or not sustained, justification for the conduct was not assessed since, by definition, its occurrence was either refuted or not substantiated.

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

January 16, 2014

Page 28

While complainants failed to cooperate in 32% of the cases, their lack of cooperation was not a factor in the closing of these cases. Invariably, the narrative contained in the Citizen Complaint Report (CCR) served as the complainant's statement in these instances.

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

Internal Affairs Division Investigations: To assess Phase 2 compliance with this paragraph, we interviewed IAD supervisors and selected staff, and reviewed the 21 cases that were closed by IAD in July, August, and September 2013. We assessed the investigations for consistency with the procedures contained in applicable DPD directives and generally accepted law enforcement techniques – specifically relating to procedural fairness, timeliness, confidentiality, and the meticulous reporting of facts and results of an investigation.

We found that all of the cases were sufficiently investigated – including five cases where the complainants and/or witnesses failed to respond to requests to be interviewed. All of the cases met the requirements of this paragraph.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U28

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

- a. documentation of the name and badge number of all officers involved in or on the scene during the incident and a canvas of the scene to identify civilian witnesses;*
- b. thorough and complete interviews of all witnesses, subject to paragraph 31 below and an effort to resolve material inconsistencies between witness statements;*
- c. photographs of the subject's(s') and officer's(s') injuries or alleged injuries; and*
- d. documentation of any medical care provided.*

Comments:

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

Command Level Investigations: During the previous reporting period, we determined the following:

- There was one case in which an involved supervisor conducted an interview of the subject. This resulted in a 99% compliance rate. In 78 (98%) of the cases, the names of all of the officers involved or on the scene during the incident were included. In all (100%) of the cases, the investigating supervisor conducted a canvass to identify civilian witnesses, or explained why a canvass was not conducted.

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

January 16, 2014

Page 29

- Thorough and complete interviews were conducted in 72 (90%) of the cases. Investigating supervisors must elicit pertinent details from witnesses while conducting their interviews and ask follow-up questions that can clarify information being provided. Continued critical reviews at the command level can help to improve compliance with this requirement.
- Material inconsistencies were addressed in 12 of 24 applicable cases (50%).¹⁰
- In 66 cases, photos should have been requested for officer or subject injuries. The reports noted that photos were ordered in 58 (88%) of the cases. Sixty-eight of the cases could have included documentation of medical care and 66 (97%) did. Not all of the administered medical care was related to police actions. Thirteen of the cases involved care ranging from psychiatric evaluations to a need for medications.

During this reporting period, we determined the following:

- There were three cases in which an involved supervisor conducted an interview of the subject. This resulted in a 96% compliance rate. In 81 (99%) of the cases, the names of all of the officers involved or on the scene during the incident were included. In 80 (97%) of the cases, the investigating supervisor conducted a canvass to identify civilian witnesses, or explained why a canvass was not conducted.
- Thorough and complete interviews were conducted in 76 (93%) of the cases. Investigating supervisors must illicit pertinent details from witnesses while conducting their interviews and ask follow-up questions that can clarify information being provided. Continued critical reviews at the command level can help to improve compliance with this requirement.
- Material inconsistencies were addressed in 22 of 33 applicable cases (67%).¹¹
- In 69 cases, photos should have been requested for officer or subject injuries. The reports noted that photos were ordered in 62 (90%) of the cases. Fifty-nine of the cases could have included documentation of medical care and 58 (99%) did. Not all of the administered medical care was related to police actions. Twelve of the cases involved care ranging from psychiatric evaluations to a need for medications to injuries caused by someone or something other than police action.

Due to <94% evaluations in the areas dealing with thorough and complete interviews (93%), material inconsistencies (67%) and the taking of photos (90%), DPD remains not in Phase 2 compliance for the Command Level Investigations during this reporting period.

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

¹⁰ In 56 of the 80 SIRs reviewed, there were no inconsistencies identified.

¹¹ In 49 of the 80 SIRs reviewed, there were no inconsistencies identified.

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

January 16, 2014

Page 30

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

The investigations contained witness interviews, both written and recorded. While we have acknowledged improvement by FI in addressing material conflicts in investigations, we noted that material inconsistencies were not addressed one of the five cases reviewed during this reporting period. Photographs were not taken as taken as required in one case.

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

Office of the Chief Investigator: During this reporting period, we reviewed 100 randomly sampled OCI investigations. All were investigated by investigators who did not authorize, witness, or participate in the incidents being investigated. In 17 cases, involved officers were not identified by both name and badge number. One case was transferred to Force Investigations based on the allegations and before steps were taken to identify the officers involved. Another case involved officers from the Detroit Public School Police and was appropriately referred to that agency. Another case alleged inadequate service that did not involve a specific officer. In the remaining cases, OCI took diligent steps to identify involved personnel. If they were not identified, they were listed as “unknown.”

In all but two of the cases retained for investigation by OCI, investigators attempted to contact potential witnesses when appropriate. In one, the complainant identified a potential witness in the CCR and in her statement, but this person was not contacted. In another, a subject officer indicated that the complainant had a passenger in his vehicle during a traffic stop that resulted in the complaint. There were no attempts to locate this female passenger. In many of the other cases, witnesses refused to cooperate, but investigators documented their steps to try to obtain statements.

In all of the cases alleging excessive force that were retained by OCI, photographs were referenced where appropriate. In most of the cases, force could not be substantiated and use of force documentation, including photographs, did not exist. In three cases, it was appropriate to reference medical care; and in all of these cases, the documentation was included in the investigative packages.

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

Internal Affairs Division Investigations: We reviewed the 21 cases that were completed by IAD during this reporting period. The investigations consistently included the names and badge numbers of all officers who were involved in or on the scene during an incident. In six of the cases, the complainant could not identify the officer(s) that were the subject of their complaints. IAD expended particular efforts in identifying officers when allegations of criminal misconduct were reported and the officer(s) was unknown to the complainant. IAD conducted canvasses to identify witnesses or obtain any video recordings that might be available from businesses near

¹² These investigations included one critical firearm discharge (unintentional) event.

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

January 16, 2014

Page 31

the location. IAD has the capacity to access recordings from in-car video storage from the division's desktop computers. If any related evidence has been recorded, it can be requested from the Technical Services Unit within a 90-day period. In an effort to resolve the allegations, in-car video was requested in six of the cases where video should have been recorded. Five videos and three audio recordings were available to be used in the investigations. We also found in the cases that we reviewed that witnesses were interviewed, and that the investigators made an effort to resolve inconsistencies between witness statements.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not In Compliance

CJ Requirement U29

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

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

Comments:

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

Command Level Investigations: During the previous reporting period, we determined that in 68 (85%) of the 80 cases we reviewed, timely statements were taken from officers who were involved in or witnessed the incident, which represents a decrease from the 86% noted in our previous report. The interviews of complainants and witnesses were conducted at sites and times convenient for them in each (100%) of the 80 cases we reviewed.

During this reporting period, we determined that in 74 (90%) of the 82 cases we reviewed, timely statements were taken from officers who were involved in or witnessed the incident. This percentage is an increase from the 85% noted in our last report. The continuing non-compliance with this requirement is not indicative of a credible effort on the part of DPD to resolve this investigative shortcoming. The interviews of complainants and witnesses were conducted at sites and times convenient for them in 81 (99%) of the cases we reviewed.

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

January 16, 2014

Page 32

DPD continues to be out of Phase 2 compliance for the Command Level Investigations during this quarter.

Force Investigations: In previous reporting periods, we noted that statements were generally taken at sites and times convenient for the person(s) being interviewed. However, we expressed concerns that statements from witness officers were unnecessarily delayed, or that investigators instead relied on the officer's Crisnet report. We noted that there were significant delays in taking Garrity statements due to the practice of awaiting prosecution declinations from the District Attorney. We also noted our concerns regarding the variance in practice between FI and Homicide members of the Joint Incident Shooting Team (JIST) when interviewing witnesses and taking statements. Specifically, we were concerned with the practice adopted by Homicide members of JIST to take written, rather than recorded, statements. This is a longstanding non-compliance issue that the Department has not yet addressed.

To assess compliance with these requirements for this reporting period, we reviewed five closed FI cases, and continued to find much the same as described above. Statements were generally taken at sites and times convenient for the person(s) being interviewed. Statements of non-police witnesses were generally taken in a timely manner, usually within minutes or hours of the event; statements from involved officers or witness officers under the provisions of Garrity in the five cases reviewed during this reporting period were sometimes unnecessarily delayed.

We found that Garrity interviews of involved officers in all of the cases ranged from one to 50 days from the date of the incident. In addition, we noted Garrity interviews of witness officers ranged from the same day to 46 days from the date of the incident. Witness officer interviews should be conducted very close to the date of the incident that is under investigation. We have discussed with FI our concern regarding interview delays for a host of reasons – not the least of which is credibility; however, this problem has not been resolved. As we have previously noted, officers' recollections of the facts, weeks and months after an event, particularly one involving the use of deadly force, are externally and perhaps significantly affected by news accounts and their interactions with friends, family, and colleagues, and thus, often altered. The practice of delaying interviews, for whatever reason, mitigates the accuracy and credibility of the information provided by officers. In addition, aside from investigative reasoning regarding the delaying of interviews of involved officers, we find no legitimate basis to delay interviews of witness officers; quite the contrary, there is a compelling need to interview all witnesses – including witness officers – in an expeditious manner. We have expressed our concerns with this continuing investigative shortcoming on several occasions; however, the DPD has yet to satisfactorily address it.

As reported, the delays discussed above often result from the desire to await a declination decision from the District Attorney. Accordingly, we examined five cases closed by FI during this reporting period, and found one where a prosecutorial decision from the Wayne County District Attorney's Office was sought with the following results:

- FI conducted the Garrity interview of the subject officer after the prosecutorial decision by the District Attorney.

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

January 16, 2014

Page 33

- The one case included the Garrity interview that was completed within 30 days after the prosecutorial decision was rendered or completion of the criminal investigation, as required by paragraph U38.

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

Although the DPD met the above requirement in the one applicable case reviewed during this reporting period, we do not find a one-case review sufficient to change our compliance finding; accordingly, we find that the DPD Force Investigations is not in Phase 2 compliance.

Office of the Chief Investigator: During previous reporting periods, we noted ongoing issues with untimely interviews, particularly of officers. Interviews of sworn personnel frequently take place many months after the incident complained of. Often, no reason is given for the delay other than the difficulty in scheduling the interviews. We noted that complainant/witness and officer interviews were, with limited exceptions, properly recorded.

During this reporting period, we reviewed 100 randomly sampled investigations. Timely interviews of involved parties – particularly officers – again showed improvement during this reporting period. In one case, an officer was not interviewed until 87 days after the complaint was lodged, but OCI's efforts to secure the interview were well documented, and the case was not ruled out of compliance. We noted two cases, described above, in which officers and civilian witnesses were not interviewed.

Complainants were identified as uncooperative in 32 of the investigations we reviewed. OCI investigators relied on the synopsis contained in the Citizen Complaint Report in these cases. When complainants and witnesses were available for interviews, they were recorded, either over the telephone or in person. When interviews were conducted, they were administered and recorded in accordance with requirements.

With a 98% compliance rate, the City is in Phase 2 compliance with the OCI portion of this paragraph.

Internal Affairs Division Investigations: During earlier reporting periods, we found that the DPD directive requiring timely statements from officers was inconsistently applied. Interviews of involved witness officers were often delayed with little justification other than unavailability. There were exceptions involving pending criminal proceedings against officers in some cases.

During this reporting period, timely interviews were appropriately conducted in all 21 cases that were completed during this quarter.

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

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

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

January 16, 2014

Page 34

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U30

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

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

Comments:

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

Command-Level Investigations: During this reporting period, we found that in 79 (99%) of 80 cases, the question-and-answer format, without the use of leading questions, was used to document officer interviews in the SIR. During this reporting period, we found that in 80 (98%) of 82 cases, the question-and-answer format, without the use of leading questions, was used to document officer interviews in the SIR.

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

Force Investigations: Our previous review of FI cases for compliance with these requirements found instances where leading questions were contained in written statements. Additionally, when listening to randomly selected recorded interviews conducted by various investigators, we noted that investigators asked leading questions in 80% of the interviews.

We also noted that the details of Garrity interviews are often adversely affected by the excessive delays in scheduling them. Officers being interviewed are routinely referring to their Crisnet reports and/or do not have a recollection of specific details because so much time has elapsed between the incident and the day of their interview. We noted that investigators routinely fail to ask appropriate follow-up questions leaving the interviews appearing to revolve around *reporting* – not *investigating*. Finally, we noted our continued concern with investigators' lack of preparation to conduct Garrity interviews.

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

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

January 16, 2014

Page 35

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

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

We have previously recommended that the DPD seek *comprehensive* interview training, and carefully supervise and critique all interviews in order to avoid non-compliant findings. To date, the DPD has not addressed the training deficiency leaving investigators to learn this special skill on their own. Accordingly, we again recommend that the DPD expeditiously address this training requirement in order to provide its FI (and other) investigators with training consistent with generally accepted professional standards.

The DPD is in compliance with the FI portion of this paragraph.

Office of the Chief Investigator: OCI supplied digitally recorded interviews for both sworn and civilian interviewees for a randomly selected subset of our review sample. During this reporting period, we listened to 96 interviews (56 employees, 40 citizens) associated with 23 cases. Generally, investigators are employing proper interviewing techniques, using open-ended rather than leading questions.

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

In the past, we have noted a wide disparity in the interviewing skills of OCI’s investigators, and have recommended that supervising investigators either observe the interviews conducted by OCI’s investigators or listen to the recordings, in order to identify training needs and provide appropriate, individualized corrective measures. The supervising investigators provided documentation that they either observed, or reviewed recordings of, interviews in 72 cases during the reporting period. This represents a 11% increase when compared to the last reporting period.

The City is in compliance with the OCI portion of this requirement.

Internal Affairs Division Investigations: Since the first reporting period, we have found no evidence of the use of leading questions during IAD interviews. In all cases, we sought evidence in the case summary that the investigators had asked particular questions to clarify complainants’

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

January 16, 2014

Page 36

and witnesses statements, and/or physical evidence.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U31

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

Compliance Status:

Phase 1: In Compliance

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

CJ Requirement U32

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

- a. a precise description of the facts and circumstances of the incident, including a detailed account of the subject's(s') or complainant's(s') and officer's(s') actions and an evaluation of the initial stop or seizure;*
- b. a review of all relevant evidence, including circumstantial, direct and physical evidence;*
- c. that the fact that a subject or complainant pled guilty or was found guilty of an offense shall it justify discontinuing the investigation;*
- d. reasonable credibility determinations, with no automatic preference given to an officer's statement over a non-officer's statement or discounting of a witness's statement merely because the witness has some connection to the subject or complainant*
- e. an evaluation of whether an officer complied with DPD policy;*
- f. an evaluation of all uses of force, including the officer's tactics, and any allegations or evidence of misconduct uncovered during the course of the investigation;*
- g. all administrative investigations to be evaluated based on a preponderance of the evidence standard;*
- h. written documentation of the basis for extending the deadline of a report and evaluation and provide that the circumstances justifying an extension do not include an investigator's vacation or furlough and that problems with investigator vacations or workload should result in the matter being reassigned; and*
- i. any recommended non-disciplinary corrective action or disciplinary action be documented in writing.*

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

January 16, 2014

Page 37

Comments:

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

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

Command Level Investigations: During the current reporting period, we found the following:

- The data reflects a precise description of the facts and circumstances of the incident, including a detailed account of the actions of the subject(s) or complainants and officer(s) in 64 (78%) of the investigations, an increase from the 76% registered during the last reporting period. Some of the issues that continue to adversely affect compliance in this area remain: insufficient details in interviews; interviews that are almost verbatim from officer to officer; officers providing evasive and nebulous statements; investigators not asking follow-up questions; investigators failing to address discrepancies between officer statements; and investigators failing to interview complainants/victims.¹³ In all (100%) of the cases, an evaluation of the initial stop or seizure was conducted. In 26 (44%) of the 59 cases evaluated, all of the relevant evidence – including circumstantial, direct, and physical evidence – was reviewed.¹⁴ This is a decrease from the 48% we found during the last reporting period. We continue to assert that the review of both video and audio recordings of citizen contacts with DPD members is essential to use of force investigations; and consequently, we continue to recommend, in the strongest of terms, that DPD initiate all of the corrective actions necessary to ensure that encounters are captured in both video and audio recordings. Given that most uses of force occur out of the line of sight for the video, the audio recordings take on greater importance. DPD must continue to work on improving the audio capability of its system – and make every effort to determine if the failures to capture audio recordings at the scenes are system issues or user errors, and then institute the appropriate corrective measures. Commands must make every effort possible to review available video/audio recordings prior to the submission of the SIR. The failure to have these reviews conducted prior to the submission of the final report is an unacceptable practice.
- Eighty-two (100%) of the investigations contained evidence that reasonable credibility determinations, with no automatic preference given to an officer's statement over a non-officer's statement, were made to reach conclusions regarding the investigations. Eighty (98%) of the investigations contained an evaluation of whether or not an officer complied with DPD policy. We eliminated 17 cases from consideration because they were detainee injuries with no force used by the officers. The remaining 67 (100%) of the cases that we reviewed contained an evaluation of the use of force.¹⁵ Officers' tactics

¹³ This is not an all-inclusive list.

¹⁴ Twenty-three of the cases reflected either no equipment installed or officers assigned to walking beats, leaving 59 cases to evaluate. In at least one case, a video was obtained from a restaurant by an investigator but no details of its contents were provided to the investigating supervisor. There was also an acquired target case in which the investigating unit responsible for collecting these videos was unavailable at it was taped over.

¹⁵ Fifteen cases were eliminated, as they were detainee injuries, with no use of force.

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

January 16, 2014

Page 38

were evaluated in all (100%) of the 82 cases reviewed. There was one case in which the supervisor determined the force was excessive.¹⁶ All (100%) of the 82 cases were evaluated on a preponderance of the evidence standard.

- Sixty-two (76%) cases had no extension request; of the remaining 20 cases, we found one that referred to an extension in the file, but no copy of the document was provided. Nineteen contained documentation for the delays. We reviewed the 19 requests that were provided and found that nine of them had issues with vacations, furloughs, lack of new due date, and lack of specifics regarding the need for the extension. We continue to urge DPD to provide guidance regarding the importance of properly documenting the extensions and the returns of reports for corrections routinely documented in the Timeline section of the SIRs. Documents returned for corrections should reflect the new due dates.
- There were 60 SIRs in which corrective action might have been taken; corrective action was documented in 57 (95%) of the investigations. Inclusive in the corrective action were misconduct investigations, negative administrative counseling registers, re-instructs, re-training, written reprimands, trial boards and verbal counseling.

A precise description of the facts and circumstances of the incident – including a detailed account of the actions of subject(s) or complainants and officer(s) – was only provided in 64 (78%) of the 82 investigations; relevant evidence – including circumstantial, direct, and physical evidence – was reviewed in only 26 of the 59 relevant cases. DPD is not in Phase 2 compliance with the Command Level Investigations portion of this requirement.

Force Investigations: Our review of completed FI cases for previous reporting periods found them to be in overall compliance, but we noted cases wherein there was no evaluation of the initial stop and/or seizure; no reference to the presence or absence of circumstantial evidence; and a lack of reference to the conducting of credibility determinations.

To assess compliance for this reporting period, we examined five completed case files and noted the continued inclusion of a detailed account of the facts of the event.¹⁷ Investigators evaluated the initial stop/contact in each case, but need to more thoroughly evaluate available direct, circumstantial, and physical evidence. For example, investigators need to review related police reports; medical documentation for injured subjects; and autopsy reports. Investigators miss opportunities to complete thorough and factual investigations when evidence is obtained and not properly analyzed. This also includes the lack of satisfactory ballistics examinations. Lastly, command/supervisory personnel are reviewing a number of these investigations and are rendering findings based upon incomplete information.

During this reporting period, there were no instances where a subject's court-related appearances had any effect on the outcome of investigations.

The files documented some reasonable credibility determinations, but also demonstrated the need for FI to continue to provide training on this issue. We found that investigations contained

¹⁶ The supervisor recommended a trial board and anger management classes.

¹⁷ These investigations included one critical firearm discharge (unintentional) event.

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

January 16, 2014

Page 39

reviews of tactics and identified officers' unrelated conduct violations. Findings were based mostly on a preponderance of evidence standard, and recommended referrals for disciplinary intervention were documented.

We noted during this assessment that no extensions were requested. We recognize the challenges inherent with effective case management, and recognize the continued efforts of DPD – particularly the FI staff – to address them.

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

During the current reporting period, we reviewed 100 randomly selected cases, all of which were received this year. In all of the cases, there was a precise description of the facts and circumstances of the incident complained of. We noted one case in which an additional allegation was raised during an interview, but not documented or addressed. In his OCI interview, the complainant expressed displeasure with the supervisor who took his complaint, indicating that he believed she was biased and “needed lessons in how to deal with the public.”

We did not identify any cases in which OCI did not consider relevant evidence that was potentially available. We observed that investigators generally explore the availability of video evidence in cases where it is appropriate. In 50 cases, investigators inquired as to the availability of video. In 24, or 48%, of these cases, video evidence was not available. This is concerning, given the large monetary and resource investment that DPD has made in this technology. We continue to recommend that investigators inquire about video as early in the investigation as possible, as retention times for both DPD and private sources can result in the deletion of video evidence before it can be acquired.

We found no evidence where a complainant's conviction or guilty plea had a bearing on the investigation. Credibility assessments were generally lacking for both officers and complainants/witnesses. In all of the cases we reviewed, we noted appropriate evaluation of whether officers complied with DPD policy.¹⁸

In five cases, OCI investigators appropriately discovered potential misconduct during the course of their investigations. In two cases, officers were sustained for truthfulness issues based on the content of their statements to OCI investigators. In another case, it was discovered that an officer improperly filled out a log sheet and failed to document a traffic stop. In another case, the investigator learned that an Emergency Services Operator (ESO) sent officers to the incorrect address. In the remaining case, an officer and his responding supervisor failed to document an injury after a vehicle door was accidentally closed on the complainant's foot.

¹⁸If an allegation appropriately received a finding of unfounded or not sustained, evaluation of policy compliance was not assessed since, by definition, its occurrence was either refuted or not substantiated.

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

January 16, 2014

Page 40

In one case, the preponderance of evidence standard was not used – a vast improvement over previous reviews. This is based on our determination that different findings were warranted based on the documentation provided for our review. In the case, the complainant alleged that an ESO was rude during a 911 call. The investigator believed that the ESO's demeanor was proper, but the recording – and the ESO's own supervisor's investigation – supported a sustained finding. As is our practice, each of the non-compliant cases will be discussed in detail with OCI staff during our next site visit.

All of the cases we reviewed were completed within the prescribed 90-day time period. This is a first for OCI and should be recognized. Untimely investigations have plagued OCI for the duration of our tenure, and have resulted in Court intervention on at least two occasions. We credit the case management and accountability systems put in place by the Chief Investigator for finally achieving compliance with this standard.

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

We note that neighborhood canvasses are being conducted on a timelier basis, but we nonetheless reviewed several cases in which the canvasses were performed so long after the alleged occurrence as to have no investigative value. We have repeatedly recommended that canvassing be one of the first few investigative steps taken by investigators after they are assigned their cases.

The City is in Phase 2 compliance with this paragraph.

Internal Affairs Division Investigations: Our review during this reporting period found that the IAD investigative packages continue to be well organized, and elements of the investigation are easy to locate. We found that the IAD investigations were conducted in a professional manner. The supervisor meets with the investigators every two weeks to discuss the case progress and grant extensions when necessary. During this review of 21 completed IAD investigations, we found that there were precise descriptions of the incidents and reviews of all relevant evidence. There were two cases that exceeded the 90-day requirement due to the criminal court process. Appropriate credibility determinations were made in all of the cases, and ultimately the determinations were made using the preponderance of evidence standard. In three of the 21 investigations, additional DPD policy violations were identified and sustained.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

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

January 16, 2014

Page 41

CJ Requirement U33

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

- a. investigations to be reviewed by the chain of command above the investigator;*
- b. the reviewing supervisors to identify any deficiencies in those investigations and require the investigator to correct any deficiencies within seven days of the submission of the report and evaluation to the reviewing supervisor;*
- c. the reviewing supervisors to recommend and the final reviewing authority to refer any incident with training, policy or procedural implications to the appropriate DPD unit;*
- d. appropriate non-disciplinary corrective action and/or disciplinary action when an investigator fails to conduct or reviewing supervisor fails to evaluate an investigation appropriately; and*
- e. a written explanation by any supervisor, including the Chief of Police, who disagrees with a finding or departs from a recommended non-disciplinary corrective action or disciplinary action, including the basis for the departure.*

Comments:

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

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

Command Level Investigations: Our assessment for this reporting period found that in all (100%) of the 82 SIRs reviewed there was a chain of command review above the investigator. DPD identified deficiencies in 80 (97%) of 82 cases, with 67 (84%) requiring corrections within seven days of submission. We found a number of instances where timelines were incomplete, not reflecting new return/submission dates. We again caution the command reviewers that they need to conduct critical reviews of these investigations to correct these issues before the report is entered into MAS. As we have previously mentioned, the review of SIRs by the command level remains the most critical step in the conduct of these investigations. With specific training and more critical command reviews of the investigations, DPD will be able to improve the quality of investigations conducted at the command level. It is incumbent on the captains and commanders to continue to ensure that deficiencies in the investigations are corrected, and to consult the appropriate units if any procedural or tactical issues are identified.

Only 67 of 80 cases in which deficiencies were identified, or 84%, were submitted within the seven-day required timeframe. DPD is not in compliance with the Command Level Investigations portion of this paragraph.

Force Investigations: In our previous reviews of FI cases for compliance with these requirements, we noted that the case files included chain of command reviews and recommended referrals to training. The investigations also included references to supervisors' requests for additional information or investigative work.

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

January 16, 2014

Page 42

To assess compliance for this reporting period, we reviewed five completed FI cases. Although it appears, based on our discussions with FI staff, that supervisory reviews and evaluations are occurring, we recommend that these reviews continue to be more thoroughly documented.

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

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

For the current reporting period, we reviewed a random sample of 100 closed investigations. During this reporting period, 72 cases were returned for deficiencies. Most of these were for spelling, grammar, and formatting. In four of the cases, deficiencies were either missed or not corrected within seven days. Three of these cases involved the failure to contact potential witnesses or involved officers, and one of these cases resulted in an inappropriate administrative closure. In the fourth case, the investigator's recommended findings in the investigative summary did not match the findings submitted to the Board of Police Commissioners.

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

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

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

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

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

Comments:

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

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

January 16, 2014

Page 43

During the previous reporting period, we reviewed 181 auditable forms, and found that 91% were prepared correctly and documented the prisoner injuries, uses of force, and allegations of force. The forms included 17 forms that were referred to FI/IAD, and one in which the officers acquired a target.

During this reporting period, we reviewed 183 auditable forms, and found that 173 (95%) were prepared correctly and documented the prisoner injuries, uses of force, and allegations of force. The forms include 18 forms that were referred to FI/IAD, and seven in which the officers acquired a target.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U35

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

- a. officers to notify their supervisors following any use of force or prisoner injury;*
- b. that upon such notice, a supervisor shall respond to the scene of all uses of force that involve a firearm discharge, a visible injury or a complaint of injury. A supervisor shall respond to all other uses of force on a priority basis. Upon arrival at the scene, the supervisor shall interview the subject(s), examine the subject(s) for injury, and ensure that the subject(s) receive needed medical attention;*
- c. the supervisor responding to the scene to notify IAD of all serious uses of force, uses of force that result in visible injury, uses of force that a reasonable officer should have known were likely to result in injury, uses of force where there is prisoner injury; and*
- d. IAD to respond to the scene of, and investigate, all incidents where a prisoner dies, suffers serious bodily injury or requires hospital admission, or involves a serious use of force, and to permit IAD to delegate all other use of force or prisoner injury investigations to the supervisor for a command investigation.¹⁹*

Comments:

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

Command Level Investigations: During the previous reporting period, we reviewed 80 Command Level Investigations cases and found that in 79 (99%), a supervisor was notified following a use of force or a prisoner injury. There were 17 cases in which the use of force involved a firearms discharge, a visible injury, or a complaint of injury. A supervisor responded

¹⁹ Amended by Court Order dated September 15, 2008.

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

January 16, 2014

Page 44

to 16 of them. Supervisors responded to other uses of force on a priority basis in the remaining 63 cases. In combination, a supervisor responded to 79 (99%) of the 80 cases reviewed.

In 76 (95%) of the 80 cases, a supervisor interviewed the subject at the scene, at the district/precinct, or at DRH.²⁰ Also, in 73 (99%) of 74 cases, a supervisor examined the subject for injury and ensured that the subject received needed medical attention.²¹ Notifications were made to FI, IAD or Notifications and Control (N&C) on 54 occasions; there were 22 instances where N&C was contacted and they advised the incident did not warrant FI notification (95%). Notifications were not made in four of the 80 cases. FI assumed responsibility for eight cases. There was one allegation of choking, and it was resolved through the Command Level Investigation. DPD is in Phase 2 compliance with this paragraph for Command Level Investigations.

During this reporting period, we reviewed 82 Command Level Investigations cases and found that in 80 (97%), a supervisor was notified following a use of force or a prisoner injury. There were 47 cases in which the use of force involved a firearms discharge, a visible injury, or a complaint of injury. A supervisor responded to 46 of them. Supervisors responded to other uses of force on a priority basis in 33 of the remaining 36 cases. In combination, a supervisor responded to 80 (97%) of 82 cases.

In 76 (95%) of the 80 cases, a supervisor interviewed the subject at the scene, at the district/precinct, or at DRH.²² Also, in 73 (99%) of 74 cases, a supervisor examined the subject for injury and ensured that the subject received needed medical attention.²³ Notifications were made to FI, IAD or Notifications and Control (N&C) on 54 occasions; there were 22 instances where N&C was contacted and they advised the incident did not warrant FI notification (95%). Notifications were not made in four of the 80 cases. FI assumed responsibility for eight cases. There was one allegation of choking and it was resolved through the Command Level Investigation. DPD is in Phase 2 compliance for Command Level Investigations with this paragraph.

Force Investigations: Our review of five FI cases relevant to this requirement found that no officers failed to report the use of force to supervisors as required.

DPD is in Phase 2 compliance with this paragraph.

²⁰ In some instances, a subject is moved to the district/precinct or DRH due to circumstances at the scene or the health of the subject.

²¹ In some instances, a subject is moved to the district/precinct or DRH due to circumstances at the scene or the health of the subject. The number examined is reduced to 74 from 80 due to six having no injuries.

²² In some instances, a subject is moved to the district/precinct or DRH due to circumstances at the scene or the health of the subject.

²³ In some instances, a subject is moved to the district/precinct or DRH due to circumstances at the scene or the health of the subject. The number examined is reduced to 74 from 80 due to six having no injuries.

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

January 16, 2014

Page 45

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U36*The DPD shall revise its use of force and prisoner injury investigation policies to require:*

- a. command use of force preliminary investigations to be completed within 10 days of the incident. These investigations shall include a synopsis of the incident, photographs of any injuries, witness statements, a canvas of the area, and a profile of the officer's prior uses of force and allegations of misconduct, and a first-line supervisory evaluation. The final command use of force investigation shall be completed within 30 days of the incident;*
- b. IAD investigations to be completed within 90 days of the incident; and*
- c. copies of all reports and command investigations to be sent to IAD within 7 days of completion of the investigation.*

Comments:

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

Command Level Investigations: In the last reporting period, we found that 74 (92%) of the preliminary investigations were completed within 10 days of the event. There were photographs of injuries in seven of the files, an improvement over the five in the last reporting period. In 80 (100%) of the cases, the canvass and witness information was included in the file. Officers' prior uses of force and allegations of misconduct were included in 80 cases (100%). Eighty first-line supervisor evaluations were made in the cases (100%). The final command use of force investigations were completed within 30 days in 76 (95%) of the cases. Copies of completed Command Level Investigations were transmitted to IAD within seven days of completion of the investigations in 76 (95%) of the cases. DPD must place greater attention to the requirements dealing with the 10- and 30-day reporting requirements and the transmission to FI of the completed reports within the seven-day requirement. These issues appear to be related to a lack of a tracking system and we would once again encourage DPD to install a more sophisticated system than currently exists.

During this reporting period, we found that 71 (86%) of the 82 preliminary investigations were completed within 10 days of the event. There were photographs of injuries in five of the files. In 80 (97%) of the 82 cases, the canvass and witness information was included in the file. Officers' prior uses of force and allegations of misconduct were included in 82 cases (100%). Eighty-one first-line supervisor evaluations were made in the cases (99%). The final command use of force investigations were completed within 30 days in 68 (83%) of the cases. Copies of completed Command Level Investigations were transmitted to IAD within seven days of completion of the investigations in 75 (91%) of the cases. DPD must place greater attention to the requirements dealing with the 10- and 30-day reporting requirements and the transmission to

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

January 16, 2014

Page 46

FI of the completed reports within the seven-day requirement. DPD is not in Phase 2 compliance with this portion of this paragraph.

Force Investigations: To assess compliance for this reporting period, we reviewed five completed FI cases.²⁴ For FI to have only completed five cases, one not requiring an extensive investigative effort and the second principally investigated by another agency, is troubling. Although these cases were completed within the specified time limit, the low number of completed cases is not sufficient to change our compliance finding at this time. In addition, we continue to recommend that DPD closely evaluate case management and related issues, including staffing, and more closely monitor FI investigators' time management and report preparation to more expeditiously complete these investigations.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U37

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

Comments:

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

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

DPD is in Phase 2 compliance with this paragraph.

²⁴ These investigations included one critical firearm discharge (unintentional) event and one case involving a Detroit officer, which occurred outside of the jurisdiction of the DPD and was investigated by the agency having jurisdiction.

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

January 16, 2014

Page 47

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U38

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

- a. the investigation to account for all shots fired, all shell casings, and the locations of all officers at the time the officer discharged the firearm;*
- b. the investigator to conduct and preserve in the investigative file all appropriate ballistic or crime scene analyses, including gunshot residue or bullet trajectory tests; and*
- c. the investigation to be completed within 60 days of the incident. If a Garrity statement is necessary, then that portion of the investigation may be deferred until 30 days from the declination or conclusion of the criminal prosecution.²⁵*

Comments:

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

Our review of critical firearm discharge investigations for previous reports noted a number of significant issues relating to the requirements of this paragraph. We found that although investigators inventoried the officers' ammunition to assist with determining the number of shots fired, and collected shell casings at the scene, there were instances where the number of shots believed to have been fired did not match the inventory of officers' ammunition and/or the number of retrieved shell casings. We emphasized the importance of accounting for all rounds that are fired, and where there appears to be a discrepancy due to the described magazine problems, documenting it in the case reports. The DPD attributed this to an ongoing problem with the ammunition magazines that sometimes prevented officers from loading them to capacity and indicated its intent to correct the problem with the issuance of replacement equipment.

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

During the last reporting period, we assessed an off-duty critical firearm discharge; the way in which it was investigated and reviewed is troubling. There were material conflicts in the

²⁵ Consent Judgment amendment, April 23, 2012.

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

January 16, 2014

Page 48

investigation regarding how the decedent was positioned and where she was shot at the time of the critical firearm discharge. (This conflict also extends to the CLFRT analysis, and will be further discussed in U40.) Also, we found the FI's analysis deficient for the following reasons: (1) command personnel did not address the three critical witness statements missing from the Homicide Unit; (2) the officer's t-shirt and boxer shorts that the bullet passed through were not collected as evidence nor retained for trajectory analysis; (3) the lack of a thorough ballistics examination, Gun Shot Residue Testing (GSR), and crime scene analysis; (4) the bullet removed from the victim was never recovered by the DPD, placed into evidence, and submitted to the MSP Lab; (5) the failure to administer a Breathalyzer or blood test to the officer – who admitted (*prima facie* evidence, contrary to FI's position) consuming alcoholic beverages – as required by DPD policy; (6) the DPD's focus on a worn holster when the weapon should have also been examined for any malfunctions or alterations to the trigger; and (7) the DPD's failure to address the secondary policy violation on the amount of ammunition carried in the off-duty Department weapon contrary to policy that might have been part of the reason for the discharge. In order to address and or clarify these issues, we requested that the DPD provide additional information relating to this incident. The DPD provided some of the requested information; however, we find it necessary to further assess this case, which we will attempt to accomplish during the next site visit. Accordingly, we expect to include our findings related to this investigation in our next quarterly report.

The generally accepted professional police practice is to investigate all critical firearm discharge events that result in death as a homicide until proven otherwise. Investigating in this manner protects the integrity of the investigation and all evidence until a thorough and comprehensive review and subsequent findings can be made. It is troubling that in the case described above, although there were witnesses and physical evidence available, that the Medical Examiner's report indicated, in part, "the manner of death is indeterminate." We recommend that the DPD reopen this investigation and reassess how this incident occurred.

To assess compliance with requirements for this reporting period, we reviewed one completed critical firearm discharge investigation that involved an unintentional discharge during a firearm inspection by a DPD supervisor.

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

The investigations that we reviewed described the locations of the officers; however, the diagrams that were included did not specifically indicate the officers' locations when their firearms were discharged. The locations of shell casings were noted; however, we are concerned that FI did not reconcile the number of shots that were believed to have been fired in two firearm discharge events. We have continuing concerns regarding the lack of gunshot residue tests (in five cases) where such tests would have served as an investigative aid in determining whether or not the suspect discharged a firearm and the lack of ballistic testing on firearms and shell casings.

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

January 16, 2014

Page 49

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

Although the one critical firearm discharge investigation we reviewed was timely, the above-cited ongoing issues are significant and continue to mitigate the quality, thoroughness, and credibility of these investigations. Each critical firearm discharge must be investigated with a focus on whether the deadly force was used in accordance with DPD policy, regardless of whether or not it resulted in injury or death. Crime scene activities and the analyses of all evidence – including important ballistic evidence – often form the basis for making appropriate decisions regarding these most serious issues. Therefore, the deficiencies described herein and in our previous reports must be addressed.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U39

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

Comments:

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

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

The DPD submitted one CLFRT report that met the composition requirements of this paragraph during this reporting period. The report assessed included one critical firearms discharge (unintentional).

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

January 16, 2014

Page 50

CJ Requirement U40

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

- a. complete its review of critical firearm discharges that result in injury and in-custody deaths within 21 days from the completion of the investigation and require the Chief of Police to complete his or her review of the team's report within 14 days;²⁶*
- b. comply with the revised review of investigations policies and procedures;*
- c. interview the principal investigators; and*
- d. prepare a report to the Chief of Police in compliance with the revised investigatory report and evaluation protocol.*

Comments:

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

During this reporting period, the DPD submitted one CLFRT report that met the time limitations for completion. The CLFRT's assessments complied with DPD protocols, and the principal investigator was interviewed.

During the previous reporting period we disagreed with the conclusions of the CLFRT as outlined in paragraph U38 (and described below) involving a fatal off-duty critical firearm discharge event that was assessed on a deficient force investigation. We have requested additional information and suggested this investigation be reopened. We will report our findings based upon the receipt of the requested information in our next quarterly report.

The CLFRT rendered its finding without the benefit of a complete and thorough analysis of all the evidence and without addressing material conflicts. The issues include:

- (1) A material conflict exists with the CLFRT's report and Force Investigation's report as to the decedent's position (squatted) behind the officer and where she was shot;
- (2) The failure to address the missing Homicide Unit statements of three material witnesses;
- (3) The failure to address the collection of physical evidence, such as the bullet at the Medical Examiner's Office and the officer's clothing that was subjected to the gunshot for trajectory analysis;
- (4) The failure to address secondary policy violations as to the officer not being tested for alcohol impairment as required by DPD policy and not carrying the required amount of ammunition in a DPD weapon; and
- (5) The failure to address testing the weapon itself with focus on an old worn holster. There were no reviews completed by the Chief of Police that were untimely.

²⁶ Amended by Court Order dated April 23, 2012.

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

January 16, 2014

Page 51

DPD remains in Phase 2 compliance with this paragraph. However, during the next reporting period, if we find DPD has not addressed/clarified the issues related to the case discussed in U38, we may find it necessary to find the DPD in Phase 2 non-compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U41

*The commanding officer of Force Investigation or other appropriate DPD executive designated by the Chief of Police shall annually review critical firearm discharges and in-custody deaths in aggregate to detect patterns and/or problems and report his or her findings and recommendations, including additional investigative protocols and standards for all critical firearm discharge and in-custody death investigations, to the Chief of Police. A copy of the report shall be submitted to the Monitor within five months after the end of the year reported on.*²⁷

Compliance Status:

Phase 1: In Compliance

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

- The failure to conduct complete, quality investigations within prescribed timelines remains a critical issue. We again emphasize the need to provide formal documentation of reasons for delays in the completion of investigations. Many cases indicate that they are returned for corrections, but do not explain what is needed to be corrected, nor what new time limits have been established for re-submission. This is not acceptable administrative practice. Complete information must be provided under the Timeline category of the SIR. Timelines need to be checked by the Command Review to ensure completeness. The final submission date in the timeline chronology should be the MAS entry date.
- DPD needs to continue to provide more attention to the quality of interviews; some lack details regarding the incident and exactly how the officers on the scene responded to the incident; it appears that investigators, armed with new information from interviews seldom re-interview officers to resolve differences. Training must be provided to officers/investigators who have responsibility for conducting these important interviews. Video and audio recordings must be reviewed as part of the investigative process; the Department needs to place greater emphasis on the appropriate use of the body

²⁷ Amended by Court Order dated January 28, 2009.

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

January 16, 2014

Page 52

microphones to capture interactions between officers and the public/subjects. Supervisors need to ensure that activity logs are properly completed with respect to the video and audio capabilities; unknown is not an acceptable category of the capabilities. When equipment is inoperative, the proper documentation should be prepared and commented on in the investigation. We continue to recommend that a formalized practice of forwarding complex/faulty investigations to the Training Division and/or the Policy Section for their review as a measure of ensuring that both units are aware of the situations officers are confronting in the streets and institute any corrective measure they may deem appropriate.

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

Next Steps:

During the next reporting period, we will:

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

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

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

January 16, 2014

Page 53

V. ARREST AND DETENTION POLICIES AND PRACTICES

The arrest and detention policies and practice requirements are a critical component of this Agreement. The policies prohibit an officer from making an arrest without probable cause, and the existing policy requires supervisory review within 12 hours of the arrest. It further requires that for an arrest that is unsupported by probable cause, or a warrant that is not sought, an auditable form must document the circumstances within 12 hours of the event.

The DPD revised its investigatory stop-and-frisk policies to appropriately define investigatory stops and reasonable suspicion and supported this effort by frequent roll call training and two Administrative Messages issued in January and April 2011 and again on July 26, 2013. As a result of additional emphasis by the Department on investigatory stops/frisks, DPD has previously attained compliance in this area, but compliance has been inconsistent. DPD also revised its witness identification policies to comply with the revised arrest and investigatory policies. Policy establishes that a material witness can only be taken into custody by obtaining a Court order prior to such taking.

The revised policies and procedures in this area require significant documentation and reviews by supervisors. Command notification is required in all instances where there exists a reported violation of DPD arrest, holds/warrants, investigatory stop-and-frisk, witness identification and questioning policies, and all reports in which an arraignment warrant is not sought.

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

DPD had improved its documenting traffic/investigatory stops, detainee registration, and following internal witness identification policies during previous reporting periods. DPD officers' ability to articulate reasonable suspicion with frisks has declined during this and the two previous reporting periods. A review of in-car video of traffic stops by DPD supervisors has indicated a number of these stops where frisks occur but are not documented by the officer(s) on their activity log.

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

January 16, 2014

Page 54

However, of particular note is the present process for recording stops and related frisks in officers' daily logs. This is a longstanding deficiency that must be addressed. It is important to uniformly capture stop and related search (frisk) data so as to allow for a credible analysis of these stops and related searches (frisks) in order to determine whether there are any indications of personal, district or department wide issues relating to the basis for stops, frisks, or disparate treatment.

We still note that the Department's ability to document and timely prepare warrant submittals to the prosecutor has been problematic, in that the failure to do so caused other violations of policy. (See U50, U51, and U53.) We continue to find in a few instances, the failure to prepare the required auditable form or timely review (see U59) by a commanding officer has kept DPD from compliance with certain paragraphs. Supervisory and command review continues to be lacking in some areas, and that documentation of violations should be a Departmental priority.

Most of the detainees arrested by DPD exceed the 48-hour requirement for arraignment within 48 hours of the arrest. Much of this process is not under control of DPD (prosecutor's office/court system). There has been discussion among the parties to offer an additional daily arraignment time to more expeditiously arraign arrestees; this should reduce the number of detainees arraigned over 48 hours.

All paragraphs under the Arrest and Detention Policies and Practices require supervisory review and command review when violations of policy are discovered. On August 7, 2012, Administrative Message (Teletype 12-066) mandated 12-hour work shifts for police officers in the field and the holding facilities. However, sergeants and higher level ranks remained on eight-hour shifts. Since adequate supervisory and command review has been major issues for compliance purposes, it appears that consistency of supervision for field personnel could jeopardize DPD's ability to monitor subordinates' activity. As a result of meetings with the Chief and DPD personnel a decision has been made for all patrol entities to revert back to the eight-hour shift schedule. In addition to the eight-hour shifts, a 10-hour power shift will be instituted at all precincts/districts (Administrative Message, Teletype 13-0977, issued September 16, 2013).

A. Arrest Policies***CJ Requirement U42***

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

Comments:

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

Phase 2 compliance is linked to and dependent upon the implementation of U43.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

January 16, 2014

Page 55

CJ Requirement U43

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

Comments:

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

To assess compliance with these requirements for this reporting period, we reviewed a random sample of 102 arrest case files. The review included Crisnet reports, Detainee Input Sheets, DPD Warrant Verification Logs, officers' Daily Activity Logs, Arraignment Verification Logs, and detainee file folders. In all cases, sufficient probable cause for the arrest was present.

In all cases supervisory approval for probable cause occurred within 12 hours of the arrest. In one arrest probable cause did not exist for the charge but the supervisor reviewing the report promptly completed the auditable form for Warrant Not Served but failed to complete form DPD UF-001 (Review of Arrest Exception). When an officer is not seeking an arraignment warrant, the Department is required to complete Auditable Form U004, Warrant Tracking Hold Form (effective September 2009). Of the 102 arrest cases we reviewed, the Department did not seek a warrant in 26. In all cases but one, the required auditable form was completed; and in another instance, the form was not completed in a timely fashion.

DPD's compliance rate is 98%, a slight decline from the previous quarter's 99%, for the three separate and distinct requirements of this paragraph. DPD has been in compliance with Phase 2 of this paragraph in all our previous reports.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

B. Investigatory Stop Policies***CJ Requirement U44***

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

Compliance Status:

Phase 1: In Compliance

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

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

January 16, 2014

Page 56

CJ Requirement U45

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

Comments:

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

In our tenth quarterly report, we determined that DPD was in compliance with the provisions of this paragraph; this was the first reporting period that DPD achieved compliance in this area. DPD had previously come into compliance with traffic and investigatory stops. In the last reporting period, DPD's compliance rate for frisks was 90%. Supervisors must scrutinize each officer's Daily Activity Log and complete the required auditable form when reasonable suspicion for the stop does not exist. Due to settling previous litigation, DPD issued Training Directive 12-03 on January 12, 2012 reinforcing Detroit City Code 38-1-3 as it pertains to the loitering ordinance. The new guidelines clearly define the rights of the individual and provide clarity to personnel when enforcing loitering violations. On August 16, 2013, DPD issued Teletype #13-0861 reaffirming Section 38-1-3 of the Detroit City Code and advising officers that simply writing "loitering" on their Activity Log without any other description does not meet the requirements of this paragraph.

DPD issued Teletype 13-073 (read at all Roll Calls from February 16, through February 22, 2013) regarding traffic stops and the codes used by the officers to notify Communications Operations Zone Dispatchers when they clear the stop. One of the codes indicates "advised/released without requiring the officer to state to the dispatcher the reason for the initial stop."

To assess compliance for this reporting period, we reviewed 303 officers' Daily Activity Logs completed on two randomly selected dates.²⁸ Each district/precinct provided the logs requested, which included traffic stops and other situations where officers made investigatory stops of individuals who were not in vehicles or in vehicles stopped in places where a police inquiry was warranted.

Our review yielded 141 investigatory stops, of which 123 indicated a lawful purpose. We observed and noted in previous reports that supervisors are now more thorough in their reviews of officers' Daily Activity Logs and would complete auditable forms for violations. There were 19 auditable forms completed by supervisors/CLOs for investigatory stops in violation: 11 were submitted in a timely basis and eight were late. Typically, those submitted after the time requirement were reviewed by CLO's and they are doing the work that should have been done by the officer's immediate supervisor. Most of the investigatory stops involved subjects being in a park after posted hours, entering premises/property without owner's permission, and loitering. In all instances, supervisors reviewed all investigatory stops within the required timeframe.

²⁸ For this review, we randomly selected Daily Activity Logs completed on July 26, and September 1, 2013; for the August 1-14 2013 sample, all DPD Activity Logs containing documentation of any frisks were requested.

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

January 16, 2014

Page 57

DPD's compliance rate for investigatory stops only (excluding frisks and traffic stops) during this reporting period is 95%, a slight reduction from the 97% in the previous quarter.

The logs included 473 traffic stops, and our review indicated that 22 did not contain sufficient information to justify the stop, which is a basic requirement. One officer accounted for 12 of the violations. We found 10 auditable forms completed for the violations; however, only one was completed in a timely fashion. Supervisors reviewed all the officers' Daily Activity Logs containing traffic stops in a timely fashion, marking their signatures, and dates and times of review. DPD's compliance rate for traffic stops is 95%.

In earlier reporting periods, there was a significant decline in the number of frisks contained in our sample population. For this report, we requested a one-day sample for the months of July and September 2013; and requested that DPD forward all Daily Activity Logs containing a frisk for August 1-14, 2013. Consequently, we reviewed 125 frisks appearing on officers' Daily Activity Logs for the reporting period, and we found that 114 met the requirement. There were 24 that did not meet the requirement; however, 14 of them had timely supervisory review and contained the appropriate Investigatory Stop and/or Frisk Exception Form. There were three auditable forms completed that were submitted late and seven of the frisks in violation did not contain the required auditable form. We observed that the Compliance Liaison Officers (CLO) in some of the precincts were completing the required auditable forms for these violations upon their review, but they fell outside the reporting timeframe. The CLO's are conducting the Activity Log reviews when they do internal inspections but that is the task that the officer's immediate supervisors should have been doing. Officers are required to complete the "Recap of Activity" portion of the log to indicate their total daily activities and also mark the "Frisk" box in the narrative portion of the report. This is a tool for the supervisor to locate and review the frisks that occur by his/her subordinates. However, supervisors have not used this tool – as we continue to find instances where the officer properly conducts a frisk, but does not mark either of the appropriate boxes or the frisk box is marked erroneously and the supervisors fail to discover the errors. We found one Activity Log where a frisk was indicated on the face sheet of the Activity Log, but there were no frisks indicated in the narrative portion of the log. In one instance, officers conducted a frisk where the only articulation of reasonable suspicion was "furtive gestures." In another, the officers asked for consent to frisk, and the supervisors failed to complete the required auditable form.

During a previous site visit, the Parties held a meeting to discuss DPD's request that consent searches (frisks) met the legal requirements of the Consent Judgment. No changes were made as a result of that meeting, and we have found that on the few occasions when an officer conducts a consent frisk the supervisors have completed the auditable form.

A review of in-car video of frisks by the training staff and commanders is helpful in ensuring that legal authority exists for the frisks. In our eleventh quarterly report, we noted that supervisors conducted in-car video review of their subordinates' investigatory stops and frisks; however during this review we only found one instance where this occurred. This is a sound supervisory practice and we encourage DPD to continue the video review of these stops when the legality of these stops is in question. As noted above, Administrative Message 11-0151, issued on January 28, 2011; Administrative Message 11-0477, issued on April 22, 2011; Administrative Message 11-1497, issued on December 22, 2011; and a subsequent

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

January 16, 2014

Page 58

Administrative Message, issued on November 9, 2012; emphasized the recording of investigatory stops and frisks by officers and supervisory review. In addition to the previous emphasis DPD has placed on stop and frisk, the Department issued Administrative Message, Teletype #13-0766 on July 26, 2013, clarifying when a frisk can be conducted during an investigatory stop.

U102 mandates that DPD policy on video cameras shall require officers to record all vehicle stops. Considering that DPD officers conduct thousands of traffic stops monthly, the number of undocumented frisks on Activity Logs could be significant.

In previous reporting periods, we found a few cases where auditable forms were completed after they were requested by the Monitoring Team and reviewed by DPD personnel. DPD personnel have been trained; this is no longer an issue of *training* but one of *accountability*. Command personnel must ensure that their sergeants/lieutenants review investigatory stops and take action when they occur. DPD continues to fail in the area of supervisory and command review. First-line supervisors are the key personnel in ensuring that all investigatory stops are in compliance with policy. DPD's compliance rate for frisks this quarter is 92%, an increase from the 90% we found during the previous reporting period. Conducting frisks that follow appropriate guidelines and meet established law is an important part of this paragraph and must be compliant.

The present process for recording stops and related frisks in officers' daily logs does not allow for the capture of various data required to conduct a credible analysis of these stops and related searches (frisks). To address this, we continue to suggest that the DPD design a stop (field contact) data form that requires officers to uniformly capture information related to the stop and any subsequent search (frisk). Contemporary police practices suggest that this data should include – but not be limited to – the reasons for stops, basis for any subsequent searches (frisks), results of searches (frisks), arrest/citation or other action taken, and personal data related to the person stopped. This analyses of this and related data should allow the DPD to determine whether there are any personnel-, district-, or Department-wide issues relating to the basis for stops, frisks, or disparate treatment.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not In Compliance

C. Witness Identification and Questioning Policies***CJ Requirement U46***

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

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

January 16, 2014

Page 59

Comments:

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U47

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

Comments:

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U48

The DPD shall document the content and circumstances of all interviews, interrogations and conveyances during the shift in which the police action occurred. The DPD shall review in writing all interviews, interrogations and conveyances and document on an auditable form those in violation of DPD policy within 24 hours of the interview, interrogation or conveyance.²⁹

Comments:

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

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

²⁹ Amended by Court Order dated June 1, 2011.

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

January 16, 2014

Page 60

On June 13, 2012, DPD advised us that all general investigative operational units would be merged under one command, the Criminal Investigation Unit, and be divided geographically into East and West facilities (Central District and Second Precinct). Although this change should increase efficiency, it has resulted in commanders' reviews of holds often exceeding the 48-hour mandate (U53, U60). We have noted that during this review that both general investigations units located at Central District (East) and the Second Precinct (West) are now conducting their own internal inspections of their witness/interrogation forms for completeness and accuracy. This is a sound practice and should be expanded to other functions within the Department.

We reviewed 27 case files containing 81 interviews/interrogations (DPD Form 103, revised April 2009) from Homicide and found all in compliance. There were no violations of policy that would have required an auditable form. Homicide's compliance rate with this paragraph is 100%.

We reviewed case files containing 54 interviews/interrogations from the Second Precinct (West), and found two that did not meet the requirement. In the two instances of policy violations we found that in one the name of the interviewing officer was not indicated on the interview form and in the other, supervisor approval was dated prior to the date of the interview. There were no required auditable forms generated for the policy violations. The Second Precinct's compliance rate for interviews/interrogations increased from the previous quarter's 94% to 96%.

We reviewed 26 interview/interrogation forms from the Domestic Violence Unit and found all in compliance (100%).

We reviewed 47 interview/interrogation forms from the Sex Crimes Unit and found all in compliance (100%).

We reviewed 26 interview/interrogation forms from the Child Abuse Unit and found that one did not contain a required supervisory review (96%).

We reviewed 26 witness conveyances from Homicide and the Sex Crimes Unit during the reporting period, and found all in compliance. In our previous report, we found two conveyances not in compliance. Due to the nature of homicide and sexual abuse investigations, witness conveyances are generally exclusive to more serious crimes.

DPD's compliance rate for this paragraph is 997%, an increase from the 97% in the previous quarter.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

D. Prompt Judicial Review Policies***CJ Requirement U49***

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

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

January 16, 2014

Page 61

Comments:

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U50

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

Comments:

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

Due to a few case reports involving traffic, probation violations, and warrant arrests that are handled by other means, or where the arrestee is taken directly to court, we reviewed 76 case reports that eventually were submitted to the Prosecutor's Office for arraignment. The documentation supporting this review included Crisnet reports, Warrant Verification Logs, Arraignment Sheets, Detainee Input Sheets, and Warrant Tracking Hold Forms. Of the 76 cases we reviewed where an arraignment warrant was submitted or the detainee taken directly to court, all but two met the 48-hour requirement.

In one instance, the warrant submittal to the prosecutor's office was late; however, the appropriate Warrant Tracking Form was timely submitted by the officer in charge of the case and submitted for command review. In the remaining case, the warrant submittal was late, but the officer in charge failed to document the late submittal on the Warrant Tracking Form. DPD's compliance rate for this for this paragraph is 99%, a slight increase from the previous quarter's 98%.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U51

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

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

January 16, 2014

Page 62

arraignment within 48 hours, 2) a failure to comply with the prompt judicial review policy, or 3) an arraignment delayed by extraordinary circumstances.

Comments:

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

To assess Phase 2 compliance with these requirements, we reviewed the same documents referenced in U50. Of the 102 arrest case reports we reviewed, there were 76 that began at the initial arrest and in which a warrant was submitted to the Prosecutor's Office for arraignment. There was one case where the warrant submittal to the prosecutor's office was late; however, the auditable Warrant Tracking Form was completed and submitted timely. In one other case, the auditable form was not generated for the failure to submit the warrant request timely.

There were 58 detainees who went to arraignment, and 39 of these where the arraignment occurred more than 48 hours from the time of the initial arrest. There were two cases where an auditable form was not completed for failing to have the detainee released or arraigned timely. When the commanding officer reviews the auditable form, s/he must inspect the document to ensure that the OIC is dating or placing the time the event was recognized. If the commanding officer reviews the dates and times of the events prior to approval, determining compliance is straightforward.

DPD's compliance rate with this requirement for the current reporting period remains at 97%. DPD personnel who prepare the detainee warrant request information to the prosecutor should process and forward those documents promptly as any delay can create situations where detainees are not arraigned within the 48-hour time requirement.

On June 20, 2013, DPD issued Teletype 13-0593 (to be read at consecutive Roll Calls) emphasizing member responsibility with Prompt Judicial Reviews (DPD Policy 202.1-7.2).

As we noted previously, the elimination of evening arraignments by the 36th District Court of the State of Michigan will continue to be problematic for DPD in its ability to arraign detainees within the 48-hour time requirement.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

E. Hold Policies***CJ Requirement U52***

The DPD shall revise its hold policies to define a hold as that term is defined in this Agreement and require that all holds be documented. This policy shall establish a timely and systematic process for persons in DPD custody who have holds issued by a City of Detroit court to have those holds cleared by presenting the arrestee to the court from which the warrant was issued or

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

January 16, 2014

Page 63

the setting and posting of bond where applicable. The fact that an arrestee has not been arraigned or charged in the current arrest shall not delay this process.

Comments:

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U53

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

Comments:

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

In previous reporting periods, DPD was not in Phase 2 compliance with this paragraph, due to holds/warrants not being cleared and the auditable form not being prepared. In the last reporting period, the Department's compliance rate with this requirement was 95%.

To assess compliance with the requirements, we reviewed 102 arrest case packets from all districts, precincts, and specialized units. We reviewed DPD Detainee Input Sheets, and found a total of 33 holds/warrants listed on the forms. In our earlier reports, we noted that DPD was inconsistent in its ability to maintain compliance with this paragraph due to supervisors and OICs (officer in charge) failing to identify those holds exceeding 48 hours and the detainee still in custody. Form (DPD UF004-007, revised June 2009) was created and contains appropriate indications for officers to identify more than one violation of the Prompt Judicial Review Policies. DPD personnel must be aware that if an arraignment occurs more than 48 hours after an arrest and the detainee has an outstanding hold/warrant, there is a likelihood that the warrant may not be cleared within the requirement and both boxes should be checked. There can also be an issue if the warrant submittal for the outstanding arrest is denied by the prosecutor and there is a hold on the detainee. In these cases, DPD has an expectation that the hold(s) will be addressed at the arraignment on the current charge; and if the warrant is denied, the detainee may be presented to the judge at the next available arraignment opportunity.

Since DPD combined the general investigative units in 2012, it had difficulty complying with this paragraph. As a result of the Department's inability to comply with policy, the commander of the investigative units directed that all members completing the Warrant Tracking Hold Form submit a copy of the Detainee Input Sheet to the reviewing commander to ensure that holds over 48 hours were captured on the auditable form. Of the 33 holds we reviewed, there were 31 that

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

January 16, 2014

Page 64

were compliant. (There were 12 holds that were not cleared within 48 hours.) In the two non-compliant cases, the required auditable form was not completed for holds not being cleared within 48 hours of the arrest.

DPD personnel advised us that the commander of the precinct – or, in the absence of the commander, the lieutenant on duty – receives the Warrant Tracking Form only when violations occur and the form is completed and forwarded by the OIC or a supervisor. Reviewing command personnel previously did not receive the entire package, and assumed all violations were properly indicated when they reviewed and approved the forms. When the supervisors receive and review the form from the OIC, they must ensure that it is complete *prior* to forwarding it for command review. The failure of personnel to indicate detainees being held with outstanding holds increased since the general investigative operations units were merged. DPD devised a method of ensuring the holds are either cleared or the required auditable form has been generated; however, issues with the process still remain. We will closely monitor to see if these issues are resolved during the next reporting period.

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

As we have noted previously, the lack of DPD personnel properly indicating the date and time that holds/warrants are identified/cleared and generating the required auditable forms for violations continues to be problematic for the Department. If command personnel would verify the existence of holds from the Detainee Information Sheet prior to signing off on the Warrant Tracking auditable form, the problem of non-compliance would be resolved, and it would ensure that subordinate supervisors are completing the forms accurately. The issue of failure to complete required auditable forms for holds not being cleared within 48 hours has been a topic of discussion at Command Accountability Meetings on several occasions. The mechanism put forward during those exchanges between commanders has not rectified the existing problems for this quarter.

DPD's compliance rate for this requirement is 94%, a decrease from the 95% registered during the previous reporting period. DPD must exceed the 94% compliance rate to remain in compliance for the next quarter.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

F. RESTRICTION POLICIES***CJ Requirement U54***

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

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

January 16, 2014

Page 65

Compliance Status:

Phase 1: In Compliance

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

CJ Requirement U55

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

Compliance Status:

Phase 1: In Compliance

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

G. Material Witness Policies

CJ Requirement U56

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

Compliance Status:

Phase 1: In Compliance

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

CJ Requirement U57

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

Compliance Status:

Phase 1: In Compliance

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

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

January 16, 2014

Page 66

H. Documentation of Custodial Detention

CJ Requirement U58

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

- a. the individual's personal information;*
- b. the crime(s) charged;*
- c. the time and date of arrest and release;*
- d. the time and date the arraignment was submitted;*
- e. the name and badge number of the officer who submitted the arraignment;*
- f. the time and date of arraignment; was lodged and cleared, if applicable;*
- g. the time each warrant was lodged and cleared, if applicable; and*
- h. the individual's custodial status, e.g., new arrest, material witness or extradition.*

Compliance Status:

Phase 1: In Compliance

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

I. Command Notification

CJ Requirement U59

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

Comments:

The DPD is in Phase I compliance with this paragraph. We reviewed 102 arrest case packets for this quarter and found a much higher number of auditable forms submitted by supervisors or CLO's for violations of DPD policy. The lack of supervisory review in past inspections has kept the department out of compliance with several of the paragraphs in this section. An equally important function is command review of the actions of personnel under the command of the Districts/Precincts to ensure officers are complying with all DPD policies and procedures. Our review for the requirements of this paragraph included the inspection of 68 auditable forms submitted by supervisors for violation of DPD policy. Forty-three of the forms were properly reviewed by a commanding officer within the seven day requirement. Twenty of the forms did not contain a commanding officers signature (a requirement). In three cases the section of the

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

January 16, 2014

Page 67

command review was left blank and in two cases a sergeant signed off where a command officer's signature is required.

We are aware that two internal issues may have had an impact on DPD's ability to maintain compliance with this paragraph for the quarter: several commanding officers retired and due to the reassignment of lieutenants some units were left without a commanding officer. DPD must immediately address these issues if compliance is to be maintained. DPD's compliance rate for this paragraph is 64%; a decrease from the 100% we found in the previous reporting period. In order to maintain continued compliance, DPD must be compliant with this paragraph in the next quarter.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U60

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

Comments:

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

To assess compliance for this reporting period, we reviewed 102 arrest case reports, of which 76 were submitted to the Prosecutor's Office and 58 went to arraignment. There were 39 cases where the arraignment occurred more than 48 hours after the arrest.

In all but two cases, the request for the warrant was submitted in a timely fashion. In one instance, an auditable form was completed and command review occurred. An auditable form was not generated by the OIC in the remaining case.

In the 58 cases that went to arraignment, 39 of these were arraigned more than 48 hours after arrest, and auditable forms were completed in all but two cases. There were 12 instances where the commander failed to place their signature in the required section of the form to indicate the command review. This is the first time in all our previous reviews where we have observed the excessive number of times that the reviewing commander has failed to sign the form. We noted previously that OCR sent Corrective Action Notices to commanders who failed to review the auditable forms within the allotted time constraints.

Of the 33 hold/warrants that we identified, there were 12 holds that were not cleared within the required 48 hours. In 10 instances, the Warrant Tracking Form was properly completed and forwarded to the commander for review; in one case, the "hold" box was not marked indicating a hold over 48 hours and in the other case the auditable form was completed five days after the arrest. In four of the auditable forms for holds over 48 hours, the commanding officers failed to

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

January 16, 2014

Page 68

indicate the review of the forms by signing the document. There was one material witness taken into custody during this reporting period, and the auditable form was completed. Under this paragraph, there were a total of 48 auditable forms in our sample that should have been reviewed and signed by a commanding officer. In the event of a commander's absence from the district or precinct, the on-duty commanding officer (lieutenant or above) has the authority to review and sign off on the auditable forms as they serve as precinct commanders during that timeframe. There should not be any instance where the officer in charge of the case cannot contact a lieutenant or above to review those cases where there are violations of the prompt judicial policies.

DPD's overall compliance rate for this paragraph is 75%, a decrease from the 96% we found in the last reporting period. DPD will remain in Phase 2 compliance with this paragraph. If DPD does not come into compliance during the next reporting period, it will be removed from compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

- Prior to this reporting period, we noted instances in which the OIC failed to indicate on the Warrant Tracking Form when holds exceed 48 hours. During the last reporting period, DPD took steps to rectify this failure by including it as a point of discussion at the Command Accountability Meetings. We have stressed this issue with DPD in previous site visits and our quarterly reports. DPD has begun transferring their detainees to the State (MDOC) facility immediately upon arrest and as of the end of October 2013 all DPD holding facilities have been closed. The Warden of the Detroit Detention Center (DDC) informed us in our meetings that his policy is to release all detainees prior to 72 hours of incarceration so it is incumbent upon DPD personnel to ensure that holds and arraignments occur more timely than they have been in the past. We note that upon review of DPD's arraignment times for those facilities that have been closed, we have found that extreme times in custody have been significantly reduced. If warrant submittals to the prosecutor were made timelier, violations of the prompt judicial policies would be reduced significantly; therefore reducing the amount of unnecessary work and documentation by DPD staff.

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

January 16, 2014

Page 69

- We have previously recommended that DPD explore other methods of capturing information related to investigatory stops and frisks. The current method does not capture sufficient data for management and accountability purposes. In addition, the Activity Log currently used for this purpose is difficult to read and does not allow accurate review by supervisors. It is not OCR's or the CLO's primary responsibility to review documents created by field personnel; it is the duty of the first-line supervisor. For this quarter compliance for U59-60 is due to the failure of lieutenants and above to review the auditable forms in this section and indicate their approval by signing the forms.

Next Steps:

During the next reporting period, we will:

- Meet with DPD's Civil Rights Integrity Bureau (CRIB) to discuss our investigatory stop concerns, and the failure of commanding officers to conduct proper reviews as it relates to auditable forms. U60 requires daily review (24 hours). Completeness, accuracy, and timeliness of all reports and auditable forms continue to affect field units and the quality of administrative review.
- Review other investigative units to determine their compliance with interrogations, interviews, conveyances, and material witness policies.
- Command reviews of auditable forms (U60) have been exceptional until this review. DPD needs to determine the cause and provide remedies.
- We have been advised that the recent retirements and transfers of commanding officers have had an effect on DPD's ability to maintain compliance in this area. Conduct reviews of in-car video for investigatory stops/frisks with supervisors and commanders during the site visit.
- Meet with the commanders, if possible, of each district and precinct to discuss issues relating to auditable forms and their role in ensuring compliance.

Inquire with DPD if any developments have been enacted with the Prosecutor's Office to streamline the warrant submittals process and/or the timeliness of arraignments.

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
42	Define and prohibit arrest without probable cause	In Compliance	In Compliance
43	Review all arrests for probable cause	In Compliance	In Compliance
44	Revise investigatory stop-and-frisk policy	In Compliance	In Compliance
45	Written account of stops and frisks	In Compliance	Not in Compliance
46	Revise witness policies	In Compliance	In Compliance

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

January 16, 2014

Page 70

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
47	Revise above in three months	In Compliance	In Compliance
48	Document content, etc. of interviews, etc.	In Compliance	In Compliance
49	Arrests receive prompt judicial review	In Compliance	In Compliance
50	Charges to Prosecutor within 48 hours	In Compliance	In Compliance
51	Document of late warrant requests	In Compliance	In Compliance
52	Revise hold policies	In Compliance	In Compliance
53	Documentation of all holds	In Compliance	In Compliance
54	Policy for restricting telephone access	In Compliance	In Compliance
55	Document and review such restrictions	In Compliance	In Compliance
56	Define material witness	In Compliance	In Compliance
57	Custody of material witnesses-court order	In Compliance	In Compliance
58	Arrests and detention record requirements	In Compliance	In Compliance
59	Required written review of violations	In Compliance	In Compliance
60	Required written review of violations	In Compliance	In Compliance

VI. EXTERNAL COMPLAINTS

The stated mission of the Internal Affairs Division (IAD) is to assure the public's trust and confidence in DPD by conducting thorough and impartial investigations into allegations of criminality and serious misconduct lodged against members of the Department, as well as other City of Detroit employees. IAD is charged with the prevention, discovery, and investigation of criminal allegations and allegations of serious misconduct against Department members and City employees who are assigned within the DPD; IAD is responsible for all external complaints alleging possible criminal misconduct.

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

During our most recent site visit, we examined the investigative procedures employed by IAD for consistency in the application of procedural fairness, timeliness, confidentiality, and the meticulous reporting of facts and results of an investigation. The IAD Standard Operating Procedures were revised in January 2011 to include Section 5-8, Case Tracking.

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

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

January 16, 2014

Page 71

investigation of citizen complaints. OCI's mission is to provide meaningful and objective investigations of citizen complaints of police misconduct.

OCI investigates non-criminal allegations of misconduct against Detroit Police Department personnel for the following: Arrest; Demeanor; Entry; Harassment; Force; Procedure; Property; and Search and Seizure. OCI employees are required to accept complaints from any source and by any method of communication including in writing, verbally, in person, by mail, by telephone, by facsimile, or by electronic mail. Members of the public may also file complaints at the BOPC office or at BOPC meetings.

During our most recent site visit, we met with the BOPC Staff, the Chief Investigator, and supervising investigators assigned to OCI. We discussed with specificity the cases that were deemed noncompliant during the last reporting period. We also attended case review meetings with all investigative staff.

CJ Requirement U61

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

Compliance Status:

Phase 1: In Compliance

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

CJ Requirement U62

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

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

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

January 16, 2014

Page 72

Compliance Status:

Phase 1: In Compliance

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

CJ Requirement U63

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

Compliance Status:

Phase 1: In Compliance

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

A. Intake and Tracking

CJ Requirement U64

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

Compliance Status:

Phase 1: In Compliance

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

CJ Requirement U65

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

Compliance Status:

Phase 1: In Compliance

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

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

January 16, 2014

Page 73

CJ Requirement U66

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

Compliance Status:

Phase 1: In Compliance

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

B. External Complaint Investigations

CJ Requirement U67

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

- a. provide that all complaints shall be referred for investigation and resolution by OCI or, if the complaint alleges potentially criminal conduct by an officer, by IAD;*
- b. permit the informal resolution of complaints alleging only inadequate service or the complainant's innocence of a charge and require the investigation and formal resolution of all other complaints;*
- c. refer all complaints to the appropriate agency within five business days of their receipt;*
- d. require that the complainant shall be periodically kept informed regarding the status of the investigation;*
- e. develop written criteria for IAD and OCI investigator applicants, including the applicant's complaint and disciplinary history and investigative experience;*
- f. implement mandatory pre-service and in-service training for all IAD and OCI investigators, including intake, investigations, interviews and resolutions of external complaints;*
- g. require IAD and OCI to complete all investigations within 90 days of receiving the complaint and*
- h. require that: (1) upon completion of the investigation by a command other than OCI, the complainant shall be notified of its outcome and, if the complaint is sustained, whether disciplinary or non-disciplinary corrective action has been recommended; and (2) upon completion of an investigation by OCI the complainant shall be notified of its outcome and, if the complaint is sustained, its referral to the Chief of Police for appropriate disciplinary or non-disciplinary corrective action.³⁰*

³⁰ Amended by Court Order dated September 15, 2008.

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

January 16, 2014

Page 74

Comments:

Office of the Chief Investigator: For this reporting period, we reviewed 100 randomly selected OCI cases closed during July, August, and September 2013. Two of the cases were transferred to IAD, and two were transferred to Force Investigations. The cases transferred to IAD involved allegations of theft and falsifying documents. Three of these transfers were timely, taking 10 days or less to complete, but one transfer to Force Investigations took 74 days.

Two cases were resolved informally, and both met the criteria for an Informal Complaint Resolution (ICR), as they involved complaints of inadequate service or innocence of the charge. In one case, the complainant alleged that an officer failed to return his license and registration after a traffic stop. When interviewed, the complainant indicated that he found the missing paperwork in his vehicle. In the other case, the complainant alleged that an Emergency Services Operator asked too many questions during a call to report a shooting. The questions were deemed appropriate for the situation.

Six cases in our sample were administratively closed, and all but one were appropriate for such closure. In two cases, the investigations revealed that the officers or employees complained of did not work for the Detroit Police Department. One involved a Detroit Public School officer, and one involved a security guard employed by the owners of the building which houses Central District. Two of the cases lacked the specificity necessary to pursue an investigation, and the complainants were uncooperative. In another case, originally opened as a force complaint, the complainant indicated that he sustained his injury (dislocated shoulder) long before his contact with DPD officers, and he merely was requesting treatment while in detention. It was not his intention to make a complaint.

We believe one case was improperly administratively closed. A complainant alleged that an investigator failed to return his calls and his property was inappropriately auctioned without his permission. The investigator retired, which would normally result in an administrative closure, but the documentation in the file indicated that another officer made the decision to release the property for auction after the initial investigator's retirement. His actions should have been investigated.

All of the 100 cases we reviewed were completed within 90 days, a first for OCI.

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

In most cases, we noted efforts to keep the complainant informed of case progress. Often, this correspondence involved attempts to encourage uncooperative complainants to participate in their investigations. However, we identified two cases in which complainants did not receive update letters after 45 days as required by OCI policy. In all applicable cases, the complainants were notified of the disposition of their cases, and if any allegations were sustained, they were advised that the case was referred to the Chief of Police for appropriate corrective action.

During our previous site visits, we verified ongoing in-service training for OCI personnel. Much of this training occurs in conjunction with other DPD employees. While we do not discourage this practice, we urge OCI to explore training specific to OCI's responsibilities, in order to

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

January 16, 2014

Page 75

address knowledge and skill gaps that impact the quality of its investigations. The Chief Investigator continues to develop OCI specific training, and her staff meetings frequently have a training component. We also reviewed the pre-service training provided to all newly hired investigators.

With a 95% compliance rate, the City is in Phase 2 compliance with the OCI portion of this paragraph.

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

IAD Standard Operating Procedures and OCI policy require that all complaints be referred to the appropriate agency within five business days of their receipt. Historically, we discovered significant delays in transferring appropriate cases from OCI to IAD. During the current reporting period, we reviewed 21 IAD cases, and determined that one complaint alleging criminal misconduct had been erroneously forwarded to OCI from the District, and then held at OCI for 12 days before referral to IAD.

The IAD Standard Operating Procedures contains criteria for investigator applicants and training. IAD is current in its training requirements and the members have recently received advanced Internal Investigations training. There are two investigators who were recently transferred to IAD. One has previous investigative experience; the other has none. According to DPD, they are both expected to receive appropriate training before the next reporting period.

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

Our review determined that IAD is in compliance with the notifications to complainants upon both the opening and the closure of all investigations.

During our current review of 21 investigations, two exceeded the 90-day time limit due to criminal prosecution. Each investigative folder contained appropriately requested and approved extension requests. There were no cases that were inappropriately delayed during this period.

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

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

January 16, 2014

Page 76

CJ Requirement U68

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

- a. the Chief Investigator or his/her designee to complete review of OCI investigations within 7 days of completion of the supervisor's review;*
- b. the Board of Police Commissioners to complete review of OCI investigations within 45 days of completion of the Chief Investigator's review;³¹ and*
- c. the Chief of Police or his or her designee to complete his or her review of external complaints within 7 days of completion of the BOPC's review.*

Comments:

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

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

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

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

The City remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U69

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

- a. "Unfounded," where the investigation revealed no facts to support that the incident complained of actually occurred;*
- b. "Sustained," where a preponderance of the evidence shows that the alleged conduct did occur and the actions of the officer violated DPD policies, procedures or training;*
- c. "Not Sustained," where there are insufficient facts to decide whether the alleged misconduct occurred; and*

³¹ Amended by Court Order dated July 18, 2003.

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

January 16, 2014

Page 77

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

Comments:

During this reporting period, we reviewed 100 randomly selected OCI cases. For purposes of this paragraph, we evaluated the determination of finding based on the information in each case file. We do not concur with the findings assigned to one or more allegations in four cases. In one case, we believe a demeanor allegation against an Emergency Services Operator should have been sustained. In another, the paperwork contained two different findings for the same allegation, and we were unable to determine which one OCI believed was appropriate. In another case, the investigator failed to question the subject officer specifically about the allegations lodged, and so the findings were premature at best – and potentially improper. In the last case, an allegation of demeanor was raised in the complainant’s interview, but never documented or investigated.

OCI must not only make one of the findings specified above, but the findings must be consistent with the defined requirements and supported by the investigations conducted. However, with a compliance rate of 96%, the City is in Phase 2 compliance with this portion of the requirement.

In addition, we reviewed all 21 IAD cases – including internal and external complaints – that were completed during this reporting period. During earlier reviews, there were dispositions in each of the investigations. We did not always agree with the dispositions, especially those that were derived from faulty interviews and/or the failure to gather pertinent evidence. When we discussed this issue with IAD personnel, IAD advised that it was making efforts to correct the problems.

During this reporting period, all IAD investigations contained the required dispositions. Included in the 21 investigations were 30 allegations of misconduct. The following is a breakdown of the dispositions of the 30 allegations: 14 unfounded; 14 sustained; two not sustained; and none exonerated. Based on our review of the investigative documents, these are appropriate dispositions. IAD is in compliance with this requirement.

IAD is in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

We examined 21 closed IAD cases and 100 closed OCI cases for the period of July 1, through September 30, 2013. Our review disclosed that the following issues continue to require attention:

- *IAD New Investigator Recruitment and Training:* During the last reporting period, two new investigators were assigned to Internal Affairs. It is expected that they will receive the appropriate training during the current reporting period.

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

January 16, 2014

Page 78

- *Case Tracking of Cases at the Wayne County Prosecutor's Office:* In spite of an apparent shortage of staff at the Prosecutor's Office, IAD appears to have eliminated the backlog of overdue cases, including most of the cases that are awaiting disposition or prosecution at the Prosecutor's Office. The IAD manager meets regularly with members of the Wayne County Prosecutor's Office to discuss the viability of the cases still awaiting decisions.
- *Quality v. Quantity of OCI Investigations:* As noted in our past several reports, OCI worked extremely hard to address their large backlog of cases. The quality of their investigations suffered, both because of long periods of inactivity and because of the pressure to complete these investigations and get them off of the books. OCI has eliminated the backlog and as of this writing, OCI has no overdue cases. OCI's Chief Investigator and its supervising investigators have turned their attention to addressing the quality of investigations. During every site visit, we discuss numerous cases in detail from our most recently completed assessment. We note many deficiencies that can be addressed with a thorough review of the cases and independent verification of the content of interviews.

Next Steps:

During the next reporting period, we will:

- Review a sample of the cases closed by OCI and IAD for the months of October, November, and December 2013.

¶	Requirements	Phase 1 - Policy	Phase 2 – Implementation
61	Revise external complaint policies	In Compliance	In Compliance
62	Information campaign re complaints	In Compliance	In Compliance
63	Officers carry information/contact forms	In Compliance	In Compliance
64	Policy to define complaint intake/track	In Compliance	In Compliance
65	Permit factual account, no opinion	In Compliance	In Compliance
66	Unique identifier for complaints	In Compliance	In Compliance
67	Revision of complaint investigations	In Compliance	In Compliance
68	Time limits for review of investigations/complaints	In Compliance	In Compliance
69	Required finding categories specified	In Compliance	In Compliance

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

January 16, 2014

Page 79

VII. GENERAL POLICIES

This section of the Consent Judgment addresses a variety of issues in general terms. It seeks to ensure that when the DPD develops policies, all the terms used are clearly defined, and that prior to making policy revisions, the DPD posts the proposals on the DPD website to inform the community of the proposed revisions. It requires DPD to advise all of its officers that taking police actions in violation of DPD policies shall subject them to a variety of possible actions, to include disciplinary, criminal prosecution, or civil liability. This section also requires officers to report acts of misconduct by other officers, whether on or off duty. Additionally, this section required DPD to revise its policy regarding police actions by off-duty officers; and to revise the policies on how DPD handles prisoners, to include summoning first aid as necessary, summoning assistance if required, and prohibiting the accompanying of prisoners to the holding cell area. This section also required DPD to develop a foot pursuit policy and to plan for adequate distribution of manpower. DPD has developed the appropriate policies and has achieved implementation.

CJ Requirement U70

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)***CJ Requirement U71***

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance – Sustained (*See Executive Summary*)***CJ Requirement U72***

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

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

January 16, 2014

Page 80

Compliance Status:

Phase 1: In Compliance

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

CJ Requirement U73

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

Comments:

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

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

Since DPD had been in compliance since April 2011, we continued it in that status. We noted in our last report that if during this review, we found the Department below >94%, we would take it out of compliant status.

During the October 2013 site visit, we again surveyed Daily Details for three days selected at random (Monday, July 15; Saturday, August 24; and Wednesday, September 11, 2013). We found that 102 (92%) of 111 DPD Platoons and 1,227 (90%) of the 1,362 officers working on those days met the required 1:10 ratio. Inasmuch as DPD has dropped below the >94% compliance test on two consecutive reviews and we advised the Department that it was jeopardy of losing its compliance, we find DPD no longer in compliance with Requirement 73.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U74

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

Compliance Status:

Phase 1: In Compliance

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

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

January 16, 2014

Page 81

CJ Requirement U75

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

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

Comments:

In the previous reporting period, we identified three instances in which off-duty officers engaged in police actions; accordingly, we assessed compliance of the requirement for that report. We found that two of those three cases were policy violations; only one was found to be an exigent circumstance requiring the immediate police action (33%). We caution DPD that failure to achieve >94% next reporting period could result in the loss of Phase 2 compliance with this paragraph.

During this reporting period, we identified two instances of off-duty police actions by DPD members. The first was an off-duty officer who escorted an uninvited disorderly candidate from a mayoral forum at the church. Force was used in the escorting of the individual, and the incident was not an exigent circumstance requiring immediate action. The second involved an off-duty officer who discharged his weapon when approached by individuals attempting to accost some women as they entered a party. This was an exigent situation that FI is investigating.

In our last report, we cautioned DPD that its failure to achieve >94% next reporting period could result in the loss of Phase 2 compliance with this paragraph. Given that only one of the two instances was actually an exigent circumstance (50%), DPD is not in compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not In Compliance

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

January 16, 2014

Page 82

CJ Requirement U76

The DPD shall revise its policies regarding prisoners to:

- a. require officers to summon emergency medical services to transport prisoners when the restraints employed indicate the need for medical monitoring;*
- b. require officers to utilize appropriate precautions when interacting with a prisoner who demonstrates he or she is recalcitrant or resistant, including summoning additional officers, summoning a supervisor and using appropriate restraints; and*
- c. prohibit arresting and transporting officers from accompanying prisoners into the holding cell area.*

Compliance Status:

Phase 1: In Compliance

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

CJ Requirement U77

The DPD shall develop a foot pursuit policy to:

- a. require officers to consider particular factors in determining whether a foot pursuit is appropriate, including the offense committed by the subject, whether the subject is armed, the location (e.g., lighting and officer familiarity), whether more than one officer is available to engage in the pursuit, the proximity of reinforcements, and the ability to apprehend the subject at a later date;*
- b. emphasize alternatives to foot pursuits, including area containment, surveillance, and obtaining reinforcements;*
- c. emphasize the danger of pursuing and engaging a subject with a firearm in hand; and*
- d. require officers to document all foot pursuits that involve a use of force on a separate, auditable form, such as the use of force report.*

Compliance Status:

Phase 1: In Compliance

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

Critical Issues:

DPD must make a concerted effort to ensure member compliance with the DPD policy dealing with foot pursuits. The Department should give special attention to considering alternatives to foot pursuits, relying more strongly on area containment and availability of support units.

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

January 16, 2014

Page 83

Next Steps:

During the next reporting period, we will:

- Continue to monitor relevant policy changes, including efforts to address the public's interest in policy.
- Continue to heed the training requirements inherent in policy development in this area.
- Monitor the presence of arresting or transport officers in the holding cell areas.

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
70	Clear definitions in policies	In Compliance	In Compliance
71	Proposed policy changes open to comm.	In Compliance	In Compliance
72	Advise officers policy violations disciplined	In Compliance	In Compliance
73	Adequate officer/supervisor ratio	In Compliance	Not in Compliance
74	Enforce misconduct reporting requirements	In Compliance	In Compliance
75	Revise policies regarding off-duty officers	In Compliance	Not in Compliance
76	Revise prisoner-related policies	In Compliance	In Compliance
77	Develop foot pursuit policy	In Compliance	In Compliance

VIII. MANAGEMENT AND SUPERVISION

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

A. Risk Management Database

CJ Requirement U78

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

- a. a risk management database (discussed in paragraphs 79-90);*
- b. a performance evaluation system (discussed in paragraph 91);*
- c. an auditing protocol (discussed in paragraphs 92-99);*
- d. regular and periodic review of all DPD policies; and*
- e. regular meetings of DPD management to share information and evaluate patterns of conduct by DPD that potentially increase the DPD's liability.*

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

January 16, 2014

Page 84

Comments:

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

This requirement established the general requirements of the risk management system that are spelled out in greater detail in the requirements that immediately follow. It has now been six quarters since DPD achieved Phase 2 compliance with this requirement. The overall system now functions well and is used to assess and manage risk in the Department. The individual focus of the system with its attention to officer behavior is buttressed by the use of data at the organizational level. For the quarter under review we examined the most recent Quarterly Risk Assessment Review, which covered the second quarter, and the monthly MAS Status Reports for the Quarter, and attended the Command Accountability Meetings during the site visit. These all incorporate the use of risk data and show continued development and analysis in the process of risk management.

Even with these indicators of stability, there are significant transitions occurring with the risk management process. The administration of the unit is in the process of change. With the addition of an auditor to the unit, risk assessment is conducting unannounced site inspections and reviewing original documents to assure the quality of the data. These include reviews of stop and frisk logs, completed use of force forms and investigations and other investigative reports in areas relevant to the Consent Judgments.

The Risk Management Unit is continuing the process of identifying outliers using risk indicators normed by officers' numbers of arrest. Outlier analysis was used in the identification of officers for review this quarter. The risk management unit is also continuing to conduct initial reviews prior to engaging supervisors. This has reduced the workload on first-level supervisors and standardized components of the process.

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

As noted previously, some final steps remain to be completed including the full integration of the current procedures into the computerized system and Departmental policy. Sustainability of this important process will be enhanced by those steps and by continued attention, particularly to the use of the system by supervisors.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U79

The DPD shall enhance and expand its risk management system to include a new computerized relational database for maintaining, integrating and retrieving data necessary for supervision and management of the DPD. Priority shall be given to the DPD obtaining an established program and database. The DPD shall ensure that the risk management database it designs or acquires is adequate to evaluate the performance of DPD officers across all ranks, units and

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

January 16, 2014

Page 85

shifts; to manage risk and liability; and to promote civil rights and best police practices. The DPD shall regularly use this data for such review and monitoring.

Comments:

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

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U80

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

- a. *all use of force reports and use of force investigations;*
- b. *all canine deployments;*
- c. *all canine apprehensions;*
- d. *all canine bites;*
- e. *all canisters of chemical spray issued to officers;*
- f. *all injured prisoner reports and injured prisoner investigations;*
- g. *all instances in which force is used and a subject is charged with "resisting arrest," "assault on a police officer," "disorderly conduct" or "interfering with a city employee;"*
- h. *all firearm discharge reports and firearm discharge investigations;*
- i. *all incidents in which an officer draws a firearm and acquires a target;*
- j. *all complaints and complaint investigations, entered at the time the complaint is filed and updated to record the finding;*
- k. *all preliminary investigations and investigations of alleged criminal conduct;*

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

January 16, 2014

Page 86

- l. *all criminal proceedings initiated, as well as all civil or administrative claims filed with, and all civil lawsuits served upon, the City, or its officers, or agents, resulting from DPD operations or the actions of DPD personnel, entered at the time proceedings are initiated and updated to record disposition;*
- m. *all vehicle and foot pursuits and traffic collisions;*
- n. *all reports regarding arrests without probable cause or where the individual was discharged from custody without formal charges being sought;*
- o. *all reports regarding investigatory stops and/or frisks unsupported by reasonable suspicion;*
- p. *all reports regarding interviews, interrogations or conveyances in violation of DPD policy;*
- q. *the time between arrest and arraignment for all arrests;*
- r. *all reports regarding a violation of DPD prompt judicial review policy;*
- s. *all reports regarding a violation of DPD hold policy;*
- t. *all restrictions on phone calls or visitors imposed by officers;*
- u. *all instances in which the DPD is informed by a prosecuting authority that a declination to prosecute any crime was based, in whole or in part, upon concerns about the credibility of a DPD officer or that a motion to suppress evidence was granted on the grounds of a constitutional violation by a DPD officer;*
- v. *all disciplinary action taken against officers;*
- w. *all non-disciplinary corrective action required of officers, excluding administrative counseling records;*
- x. *all awards and commendations received by officers;*
- y. *the assignment, rank, and training history of officers; and*
- z. *firearms qualification information of officers.*

Comments:

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

Once again, we find that the expected information is present for all the mandated data categories. The totals for data entered during the reporting period for all relevant subtasks are presented below. Our review of MAS reports also supports the fact that these data are consulted and used in the risk management process. We continue to recognize the importance of sound data entry and retention practices and we anticipate further review of specific data elements each reporting period. The data below show that there is a general consistency in the numbers across most categories for the time periods shown. The dashboard data presented in the appendix also show no major changes in patterns over the previous 12 months.

The one area where large differences in data are evident notables is the count of Stop and Frisk Exception Forms (Category o below). These show only the exception form filed when

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

January 16, 2014

Page 87

supervisors reviews of activity reports indicate that stops or frisks occurred but appropriate documentation was not generated. For the current quarter, Stop Exception Forms increased by 435%, and Frisk exception forms increased by 290%, over the last reporting period. This reflects an extensive audit conducted during the quarter. The Risk Management Unit conducts audits on high-risk topics and on Decree requirements that are not in compliance.

The findings here are clear evidence of the need for diligence in the review of the risk data to assure accuracy. Another area of concern with this is the number of times it is reported that an officer “draws a firearm and acquires a target.” The experience of the Monitoring Team suggests these numbers are not accurate. Members are particularly concerned with the lack of reporting of this activity in connection with narcotics enforcement. The potential that such numbers are fudged is of great concern – and cannot help but raise concerns about the accuracy of other data. Accurate data are, of course, the foundation of the entire risk management process. We are pleased to see the expansion of audits of this data, but dismayed by the early findings.

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

January 16, 2014

Page 88

U80 Data Requirements – Quarterly Department Totals							
Subtask	Text	4/1-6/30, 2012	7/1-9/30, 2012	10/1-12/31, 2012	1/1-3/31, 2013	4/1-6/30, 2013	7/1-9/31, 2013
a	use of force reports	334	267	222	209	249	194
a	use of force investigation	118	107	86	63	97	72
b	canine deployments	7	3	5	5	1	0
c	canine apprehension	1	2	3	4	1	0
d	canine bites	0	1	0	0	0	0
f	injured prisoner reports	17	16	16	15	19	26
g	injured prisoner investigations	17	15	14	9	19	26
g	force and arrests for resisting arrest	120	126	102	94	120	78
g	force and arrests for assault on an officer	65	52	69	50	44	37
g	force and arrests for disorderly conduct	31	21	19	12	13	10
g	force and arrests for interfering with city employee	16	12	11	3	13	17
h	firearm discharge reports	8	15	12	9	11	7
h	firearm discharge investigations	8	15	12	9	11	7
i	officer draws a firearm & acquires target	43	21	15	10	23	12
j	Complaints	232	286	247	178	250	303
k	investigations of criminal misconduct by officers	0	0	0	12	17	10
l	criminal proceedings against members	3	3	2	4	2	1
l	all civil lawsuits	18	48	29	4	27	7
m	vehicle pursuits	40	21	30	20	17	36
m	foot pursuits	35	16	8	16	21	17
m	traffic collisions	36	28	31	33	25	26
n	reports of arrests w/o probable cause	0	0	4	3	3	9
n	individuals discharged from custody w/o charges	610	529	453	444	473	582
o	investigatory stops and frisks w/o reasonable suspicion	Frisks=13 Stops=6	Frisks=2 Stops=6	Frisks=4 Stops=3	Frisks=4 Stops=7	Frisks=20 Stops=23	Frisks=78 Stops=123
p	reports of interviews, interrogation, or conveyances in viol of policy	Interviews=0, Interrogation=0, Conveyances=0	Interviews=1, Interrogation=0, Conveyances=0	Interviews=1, Interrogation=0, Conveyances=0	Interviews=10, Interrogation=27, Conveyances=6	Interviews=2, Interrogation=77, Conveyances=2	Interviews=8, Interrogation=18, Conveyances=0
r	reports of violations of prompt judicial review	829	765	769	825	899	850
s	reports of violation of DPD hold policy	189	350	431	528	553	460
t	reports of restrictions on phone calls or visits	18	15	35	9	0	0
u	report of declination to prosecute due to police conduct or suppressed evidence	0	0	0	0	0	0
v	disciplinary action taken against officers	15	41	3	0	0	81
w	non-disciplinary corrective action	131	228	135	161	178	89

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

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

January 16, 2014

Page 89

The quarterly review of these data provides a means by which DPD can assess Department activity and also examine the quality of information entered into MAS. This analysis continues to indicate that the appropriate data are collected and entered into the risk management system.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U81

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

Compliance Status:

Phase 1: In Compliance

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

CJ Requirement U82

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

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

Comments:

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

There are no changes in the compliance status of this requirement. The current Data Input Plan was submitted for review and approved by the Department of Justice. Our observations and interviews with DPD continue to support the conclusion that the provisions of the Data Input Plan are reflected in the practices of the Department. We have identified no significant deviations from the existing plan during this quarter.

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

January 16, 2014

Page 90

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U83

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

- a. require the automated system to analyze the data according to the following criteria:*
 - i. number of incidents for each data category by individual officer and by all officers in a unit;*
 - ii. average level of activity for each data category by individual officer and by all officers in a unit; and*
 - iii. identification of patterns of activity for each data category by individual officer and by all officers in a unit;*
- b. establish thresholds for the numbers and types of incidents requiring a review by an officer's supervisor of whether the officer or group of officers is engaging in at-risk behavior (in addition to the regular reviews required by paragraph 84); and*
- c. require the database to generate reports on a monthly basis describing the data and data analysis and identifying individual and unit patterns.*

Comments:

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

There are no changes in the compliance status of this requirement. The Department's revised Report Protocol was also approved by the Department of Justice in a letter dated June 9, 2011. Our observations and interviews with DPD continue to support the conclusion that the provisions of the Report Protocol are reflected in the practices of the Department. To consider this, we also examine command monthly reviews in MAS, and confirm both the availability and use of the MAS data at the command level. As in previous quarters, during our most recent site visit, members of the Monitoring Team attended the Command Compliance Review Meeting and observed the use of information from MAS.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

January 16, 2014

Page 91

CJ Requirement U84

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

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

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

January 16, 2014

Page 92

Comments:

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

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

This chart reflects the revised PEERS process in which, when thresholds are met, PEERS are completed by the Risk Management Unit. This process was adopted three reporting periods ago and is reflected in the number of PEERS conducted and the elimination of PEERS returned to supervisors. When action is seen as needed, supervisors prepare and implement monitoring and intervention processes. This approach has eliminated the problem of false positives that required extensive review and reporting by supervisors.

PEERS and Their Outcomes								
	Oct-Dec 2011	Jan-March 2012	April-June 2012	July 1-Sept 30 2012	Oct 1-Dec 31 2012	Jan-March 2013	April-June 2013	July-Sept 2013
Total PEERS	77	63	68	58	27	25	23	26
No Action Needed	67 (87%)	53 (84%)	55 (81%)	41 (84%)	0	0	0	0
Monitoring	7 (9%)	8 (13%)	8 (12%)	6 (12%)	13	10	11	7
Other/Pending	4 (5%)	2 (3%)	5 (7%)	2 (4%)	7	4	4	13
PEERS Pending Review by OCR	0	0	0	0	7	24	0	6
PEERS returned for correction or completion	9 supervisors 33 reviews	12 supervisors 13 reviews	3 supervisors 5 reviews	3 supervisors 5 reviews	0	0	9	6
Total Peers Created	na	na	na	na	na	141	153	127

As noted, for the cases shown above, the risk management unit now performs an initial review of officers who exceed thresholds to determine if they are suitable for review. The unit also selects officers for review based on the MAS indicators as normed by arrest numbers. Seven of 26 reviews (54%) and resulted in monitoring. Thirteen remained pending, awaiting completion and six were returned to supervisors for correction or completion. We will continue to consider these cases as they are completed.

We will continue to monitor the level of consistency across the stages of the review process. These reviews document supervisors' reviews of the MAS records of the officers they supervise and, together, suggest appropriate use of the system at this level.

All of the above data indicate that the system is heavily used and carefully administered in a manner consistent with risk reduction goals. The number of reviews returned to supervisors for revision indicates the transition to internal reviews by the risk unit is not complete. That transition should be aided by the elevation of leadership of the Risk Management Unit to the level of commander. The use of risk management data through the command accountability meeting process illustrates the value of this system to the daily management of DPD.

DPD is in Phase 2 compliance with this paragraph.

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

January 16, 2014

Page 93

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U85

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

Compliance Status:

Phase 1: In Compliance

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

CJ Requirement U86

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

Compliance Status:

Phase 1: In Compliance

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

CJ Requirement U87

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

Compliance Status:

Phase 1: In Compliance

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

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

January 16, 2014

Page 94

CJ Requirement U88

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

- a. By January 24, 2008, the City shall have ready for testing a beta version of the risk management database consisting of: 1) server hardware and operating systems installed, configured and integrated with the City and DPD's existing automated systems; ii) necessary database software installed and configured; iii) data structures created, including interfaces to source data; and iv) the information system completed, including historic data. The DOJ and the Monitor shall have the opportunity to participate in testing the beta version using new and historical data and test data created specifically for the purposes of checking the risk management database.*
- b. The risk management database shall be operational and fully implemented by July 24, 2008.*
- c. The parties and the independent monitor shall meet on a monthly basis to discuss what actions have been taken during the previous month toward development of the new risk management database.*
- d. The defendant shall present to the plaintiff and the independent monitor, on a monthly basis, evidence of satisfactory progress sufficient to justify a conclusion that completion of the new risk management database by August 11, 2008 remains feasible. If at any time the plaintiff concludes that successful completion of the project within the timeframes described in this paragraph is unlikely, the plaintiff shall so notify the Court and the defendant. Within sixty days after receipt of such notice, the defendant shall issue an RFP to develop or complete development of the new risk management database as was required by 88c. of this Consent Judgment before it was amended. In that event, the requirements of paragraphs 88.d., 88.e., 88.f., and 88.g. of this Consent Judgment before it was amended shall be enforced, with dates adjusted as follows: the Review Protocol (paragraph 88.d.) shall be issued within five months after issuance of the RFP; the defendant shall select the contractor (paragraph 88.e) within seven months after issuance of the RFP; the beta version (paragraph 88.f) shall be ready for testing within fifteen months after issuance of the RFP; and the risk management database shall be operational (paragraph 88.g) within twenty-six months after issuance of the RFP.³²*
- e. By May 31, 2004, the DPD shall select the contractor to create the risk management database.*
- f. By June 30, 2005, the City shall have ready for testing a beta version of the risk management database consisting of: i) server hardware and operating systems installed, configured and integrated with the City and DPD's existing automated systems; ii) necessary database software installed and configured; iii) data structures created, including interfaces to source data; and iv) the information system completed, including historic data. The DOJ and the Monitor shall have the opportunity to participate in*

³² Amended by Court Orders dated November 9, 2007, and July 22, 2008

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

January 16, 2014

Page 95

testing the beta version using new and historical data and test data created specifically for purposes of checking the risk management database.

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

Compliance Status:

Phase 1: In Compliance

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

CJ Requirement U89

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

Compliance Status:

Phase 1: In Compliance

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

CJ Requirement U90

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

Comments:

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

There are no changes in the Phase 2 compliance status of this requirement. We will continue to monitor the risk management system to ensure that any significant changes are handled in a manner consistent with this requirement. DPD has incorporated descriptions of its data norming process in the relevant Standard Operating Procedures operating procedures. Monthly MAS reports indicate that the Department has not made any significant changes during the reporting period in data collection or the reports generated through MAS.

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

January 16, 2014

Page 96

The changes in review process as noted above have not yet been reflected in policy and reviewed by DOJ, although they have been widely described in monthly status reports and discussed with DOJ and the Monitoring Team.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

B. Performance Evaluation System

CJ Requirement U91

DPD shall ensure that performance evaluations for all DPD employees below the rank of Deputy Chief occur at least annually and include, but are not limited to, consideration of the following:³³

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

Comments:

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

DPD has been in Phase 2 compliance with this paragraph for the past ten reporting periods. To verify continued compliance for the current reporting period, we again examined a random sample of 120 evaluations drawn from all a list of all personnel. Evaluations for three officers eligible for review could not be located. All eligible reviews were current and properly completed with original narratives, references to "no change in status," and/or references to material in MAS. Seven reviews were eliminated due to leave, disabled status or other acceptable circumstances.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

³³ Amended by Court Order dated October 4, 2004.

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

January 16, 2014

Page 97

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

*The DPD shall develop a protocol for conducting annual audits to be used by each officer or supervisor charged with conducting audits. The protocol shall establish a regular and fixed schedule to ensure that such audits occur with sufficient frequency and cover all DPD units and commands. The annual audit period for conducting the audits required by paragraphs 93 to 97 for the first year shall end on August 31, 2004. The subsequent annual periods shall end on July 17, 2005, and every year thereafter.*³⁴

Comments:

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

This requirement, and the five that follow it, establish the structure and processes for auditing key functions in the Department. The required audits have been completed annually.

Phase 2 compliance with this requirement is linked to compliance with the requirements of U93-97. As noted in our last report, the audit protocol was revised, past audits were completed on schedule, and all new audits are now scheduled. A new protocol is being written and will be discussed in our next report. It does involve a significant change to require completion of audits on a quarterly basis.

DPD continues in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U93

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

Comments:

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

The DPD is also in Phase 2 compliance with this requirement. As noted below, completed audits contained Corrective Action Notices and corresponding plans submitted and signed by the appropriate command staff. We review documentation of notification of audits forwarded to the Assistant Chiefs and Chief of Police on the expected schedule.

³⁴ Amended by Court Order dated October 4, 2004.

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

January 16, 2014

Page 98

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U94

*The DPD shall conduct regularly scheduled annual audits, covering all DPD units and commands that investigate uses of force, prisoner injuries, and allegations of misconduct. The audits shall include reviewing a statistically valid sample of command, IAD, and Homicide Section investigations; evaluating whether the actions of the officer and the subject were captured correctly in the investigative report; and evaluating the preservation and analysis of the evidence and the appropriateness of the investigator's conclusions.*³⁵

Comments:

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

There are no changes in the compliance status of this requirement. The DPD is in Phase 2 compliance with this requirement. Audits on use of force, prisoner injuries, and allegation of misconduct were completed during this quarter for the period ending August 31, 2013 and were followed by corrective action reports and corrective action plans when necessary. As part of the audit protocol, new audits are scheduled.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U95

*The DPD shall conduct regularly scheduled annual audits covering all precincts and specialized units that review a statistically valid sample of findings of probable cause, stop and frisk reports and witness identification and questioning documentation. The audits shall include evaluating the scope, duration, content, and voluntariness, if appropriate, of the police interaction. The audits shall include a comparison of the number of arrests to requests for warrants and a comparison of the number of arrests for which warrants were sought to judicial findings of probable cause.*³⁶

Comments:

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

³⁵ Amended by Court Order dated October 4, 2004.

³⁶ Amended by Court Order dated October 4, 2004.

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

January 16, 2014

Page 99

There are no changes in the compliance status of this requirement. DPD has been in Phase 2 compliance with this requirement since our second quarterly report. Stop and frisk audits were completed on schedule, and corrective action reports were completed. As noted above these audits identified significant problems requiring correction. The Department remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U96

*The DPD shall conduct regularly scheduled annual audits covering all precincts and specialized units that examine custodial detention practices. The audits shall include reviewing the length of detention between arrest and arraignment and the time to adjudicate holds.*³⁷

Comments:

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

The DPD has been in Phase 2 compliance with this requirement since the second reporting period. Custodial detention audits of all relevant facilities were completed on schedule. As in the past, there have been areas recognized as needing improvement and subject to corrective action notices regarding detention practices. Improvement from the past is also noted in the audits. The audits contain Corrective Action Notices and corresponding corrective action plans signed by Commanders. The Department remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U97

*The Chief Investigator of OCI shall designate an individual or entity to conduct regularly scheduled annual audits that examine external complaints and complaint investigations. The audit shall include reviewing a statistically valid sample of complaints that were resolved informally, reviewing a sample of OCI investigations of complaints, and contacting the complainants to evaluate whether the actions and views of the complainant were captured correctly in the complaint report and/or investigation. The Chief Investigator shall review all audit reports regarding officers under OCI command and, if appropriate, shall take non-disciplinary corrective action or disciplinary action.*³⁸

³⁷ Amended by Court Order dated October 4, 2004.

³⁸ Amended by Court Order dated October 4, 2004.

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

January 16, 2014

Page 100

Comments:

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

There are no changes in the compliance status of this requirement. This audit was completed for the reporting period ending August 31, 2013. The report was completed on May 31, 2013 for review up the chain of command. Consistent with the other oversight-related requirements, the Department has been in Phase 2 compliance with this requirement since the second reporting period. Corrective action reports and plans were completed based on the audits. The Department remains in compliance with this requirement. New audits are scheduled the beginning of next year.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U98

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

Comments:

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

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

During our review of the second quarter of 2013, we found that DPD had selected 175 police/citizen contacts to be reviewed and that all in which cars had operational video systems in place were reviewed. As expected, the compliance rates reported by supervisors were much more realistic than those found in previous "random" reviews in which the reviewing supervisor simply selected the event to be reviewed. Further, we found a number of instances where supervisors commented on safety and tactical methods employed by the officers. We concluded that the random review process had been substantially improved.

DPD failed to conduct any random reviews during the third quarter of 2013. Prior to our October 2013 site visit, we requested data pertaining to the Department's random reviews for the quarter. When we arrived onsite, we learned that the data had not been collected. Inasmuch as DPD erases video older than 90 days, it would be impossible to collect data for July. DPD subsequently conducted the random reviews for traffic stops in August and September 2013.

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

January 16, 2014

Page 101

We examined 98 random reviews conducted by DPD supervisors in October 2013, of events that occurred in August and September 2013. Over 31% (30 of the 98 traffic stops) reflected instances where audio was not collected by one or both officers. Two of these failures were attributable to equipment malfunctions that were reported in a timely fashion for repair. Of the remaining 28 failures to record audio, supervisors and their commanders resolved them as shown on the following chart.

Number of Reviews	Resolution
17	Counseling, instruction or training
2	Pending - Further inquiry to determine if the failure was the first such instance for the officer
4	ACR
5	<p>No Action - In three cases, the supervisors and commanders implied that there was a technical failure. In one case the supervisor noted “there is the issue as to (the officer’s) body mic failing to activate when the overheads were activated.” No discipline was suggested or imposed. We reviewed the repair logs and found no report for the car around the date in question.</p> <p>In another case where no action taken, the commander observed, “keep an eye out on future reviews regarding mics (sic).” We reviewed the repair log and found no entry for the car being repaired.</p> <p>In another case, the Commander urged his subordinates to “keep an eye on mics (sic) that are not activating for tech issues.” Again, we found no report for the vehicle on the repair log.</p> <p>In two remaining cases where no action was taken or noted for failure to record audio, the management chain seemed to ignore the failure altogether. In one, action was recommended to address an operational failure to make an arrest but none was recommended for the failure to record audio. In a second instance, the review concluded, “No policy violations for this traffic stop,” and the commander signed off on it.</p>

After three years and 15 quarterly reviews in which we have monitored compliance with U98, DPD failed to conduct any random reviews for the quarter until reminded of its responsibility to do so. While we reviewed the random reviews conducted in October for two of the three months in the reporting period, we cannot find the Department in compliance when it failed to conduct any reviews during the quarter under review.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

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

January 16, 2014

Page 102

CJ Requirement U99

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

Comments:

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

DPD has been in Phase 2 compliance with this requirement since the second reporting period. To verify continued compliance with this requirement for this reporting period, we reviewed the minutes of the August 14, 2113 quarterly meeting involving DPD and members of the Prosecutor's Office. Consistent with previous meetings, a wide range of topics were discussed and reported in the meeting minutes including those relating recording of interrogations, case issues when officers fail to appear for court, practices regarding detainee time constraints, and various other crime issues. The next meeting is scheduled for November 13, 2013.

The Department remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

D. Use of Video Cameras

CJ Requirement U100

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

Comments:

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

MVS equipment, particularly older units, is subject to breaking down and requiring repair. As a result, the total number of operational units at any one time varies. In July 2012, DPD estimated that it had about 303 MVS units installed in its fleet. A total of 94 cars have been equipped with the new D911 video system. The complement of MVS equipment actually installed has remained the same, about 300 vehicles, since July 2011. At any one time, however, the equipment that is operational is less than 300. During this site visit, we found that a total of 184 different DPD cars were operational and uploaded video during July 2013; 184 in August 2013; and 174 in September 2013.

In October 2012, the IT Bureau (ITB) addressed a system-wide technical failure that occurred and was disrupting the system for uploading data to its central server. To correct the problem, the Department acquired and installed a new central server that was dedicated to handling all the data from the newly acquired Data 911 (D911) MVS units. The new central server initially resolved the uploading problem. DPD also acquired and installed two store and forward servers to hold video data and forward it to the central server. This system has functioned well since January 2013, and no major failures have been experienced in which significant amounts of data

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

January 16, 2014

Page 103

could not be uploaded. The challenge to the DPD now is to ensure its members record the events as required by DPD policies.

We reviewed the service log for the period of July 1, through September 30, 2013, and found that the ITB handled 190 MVS-related service actions during the quarter. Four were classified as “Active,” two as “Closed Unresolved,” one as “Pending (Vendor Issue)” and 183 (96%) as “Completed.” The average number of minutes spent to accomplish each repair was 68 minutes.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U101

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

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

Comments:

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

During past site visits, we found:

1. The DPD MVS cameras are set to operate 100% of the time on patrol. Full video is 24-30 frames per second; MVS units are set to capture one frame of video per second at all non-emergency times. The equipment is set so that whenever the emergency lights are activated, the units switch to full-video mode and capture 28 frames per second. The Department now erases the one frame per second video recorded on the D911 MVS equipment after it has been stored for 24 hours.
2. DPD preserves and retains videos when it is able to upload them successfully in the central server, as required by U101c.

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

Uses of Force: We requested reports for 82 use of force cases closed during the months of June, July and August 2013 for review. Twenty-three cases had no equipment or faulty equipment. Six others involved recordings made from fixed locations such as DPD detention facilities or business locations. Of the remaining 53 cases, 20 (38%) had video/audio recordings from scout cars. Use of force video and audio reviews are addressed in requirement U32.

Injuries: In past reporting periods, DPD has been unable to produce a report that identified a comprehensive list of incidents involving injuries to officers or subjects in which MVS should

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

January 16, 2014

Page 104

have been recorded by officers and reviewed by supervisors. Beginning in January 2013, the Department has tracked injuries to both officers and subjects. During the third quarter of 2013 (July 1, through September 30, 2013), the DPD identified 64 instances in which DPD officers suffered injuries during the third quarter of 2013. Most injuries occurred in circumstances in which MVS was not applicable. Only two instances produced video; both were audio but the injury occurred outside the field of vision. Both were reviewed by supervisors.

Pursuits: DPD officers engaged in 37 pursuits during the first quarter of 2013. Twelve cars that engaged in these pursuits were not equipped with operational MVS. Several cars with operational video equipment had participated in pursuits in early July 2013, but these recordings were erased. We were able to find data for these instances through review of the DPD 665 forms for all but one pursuit.³⁹ Our review of the 24 remaining instances where video equipped cars engaged in pursuits during the reporting period revealed that 18 (75%) recorded video during the pursuit, and seven (29%) recorded audio. Audio is particularly important when officers leave their car to arrest or chase a subject on foot. We found six instances where the pursuits ended in foot chases or arrests but the officers failed to activate the audio. All six of these pursuits were reviewed by supervisors but none commented on the officers failures to activate their audio.

Supervisors reviewed 13 (75%) of the 18 pursuits involving MVS equipped cars. Seven of the remaining 12 pursuits where video was recorded involved supervisors who claimed that they had tried to review video but found it to be unavailable. In six of these instances we determined that the “broken” MVS was not brought in for repair around the time the technical failure was identified by the supervisor or we were able to find and review the video the supervisors said was unavailable. In these cases we did not credit the Department with conducting a supervisory review of the video/audio.

The following chart depicts these data.

Pursuits Q3 July – September, 2013								Supervisor Review	
Number	MVS Equipped	Erased	Surveyed	Video	%	Audio	%	Number	%
37	25	1	24	18	75%	7	29%	13	76%

External Complaints: We reviewed eight IAD investigations that were closed in the third quarter 2013 that should have had video. Six (75%) contained video and audio that was reviewed and used in the investigations.

³⁹ DPD policy is to erase video recordings when they have been retained for 90 days. The Department failed to protect several the pursuit recordings collected in July 2013, and the ones that were over 90 days old at the time of our review in October had been automatically erased. We were able to verify that six had been reviewed through DPD form 665 compiled to record data pertaining to pursuits.

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

January 16, 2014

Page 105

We also reviewed 11 OCI cases where it was appropriate to check video in the police facilities. Video and/or audio were found in seven (64%) cases, including six with both video and audio and one where only audio was found. In 43 cases where it was appropriate to check for video in scout cars, both video and audio were found in 13 (30%) cases; and in six additional cases, only video was found.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U102

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

Comments:

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

DPD has never achieved Phase 2 compliance with this requirement. In October 2012, storage of video camera data was severely disrupted during the third quarter of 2012 due to a technical failure that prevented video from being uploaded successfully. In January 2013, we found that the MVS system had been stabilized in October 2012, through the acquisition of a new central server that was devoted to the new Data 911 (D911) MVS. Since most of the DPD's deployed MVS equipped cars were loaded to capacity with data that could not be uploaded until the new server was installed, the system was not functioning smoothly again until mid-November 2012. We reviewed traffic stop data for December 2012, and found video and audio present in 83% and 47%, respectively, of the random sample records surveyed.

During our April 2013 site visit, we were able for the first time since 2012, to review a full set of random samples of traffic stops to determine if video and audio were collected. The January results (video 76% and audio 56%) were very much at the same level as we have found before, but February and March showed marked improvement; 92% and 94% of the records surveyed during these months had video, and 76% and 80% had audio. During our July 2013 site visit, we again sampled traffic stops for each month in the preceding quarter. We found continued improvement over the last Quarter 1; 94% had recorded video and 81% had audio.

The chart below depicts the first three quarters of 2013.

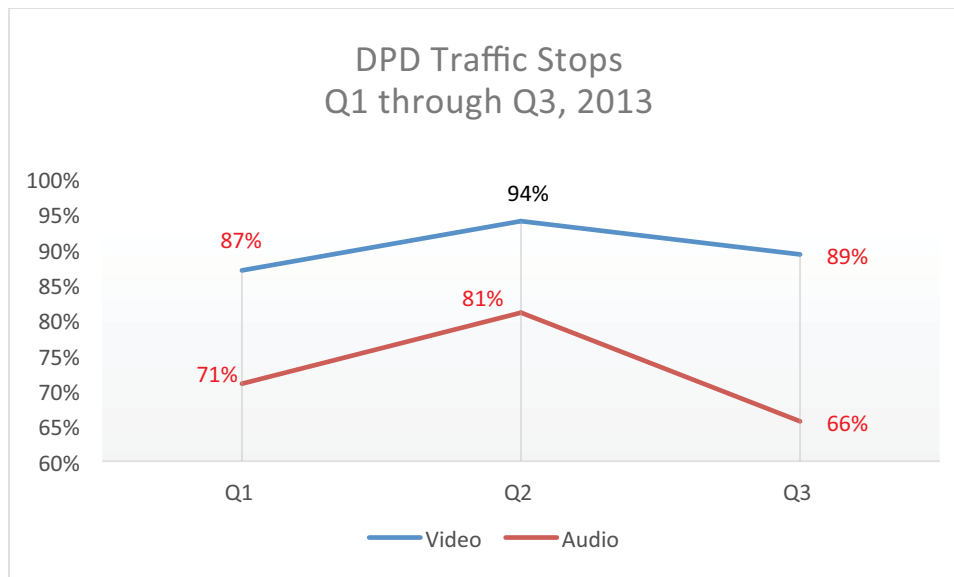
**SEVENTEENTH QUARTERLY REPORT OF THE INDEPENDENT MONITOR
FOR THE DETROIT POLICE DEPARTMENT**

January 16, 2014

Page 106

TRAFFIC STOPS 2013					
Quarter/Month	# Records	Video	%	Audio	%
Quarter 1 - 2013					
January	50	38	76%	28	56%
February	50	46	92%	38	76%
March	50	47	94%	40	80%
<i>Q1 Totals</i>	150	131	87%	106	71%
Quarter 2 - 2013					
April	50	46	88%	41	79%
May	46	43	93%	35	76%
June	46	44	96%	39	85%
<i>Q2 Totals</i>	142	133	94%	115	81%
Quarter 3 - 2013					
July	53	46	87%	39	74%
August	71	66	93%	48	68%
September	71	62	87%	41	58%
<i>Q3 Totals</i>	195	174	89%	128	66%

During our October 2013 site visit, we sampled traffic stops for each month in the previous quarter. We found a decline in compliance over the previous quarter when video had been recorded at 94% and audio at 81%. During this reporting period, video declined to 89% and audio to 66%. Overall, compliance with U101 has declined to the levels we observed in the fifteenth reporting period. The following chart illustrates the results of the first three quarterly reviews in 1023.



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

January 16, 2014

Page 107

In addition, DPD advised that 12 vehicles were searched with canines during the period July 1, 2013, through September 30, 2013. In 11 of the 12, the car was equipped with an operational MVS in which both the video and microphones were working. Eight (73%) of the 11 deployments recorded video and seven (64%) recorded both video and audio. The following chart reflects these data.

Month	# Searches	Video Working	Mic Working	Video	% Video	Audio	% Audio
July	1	1	1	1	100%	1	100%
August	7	6	6	4	67%	4	67%
September	4	4	4	3	75%	2	50%
Q3	12	11	11	8	73%	7	64%

The Department is not in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U103

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

Comments:

This requirement, and the two that follow, address the Department's disciplinary process. When the City of Detroit signed the Use of Force Consent Judgment, the Department's disciplinary process was almost completely dysfunctional. A backlog of cases numbered in the thousands and the system was neither effective at addressing improper actions or at maintaining due process for officers. Conditions are dramatically different now. The backlog was completely eliminated and the department now manages its processing of cases to assure it does not return, and the Department does so in a manner consistent with the rights of officers and the needs of the department. An established matrix of expected sanctions based on charges is followed and cases are completed according to an established and predictable timeline.

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

There are no changes in the compliance status of this requirement. The DPD has been in Phase 2 compliance with this requirement since the second reporting period. For this reporting period, we reviewed all 220 disciplinary cases that were closed during the quarter. This is a substantial increase over the last quarter. There is no backlog of cases and case flow is being managed sufficiently. During the current reporting period, a total of 119 new disciplinary cases were opened. In our last report we noted a large number of newly opened cases. Information on this

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

January 16, 2014

Page 108

quarter's case closing indicates that the disciplinary unit is successful in handling the temporary increase by closing a commensurate number of cases without compromising quality.

In our last report, we noted the personnel changes in the Disciplinary Administration Unit. The most recent transition in leadership overseeing the Unit has proceeded smoothly.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U104

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

Comments:

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

There are no changes in the compliance status of this requirement. The DPD has been in Phase 2 compliance with this requirement since the second reporting period. As noted above, for this reporting period, we reviewed all 220 disciplinary cases that were closed during the quarter. All disciplinary proceedings met the established timelines and were consistent with this requirement. As of the end of September, there are six cases remaining open that form 2011. All involve the same officer. There are no earlier cases. Fifty-three cases remained open from 2012 and 100 from the current year. The status of all open cases is tracked by the disciplinary unit and reported quarterly. All open 2011 and 2012 cases reflect appropriate scheduling and steps toward closure. The earlier cases remain open due to extraordinary circumstance such as military leaves or extending sick time making officers unavailable.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U105

The DPD shall create a disciplinary matrix that:

- a. establishes a presumptive range of discipline for each type of rule violation;*
- b. increases the presumptive discipline based on both an officer's prior violations of the same rule as well as violations of other rules;*

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

January 16, 2014

Page 109

- c. requires that any departure from the presumptive range of discipline must be justified in writing;*
- d. provides that the DPD shall not take only non-disciplinary corrective action in cases in which the disciplinary matrix calls for the imposition of discipline; and*
- e. Provides that the DPD shall consider whether non-disciplinary corrective action also is appropriate in a case where discipline has been imposed.*

Comments:

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

There are no changes in the compliance status of this requirement. The DPD has been in Phase 2 compliance with this requirement since our second quarterly report. For this reporting period, we reviewed all 220 disciplinary cases that were closed during the quarter. The disciplinary matrix is provided for use at disciplinary trial boards and other disciplinary processes. All decisions during this reporting period fell within the matrix and were consistent with this requirement. The matrix underwent minor revision earlier this month. DPD continues to be in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 - Implementation
78	Comprehensive Risk Management Plan	In Compliance	In Compliance
79	Improve risk management system	In Compliance	In Compliance
80	Database requirements (a-z)	In Compliance	In Compliance
81	Database to include officer information	In Compliance	In Compliance
82	Data Input Plan (a-d)	In Compliance	In Compliance
83	Report Protocol for database (a-c)	In Compliance	In Compliance
84	Review Protocol for database (a-l)	In Compliance	In Compliance
85	Use modules to ensure work progress	In Compliance	In Compliance
86	Common control number required	In Compliance	In Compliance
87	Data retention	In Compliance	In Compliance
88	Database schedule (expired)	In Compliance	In Compliance
89	Interim database (rescinded)	In Compliance	In Compliance
90	Change process needs DOJ approval	In Compliance	In Compliance
91	Annual officer review criteria specified	In Compliance	In Compliance
92	Protocol for conducting audits	In Compliance	In Compliance

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

January 16, 2014

Page 110

¶	Requirements	Phase 1 – Policy	Phase 2 - Implementation
93	Audit results to Chief and commanders	In Compliance	In Compliance
94	Annual audits-use of force	In Compliance	In Compliance
95	Annual audits-probable cause/stop-and-frisk	In Compliance	In Compliance
96	Annual audits-detention practices	In Compliance	In Compliance
97	Annual audits-external complaints	In Compliance	In Compliance
98	Random reviews of in-car camera videos	In Compliance	Not in Compliance
99	Regular meeting with local prosecutors	In Compliance	In Compliance
100	Replace/repair video cameras	In Compliance	In Compliance
101	Revision of video camera policy	In Compliance	Not in Compliance
102	Record all vehicle stops, searches, etc.	In Compliance	Not in Compliance
103	Elimination of disciplinary case backlog	In Compliance	In Compliance
104	Scheduling of disciplinary cases	In Compliance	In Compliance
105	Disciplinary matrix of responses/sanctions	In Compliance	In Compliance

IX. TRAINING

During our most recent site visit, we visited the Detroit Police Training Center and interviewed the new Training Commander and key members of the training staff. The DPD revises and updates its training courses annually and introduces the new material in July of each year. Last year, during our July 2012 site visit, we reviewed the lesson plans, training materials, and scenarios that guided training for the year that ended on June 30, 2013, and we found them to be adequate.

During our October 2013 site visit, we reviewed the memoranda, lesson plans, scenarios, and policy material for use during the 2014 Training Year (July 1, 2013, through June 30, 2014). We found the materials adequate.

A. Oversight and Development

CJ Requirement U106

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

Comments:

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

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

January 16, 2014

Page 111

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

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U107

The DPD, consistent with Michigan law and the Michigan Law Enforcement Officers Training Council standards, shall:

- a. ensure the quality of all use of force and arrest and detention training;*
- b. develop use of force and arrest and detention training curricula;*
- c. select and train DPD officer trainers;*
- d. develop, implement, approve and oversee all training and curricula;*
- e. establish procedures for evaluating all training curricula and procedures; and*
- f. conduct regular needs assessments to ensure that training governing use of force and arrest and detention are responsive to the knowledge, skills and abilities of the officers being trained.*

Comments:

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

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

- a. During our October 2013, site visit, we reviewed the lesson plans, scenarios and training materials that are being used in the 2014 Training Year (July 1, 2013 – June 30, 2014) and found them to be adequate. We reviewed the report entitled, "Training Oversight and Development Report – Semi-Annual Review," dated June 2013, which documents the DPD's semi-annual review and evaluation of its training during the 2013 Training Year. The next such report will be completed in December 2013.
- b. As we have observed in past reviews, DPD policy, curricula, and lesson plans prepared for the 2014 Training Year adequately addressed this requirement.

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

January 16, 2014

Page 112

- c. DPD selected no officer trainers during the reporting period.
- d/e. As we have observed in past reviews, DPD policy, curricula, and lesson plans address these provisions. As noted above, we reviewed DPD training materials prepared for the 2014 Training Year and found them to be adequate.
- f. Directive 304.5-3.4, revised July 10, 2012, places responsibility on the Commander of Training to conduct training needs assessments and Directive 304.5-6.2, requires that such assessments be conducted and documented every two years. As noted previously, in July and December 2012, the DPD conducted and documented training needs assessments. During our last site visit, we reviewed the new training needs assessment conducted in June 2013.

The Department remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U108

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

Comments:

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

DPD captures data relating to its in-service training, and records it on a spreadsheet. Since the spreadsheet is used by the Department to determine if all of its officers have attended the required in-service training sessions, we have conducted audits of its accuracy during the current and past reporting periods. Inasmuch as the DPD has been in compliance with this requirement for two years, we reduced the sample to 25 officers.

We randomly selected 25 officers who were listed on the spreadsheet as having received and completed in-service training from July 1, through September 30, 2013. To complete their in-service training, these officers would have to attend and sign attendance sheets for three courses: Legal/Use of Force for sign-in sheets are combined since both are taught on the same day; PR-24; and Firearms Qualification. In addition, if the officer selected on the random sample list was a supervisor or investigator, they would have attended the Leadership In-Service as well. DPD was able to locate all (100%) of the expected signatures.

During our previous reviews, we found that the Department committed to recording training data in the MITN System, a part of the Michigan Commission on Law Enforcement Standards (MCOLES) data system. Training has now entered all DPD training records for years 2003 through the present. During this reporting period, the same training records for the 25 officers in our random sample relating to Use of Force, Legal, PR-24 and Firearms Qualification, were

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

January 16, 2014

Page 113

checked in the MITN system to see if they had been recorded. All (100%) were found to have been entered into MITN.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U109

The DPD shall ensure that only mandated objectives and approved lesson plans are taught by instructors and that instructors engage students in meaningful dialogue regarding particular scenarios, preferably taken from actual incidents involving DPD officers, with the goal of educating students regarding the legal and tactical issues raised by the scenarios.

Comments:

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

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

The Department remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U110

The DPD shall meet with the City Law Department on a quarterly basis concerning the conclusion of civil lawsuits alleging officer misconduct, information gleaned from this process shall be distributed to DPD risk management and training staff.

Comments:

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

The DPD met with the City Law Department pursuant to this requirement on September 26, 2013. Meetings are held quarterly. The DPD remains in compliance with U110.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

January 16, 2014

Page 114

CJ Requirement U111

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

Comments:

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

This training is conducted by CRIB for both civilian and sworn personnel. The Department hired two new employees who were trained by CRIB during the reporting period. DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

B. Use of Force Training***CJ Requirement U112***

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

- a. The DPD's use of force continuum; proper use of force; decision making; and the DPD's use of force reporting requirements;*
- b. The Fourth Amendment and other constitutional requirements, including recent legal developments;*
- c. Examples of scenarios faced by DPD officers and interactive exercises that illustrate proper use of force decision making, including the use of deadly force;*
- d. The circumstances in which officers may draw, display, or point a firearm, emphasizing:*
 - i. Officers should not draw their firearm unless they reasonably believe there is a threat of serious bodily harm to the officer or another person;*
 - ii. The danger of engaging or pursuing a suspect with a firearm drawn; and*
 - iii. That officers are generally not justified in drawing their firearm when pursuing a subject suspected of committing only a misdemeanor;*
- e. The proper use of all intermediate force weapons;*
- f. Threat assessment, alternative and de-escalation techniques that allow officers to effect arrests without using force and instruction that disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements, calling in specialized*

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

January 16, 2014

Page 115

units or even letting a subject temporarily evade arrest may be the appropriate response to a situation, even when the use of force would be legally justified;

- g. Interacting with people with mental illnesses, including instruction by mental health practitioners and an emphasis on de-escalation strategies;*
- h. Factors to consider in initiating or continuing a pursuit;*
- i. The proper duration of a burst of chemical spray, the distance from which it should be applied, and emphasize that officers shall aim chemical spray only at the target's face and upper torso, and*
- j. Consideration of the safety of civilians in the vicinity before engaging in police action.*

Comments:

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

During this review, we assessed training policy directives, curricula, lesson plans, special orders, training needs assessment and teletypes, among other materials that were prepared to address the requirements of U112 during the 2014 Training Year (July 1, 2013, through June 30, 2014). Our review showed that the course content requirements of U112 and its subparagraphs a, b, c, d, f, g, h, i and j were met for all in-service trainees in the Legal and Use of Force blocks of instruction. The requirements for subparagraph e were met in the PR-24 block of instruction.

We found that during the first quarter of the new Training Year (July 1, 2013 through June 30, 2014), 476 (22%) of the 2,146 DPD officers available to train attended and completed the in-service blocks for Use of Force and Legal training in which the requirements for U112 are primarily fulfilled. In addition, 463 officers (22%) attended the PR-24 block of instruction.

The Department remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

C. Firearms Training

CJ Requirement U113

The DPD shall develop a protocol regarding firearms training that:

- a. Ensures that all officers and supervisors complete the bi-annual firearms training and qualification;*
- b. Incorporates professional night training, stress training (i.e., training in using a firearm after undergoing physical exertion) and proper use of force decision making training in the bi-annual in-service training program, with the goal of adequately preparing officers for real life situations;*
- c. Ensures that firearm instructors critically observe students and provide corrective instruction regarding deficient firearm techniques and failure to utilize safe gun handling*

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

January 16, 2014

Page 116

procedures at all times; and undergoing physical exertion) and proper use of force decision making training in the bi-annual in-service training program, with the goal of adequately preparing officers for real life situations;

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

Comments:

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

The requirements specified in U113 are addressed in the Department's firearms training, which officers are required to attend and qualify in every six months. During the previous six-month firearms qualification period (January 1, 2013 through July 30, 2013), 98% of the officers available to train attended firearms and qualified.

During this review, we found that at halfway through the firearms training period, 849 (40%) of the 2,146 officers available to train had attended firearms training and qualified.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

D. Arrest and Police-Citizen Interaction Training

CJ Requirement U114

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

- a. The DPD Arrest, Investigatory Stop and Frisk and Witness Identification and Questioning Policies;*
- b. The Fourth Amendment and other constitutional requirements, including:*
- c. Advising officers that the "possibility" that an individual committed a crime does not rise to the level of probable cause;*
- d. Advising officers that the duration and scope of the police-citizen interaction determines whether an arrest occurred, not the officer's subjective, intent or belief that he or she affected an arrest; and*

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

January 16, 2014

Page 117

- e. *Advising officers that every detention is a seizure, every seizure requires reasonable suspicion or probable cause and there is no legally authorized seizure apart from a "Terry stop" and an arrest; and*
- f. *Examples of scenarios faced by DPD officers and interactive exercises that illustrate proper police-community interactions, including scenarios which distinguish an investigatory stop from an arrest by the scope and duration of the police interaction; between probable cause, reasonable suspicion and mere speculation; and voluntary consent from mere acquiescence to police authority.*

Comments:

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

The topics required by U114 were taught in the 2013 Training Year (July 1, 2012 through June 30, 2013) in the Legal and Use of Force blocks of training. During the 2013 Training Year, 99% of the DPD officers available to train completed the Legal and Use of Force blocks of instruction. In the current 2014 Training Year (July 1, 2013 through June 30, 2014), these topics are all covered in the Legal block of instruction. At the first quarter mark of the current training year, 476 (22%) of its 2,146 officers available to train had completed the Legal block of instruction. DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

E. Custodial Detention Training***CJ Requirement U115***

The DPD shall provide all DPD recruits, officers and supervisors with annual training on custodial detention. Such training shall include DPD policies regarding arrest, arraignment, holds, restrictions, material witness and detention records.

Comments:

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

DPD developed appropriate policies and lesson plans to comply with this provision, as well as a protocol to train all recruits, sworn members, confinement officers, investigators, and supervisors. All officers who attend the Use of Force and Legal in-service receive training regarding arrest, arraignment, holds, restrictions, material witness and detention records specified by this requirement. Officers who serve in the detention cell areas were required to receive *additional* annual detention officer training, which is more specifically related to detention responsibilities. In spite of the fact that the Department is transferring the responsibility for detention to the State of Michigan, many of the topics will remain important for officers to understand. This training will be continued until the end of the current training cycle at which time it will be reassessed.

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

January 16, 2014

Page 118

During the training year that ended on June 30, 2013, 99% of DPD members attended the Use of Force and Legal in-service training sessions and received this training. At the end of the first quarter of the current training year, 476 (22%) of DPD officers available to train have attended the Use of Force training and the Legal training.

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U116

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

Comments:

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

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

At the end of the first quarter of the new 2014 Training Year, DPD remains in compliance, having trained 476 (22%) of its 2,146 officers available to train in these in-services. The Department remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U117

The DPD shall advise officers that whether an individual is a material witness and whether that material witness should be committed to custody is a judicial determination.

Comments:

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

Material witness training has been incorporated into the Use of Force and Legal lesson plans. At the conclusion of the 2013 Training Year, DPD was in compliance, having trained 99% of its officers available to train in these in-services. At end of the first quarter of the new 2014 Training Year, DPD has trained 476 (22%) of its 2,146 officers available to train in the Legal and Use of Force blocks of instruction.

DPD remains in Phase 2 compliance with this paragraph.

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

January 16, 2014

Page 119

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

F. Supervisory Training

CJ Requirement U118

The DPD shall provide supervisors with training in the appropriate evaluation of written reports, including what constitutes a fact based description, the identification of conclusory language not supported by specific facts and catch phrases, or language that so regularly appears in reports that its inclusion requires further explanation by the reporting officer.

Comments:

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

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

During the first quarter of the current training year (July 1, 2013 through September 30, 2014), 90 (20%) of the Department's 443 supervisors who were available to train attended the Leadership and Accountability in-service training.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U119

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

Comments:

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

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

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

January 16, 2014

Page 120

During the first quarter of the current training year (July 1, 2013 through September 30, 2014), 90 (20%) of the Department's 443 supervisors who were available to train attended the Leadership and Accountability in-service training.

DPD remains in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U120

The DPD shall provide training on risk assessment and risk management to all DPD supervisors, including the operation of the risk management database.

Compliance Status:

Phase 1: In Compliance

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

CJ Requirement U121

The DPD shall provide training on appropriate burdens of proof, interview techniques and the factors to consider when evaluating officer, complainant or witness credibility to all officers who conduct investigations to ensure that their recommendations regarding dispositions are unbiased, uniform and legally appropriate.

Compliance Status:

Phase 1: In Compliance

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

CJ Requirement U122

The DPD shall provide all supervisors charged with accepting external complaints with appropriate training on handling external complaints that emphasizes interpersonal skills. The DPD shall provide training on the DPD external complaint process, including the role of OCI and IAD in the process, to all new recruits and as part of annual in-service training.

Compliance Status:

Phase 1: In Compliance

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

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

January 16, 2014

Page 121

H. Field Training

CJ Requirement U123

The DPD shall develop, subject to DOJ approval, a protocol to enhance the FTO program within 120 days of the effective date of this Agreement. The protocol shall address the criteria and method for selecting and removing the FTOs and for training and evaluating FTOs and trainees.

Compliance Status:

Phase 1: In Compliance

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

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

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

January 16, 2014

Page 122

SECTION THREE:**COMPLIANCE ASSESSMENTS - THE CONDITIONS OF
CONFINEMENT CONSENT JUDGMENT**

This Consent Judgment sets forth procedural and operational requirements relating to the confinement facilities maintained and operated by the Detroit Police Department. The Judgment requires the revision and implementation of policies and practices that are safe, respectful, and constitutional in the areas of fire safety, emergency preparedness, medical and mental health, prisoner safety, environmental health and safety, persons with disabilities, food service, and personal hygiene. In addition, the Judgment sets forth requirements relating to the use of force in detention facilities, as well as procedures for the investigation of the use of force and complaints relating to other events occurring in these facilities. The Judgment also establishes requirements for management and supervision, the auditing of internal practices, and the training of personnel who are assigned detention responsibilities.

During our first site visit in November 2009, we reviewed required directives, supporting logs, forms, and documentation relating to the operation of the detention facilities. Accompanied by key members of the DPD Office of Civil Rights personnel, we conducted our first tour of the Detroit Police Department's five facilities with holding cells and the Detroit Receiving Hospital.⁴⁰ We have repeated our tours and inspections of some or all of these facilities during each of our subsequent site visits, and have interacted with command and key detention staff at each facility.

In addition, we have met with key CRIB command staff, Audit Team personnel, and the designated health care professional to conduct a thorough review of all requirements, DPD directives, forms, logs, and documentation relating to and required by this Judgment. Our review disclosed the need for the DPD to revise various health-related directives and to have them reviewed and approved by a health care professional. This was accomplished. In addition, we met with DPD Training staff regarding training issues, which were promptly addressed.

During our visits to and inspections of the various facilities with holding cells, we are always accompanied by CRIB staff, and assisted by the cell block supervisors and compliance officers. These inspections included our entering and examining every holding cell, interviewing detention staff, and reviewing forms and logs. When we find errors, omissions or violations during the inspections we advise facility and CRIB staff immediately of our observations.

We have worked with DPD holding facilities staff to streamline reporting mechanisms and to offer alternatives to ensure that requirements are met and are consistent with policy.

Prior to forwarding documents requested for our quarterly reviews, CRIB personnel routinely review the documents before they are forwarded to us. During this review, CRIB typically identifies errors and/or omissions and forward corrective action notices to the various commands. Written responses are required. If appropriate supervisory review occurred and

⁴⁰ Facilities with holding cells are located in the Northeastern, Eastern, and Southwestern Districts; Sixth and Twelfth Precincts.

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

January 16, 2014

Page 123

errors/omissions were initially identified and corrected at the District/Precinct level, that action would have a positive bearing on compliance.

As a result of negotiations between DPD and MDOC (Michigan Department of Corrections), a contract was signed to have the State house all DPD detainees. Both parties signed the Interagency Agreement during the first week of April 2013, and the transfer of the Northeastern District's detainees was completed on August 5, 2013; as of our October 2013 site visit, only one holding facility remains open, and that facility will be closed by the end of October 2013. The Independent Monitoring Team toured the MDOC facilities during the remodeling phase, and found the structure to be well suited for DPD's needs. The facility is relatively new, and the physical plant is in much better condition than any of the five holding areas currently utilized by the Department. During our July 2013 site visit, we again toured the facility, along with representatives from the Justice Department and DPD. During our October 2013 site visit, the DDC was operational, and we were able to observe DPD detainees being processed into the facility.

The Conditions of Confinement Consent Judgment is comprised of several different categories relating to the confinement facilities maintained and operated by DPD.

III. FIRE SAFETY POLICIES

CJ Requirement C14

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

Comments:

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

The Fire Marshal Division of the Detroit Fire Department conducted its annual review and approved the Fire Safety Program (FSP) and the Comprehensive Emergency Preparedness Program (CEPP) for all DPD buildings containing holding cells on July 18, 2013. The most recent semi-annual inspections and audits were conducted from May to July 2013, and completed by July 31, 2013. There were violations discovered at three of the five facilities. The violations were related to the Fire Alarm Control Panel and sprinkler equipment, general fire safety, address numbers on buildings, and an outstanding violation for repair to an elevator. Due to the outsourcing of all detention responsibilities to the Michigan Department of Corrections, the DPD will consider corrective action for each violation within the overall context of the transition to the DDC and plans for future operations.

Accordingly, DPD remains in Phase 2 compliance with this paragraph.

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

January 16, 2014

Page 124

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C15

The DPD shall develop and implement a comprehensive fire detection, suppression and evacuation program for the holding cells, and buildings that contain them, in accordance with the requirements of the Life Safety Code and in consultation with the Detroit Fire Department.

Comments:

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

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

During this reporting period, we reviewed DPD 716, Fire Extinguisher Monthly Inspection/Inventory, and DPD 703, Fire Drill Documentation Forms, for all of the districts/precincts with holding cells in operation; and determined that all facilities are in compliance with these requirements. We also examined a sample of the fire extinguishers at the last operational holding facility, and found all of them to be fully charged.

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C16

The fire safety program shall be developed in consultation with, and receive written approval by, the Detroit Fire Department. As part of developing the fire safety program, the Detroit Fire Department shall evaluate the need for and, if necessary, the DPD shall install: fire-rated separations, smoke detection systems, smoke control systems, sprinkler systems and/or emergency exits for the holding cells and buildings that contain them. The fire safety program shall be submitted for review and approval of the DOJ within three months of the effective date of the Agreement.

Comments:

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

Following the development of the Fire Safety Plan, the DPD made required structural changes to districts/precincts' holding facilities, including the updating and/or installation of sprinkler systems, fire alarm systems, and fire-rated doors. The Fire Marshal conducted the annual inspection and approved the Fire Safety program on July 18, 2013. During our inspection of the last operational district/precinct holding cell in October 2013, we found the presence of all three.

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

January 16, 2014

Page 125

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C17

The DPD shall implement the fire safety program within one year of the effective date of this Agreement. Thereafter, the program shall be reviewed and approved in writing by the Detroit Fire Department at least every year, or prior to any revisions to the plan.

Comments:

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

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

The most recent inspections were conducted during June and July and documented on July 18, 2013. The next Fire Marshal's inspection is due in June 2014. DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C18

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

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

Comments:

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

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

January 16, 2014

Page 126

The DPD has been in full Phase 2 compliance with this paragraph since the first reporting period. Fire Systems of Michigan and the Fire Marshal conducted and documented inspections of suppression systems on July 18, 2013. DPD remains in Phase 2 compliance with the requirements of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C19

The DPD shall ensure that fire safety equipment is routinely tested, inspected and maintained, including the sprinkler systems, fire alarm systems, manual fire extinguishers, emergency lighting and exit signs, and self-contained breathing apparatuses.

Comments:

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

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

The Fire Safety Plan places responsibility for ensuring the required testing, inspections, and maintenance of the various systems, fire extinguishers, emergency lighting and signs, and equipment with the DPD Office of Facilities Management. We reviewed DPD 715 - Evaluation of the Operation of Holding Cells forms for this reporting period. There was no indication that sprinkler systems were out of order during the CRIB monthly inspections.

Fire Systems of Michigan and the Fire Marshal conduct the required inspections, which were last conducted in June and July 2013.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C20

The DPD shall enforce immediately its no-smoking policy in the holding cells or provide ashtrays and ensure that all holding cell areas are constructed and supplied with fire-rated materials.

Comments:

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

The DPD has been in Phase 2 compliance with this paragraph since the first reporting period. During our most recent inspections, we did not observe any persons smoking in unauthorized

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

January 16, 2014

Page 127

areas. Also, during our review of all of the monthly inspections on DPD 715, Evaluation of the Operation of Holding Cells, we found no documentation that any smoking had been observed in the facilities.

DPD is in continued Phase 2 compliance with this Consent Judgment paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C21

The DPD shall insure immediately that all flammable and combustible liquids in holding cell areas and the attached and nearby DPD buildings are stored properly.

Comments:

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

Our inspections of the holding facilities have found that each district/precinct was equipped with at least one yellow storage cabinet, located in the garage area, for flammable and combustible liquids. We checked the cabinets, and found flammable materials and gas storage containers.

DPD is in continued Phase 2 compliance with this Consent Judgment paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C22

The DPD shall remove immediately all highly-combustible kane fiber ceiling tiles from buildings that contain holding cells.

Comments:

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

The DPD has been in continued compliance with this Consent Judgment paragraph since 2005 when it closed some of the facilities where kane fiber ceiling tiles were in place, and it removed the tiles from the remaining facilities.

DPD is in continued Phase 2 compliance with this Consent Judgment paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

January 16, 2014

Page 128

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
14	Holding Cell Life Safety Code compliance	In Compliance	In Compliance
15	Fire detection, suppression, and evacuation	In Compliance	In Compliance
16	Fire Department consultation/evaluation	In Compliance	In Compliance
17	Implementation of fire safety program	In Compliance	In Compliance
18	Immediate interim fire safety measures	In Compliance	In Compliance
19	Routine testing of fire safety equipment	In Compliance	In Compliance
20	Enforce no smoking in holding cells	In Compliance	In Compliance
21	Proper storage of flammable liquids	In Compliance	In Compliance
22	Remove combustible cane fiber tiles	In Compliance	In Compliance

IV. EMERGENCY PREPAREDNESS POLICIES

CJ Requirement C23

The DPD shall ensure a reasonable level of safety and security of all staff and prisoners in the event of a fire or other emergency.

Comments:

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

As noted previously, Phase 2 compliance is related to and contingent upon the implementation of C24-25; DPD is in compliance with C24 and C25. Accordingly, we find this paragraph in compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C24

The DPD shall develop a comprehensive emergency preparedness program that is approved in writing by the Detroit Fire Department. This program shall be submitted for review and approval of the DOJ within three months of the effective date of this Agreement. The DPD shall implement the programs within three months of DOJ's review and approval. Thereafter, the program shall be reviewed and approved in writing by the Detroit Fire Department at least every year, or prior to any revisions to the plan. At a minimum, the emergency preparedness program shall:

- a. include an emergency response plan for each building that contains holding cells identifying staff responsibilities in the event of fire-related emergencies and other emergencies, including notification responsibilities, evacuation procedures and key control procedures (discussed below); and*

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

January 16, 2014

Page 129

- b. require performance and documentation of fire drills for all buildings containing holding cells on all shifts every six months (documentation shall include the start and stop times of each drill, the staff members who participated in the drill, a summary of the drill, and an evaluation of the success of the drill).*

Comments:

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

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

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C25

The DPD shall develop and implement key control policies and procedures that will ensure that all staff is able to manually unlock all holding cell doors in the event of a fire or other emergency.

At a minimum, the key control policies and procedures shall:

- a. provide for emergency identification of keys by touch;*
- b. and require routine inventory, testing and maintenance of keys and locks.*

Comments:

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

During our first site visit, we recommended that each officer working in a cell block be issued a complete set of keys. Following this recommendation, we were informed that two extra sets of keys were distributed to each district/precinct with holding cells, bringing the total at each to five – three in the cell block, one with the sergeant assigned to the public lobby, and one in the emergency key box in the lieutenants' and sergeants' office.

During our three previous inspections, we found that each district/precinct had, at the minimum, five sets of keys – three in the cell block, one with the sergeant assigned to the public lobby, and one in the emergency key box in the lieutenants' and sergeants' office. Teletype 11-0989, Holding Cell Facility Keys – Required Documentation, regarding inventory and assignment of keys by the cell block supervisor, had been distributed. This policy directed the cell block supervisor to conduct an inventory of the keys at the commencement and the conclusion of

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

January 16, 2014

Page 130

his/her tour of duty and document same in the MAS Desk Blotter. Subsequently, CRIB distributed Department Teletype 11-01395, which thoroughly explained the procedure for documenting the inventory and security of keys. When interviewed, the detention supervisors and officers appeared to have an understanding of their responsibility for key control.

During our most recent site visit of the remaining district with a holding cell, we determined that the supervisors and officers that we interviewed appeared to understand the process for inventory and control of the keys. The MAS Desk Blotter indicated that key inventories were entered in a timely manner.

DPD continues to be in compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
23	Ensure reasonable safety in emergency	In Compliance	In Compliance
24	Develop comprehensive emergency preparedness program	In Compliance	In Compliance
25	Implementation of key control policies	In Compliance	In Compliance

V. MEDICAL AND MENTAL HEALTH CARE POLICIES

CJ Requirement C26

The DPD shall ensure the appropriate identification of, and response to, prisoner's medical and/or mental health conditions.

Comments:

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

DPD has previously had difficulties with this paragraph due to the requirements of C27-33. Those issues were addressed and subsequently this paragraph is now compliant.

During previous reporting periods, we reviewed all DPD's Audit Team's report of its findings of the Holding Cells and are in agreement with their findings as they have been similar to ours. The Audit Team's analysis and reporting of the holding facilities condition has contributed significantly to DPD's ability to reach and maintain compliance with this Section. The most recent audit we have reviewed of the holding cells was released on July 31, 2013 and the few deficiencies noted have been addressed. DPD released its Quarterly Status Report on March 31, 2013; we note that the Department's internal inspections of C26 and C32g continue to show that it is in compliance with both paragraphs. We are in agreement with DPD's assessment, as we have similar findings for the current reporting period. We have observed steady improvement during the past four reporting periods to address the deficiencies described in our reports.

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

January 16, 2014

Page 131

DPD revised the Detainee Intake Form (DIS) with implementation on September 20, 2012. The document was approved by the Department's consulting physician on August 31, 2012. The new form is completed (via hand) by the processing officer during intake screening, streamlined, and has resolved the most pressing issues with documentation from the previous form. New guidelines for the completion of the revised DIS were issued to assist processing officers conducting screening of detainees. As a result of the implementation of the revised Detainee Intake Form, it was disabled from Livescan.

During the current reporting period, we reviewed and inspected a random sample of 97 detainee file folders and observed personnel. We found that most DPD personnel are properly implementing these procedures in accordance with the DPD directives. In order to assess compliance with this paragraph, we reviewed those issues that had a direct impact on identification and response to a detainee's medical or mental health conditions. Compliance with this paragraph is dependent upon compliance with C27-C33 (C27-C33 are all compliant).

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C27

The DPD shall develop a comprehensive medical and mental health screening program (CMMHSP) that shall be approved in writing by qualified medical and mental health professionals. This program shall be submitted for review and approval of the DOJ within three months of the effective date of this Agreement. The DPD shall implement the program within three months of DOJ's review and approval. Thereafter, the program shall be reviewed and approved by qualified medical and mental health professionals at least every year and prior to any revisions to the programs. At a minimum, the comprehensive medical and mental health screening program shall include prisoner screening procedures and medical protocols.

Comments:

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

The DPD Health Authority completed the annual review and approved the CMMHSP policies and directives. The DPD provided us with documentation indicating that the CMMHSP was approved on April 8, 2013, and the mental health portion was approved on March 13, 2013. DPD revised the Detainee Information Form with implementation on September 20, 2012 with written approval on August 31, 2012 by the Department's consulting physician.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

January 16, 2014

Page 132

CJ Requirement C28

The prisoner screening procedure, at a minimum, shall:

- a. enable the DPD to identify individuals with medical or mental health conditions, including infectious diseases, chronic conditions, including disabilities, ambulatory impairments, mental health conditions, and drug/alcohol withdrawal;*
- b. identify persons who are at risk of committing suicide, persons who have been on heightened observation for suicide risk at any time during a past incarceration and persons who have any medical contraindications for the use of chemical sprays,*
- c. require that the DPD follow a standard intake procedure for each individual entering DPD custody;*
- d. require that intake screening be conducted within two hours of intake and through a verbal exchange between the DPD and prisoners; and*
- e. incorporate all health information pertaining to a prisoner acquired by the arresting or transporting officers.*

Comments:

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

During our review of documentation and the October 2013 site visit, we found DPD in Phase 2 compliance with this requirement. For this reporting period, we observed few deficiencies. There remain minor clerical errors and occasionally incomplete or incorrect completion of required forms. With few exceptions, personnel documented those instances where information was critical to the detainees' healthcare. (See C29).

All five subsets of this paragraph exceeded the 94% requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C29

The medical protocols, at a minimum, shall:

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

Comments:

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

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

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

January 16, 2014

Page 133

During this reporting period, we reviewed a sample of 97 detainee file folders, and inspected each of the districts/precincts that maintain holding cells. We found that staff did not follow policy in a few areas, including:

- Thirty-four referrals of detainees in need of medical or mental health care to DRH or another local hospital and all were within policy, with two exceptions.
- One case in which the intake screening was not conducted within the two-hour timeframe and where no operational delay was indicated.
- Detainees not receiving medications prescribed by the Detroit Receiving Hospital in a timely manner. Twenty detainees had medications disbursed (145 individual dosages); and in three instances, the dosages were not administered within a reasonable time according to the prescription schedule.
- There were 29 instances where detainee medical information was listed by the arresting officer on the Detainee Input Sheet; and in one case, the processing officer failed to transfer that information to the Detainee Information Form.
- Thirty-four detainees who were sent to the Detroit Receiving Hospital for treatment or medication; in all but one, discharge instructions were included in the detainee file folders. We found three instances among the remaining 33 detainees where one or more pages of the discharge instructions were missing. For all detainees who went to DRH for treatment or medication verification, we reviewed 191 individual pages of discharge instructions.
- The required Hospital Prisoner Form was included in all but one of the detainees who were sent to DRH.
- Of 97 classifications of detainees into the holding facilities after screening, 93 were correctly classified.
- There were four Detainee Custodial Transfer Logs (detainees transferred to other DPD holding facilities) completed in the sample and all contained the receiving Cell Block Supervisors signature.
- There were 14 crime partners correctly identified by the processing officer at the time of initial processing.

All individual requirements of this paragraph exceeded the 94% requirement. DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

January 16, 2014

Page 134

CJ Requirement C30

The DPD shall develop and implement policy regarding infectious disease control (IDC) in consultation with medical health professionals. The policy shall be reviewed and approved in writing by qualified medical health professionals at least every year after implementation and prior to any revisions to the policy. At a minimum, the policy shall:

- a. establish appropriate housing for prisoners believed to have infectious diseases; and*
- b. mandate measures the DPD shall take to prevent the spread of infectious diseases, including proper handling and disposal of bio-hazardous material.*

Comments:

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

During our previous site visits, our inspections of the DPD facilities that maintain holding cells disclosed satisfactory levels of sanitation in similar degrees at all of the sites with a trend toward improvement. During our most recent site visit, we found the one open facility in compliance. At the conclusion of our October 2013 site visit, only one holding facility remained operational (Second Precinct). DPD revised Policy 403.2, Infectious Disease Control, on May 29, 2013.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C31

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

- a. require that prisoner's health information is recorded at intake and thereafter immediately readily available to all relevant medical and transporting personnel in a manner consistent with the relevant federal and state confidentiality statutes;*
- b. require that prisoner health information is continually updated to incorporate any additional relevant information acquired during his or her detention;*
- c. require that relevant prisoner health information is documented and communicated between consecutive shifts, such as whether a prisoner is taking medication or has a medical condition; and*
- d. require that prisoner health information travel with prisoners who transferred to another facility.*

Comments:

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

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

January 16, 2014

Page 135

Our review of the available documentation and our October 2013 inspection indicates that DPD exceeds the 94% compliance with all of the requirements of this paragraph. For additional information, see C28 and C36b.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C32

The DPD shall develop a prescription medication policy in consultation with qualified medical and mental health professionals that ensures prisoners are provided prescription medication as directed. The policy shall be approved in writing by qualified medical and mental health professionals and shall be submitted for review and approval of the DOJ within three months of the effective date of this Agreement. The DPD shall implement the policy within three months of the DOJ's review and approval. Thereafter, the policy shall be reviewed and approved in writing by qualified medical and mental health professionals at least annually and prior to any revisions to the program. At a minimum, the policy shall:

- a. indicate when the DPD shall convey prisoners taking prescription medication to the DRH or other treating hospital for evaluation;*
- b. require the DPD distribute to prisoners only medications that have been prescribed at the DRH or other treating hospitals;*
- c. require that the DPD distribute medications as prescribed and not rely on inmates to identify their need for medication;*
- d. require that all prisoner medications be stored in a secure location near the holding cells and travel with prisoners that are transferred;*
- e. require the DPD to record relevant information regarding the administration of prescription medication on an auditable form;*
- f. require that injected medications are administered as prescribed and in a safe and hygienic manner; and*
- g. require that unused medications prescribed at the DRH or other treating hospitals are provided to prisoners upon their release.*

Comments:

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

During this reporting period, at the one remaining holding facility that remained open, we found all Medication Logs in proper order and accurately recorded. In prior reviews detainee dosages, dosing times, signatures, the names of the persons administering the medications, and

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

January 16, 2014

Page 136

prescription release information did not always appear on the logs. Those issues have now been addressed.

During the current reporting period, in our review of 97 detainee file folders, we found few instances where the DPD failed to record essential detainee and staff information.

During our most recent site visit, we checked all active detainee file folders for those detainees who were on medication or on a monitoring status and found all in order.

DPD has addressed the previous failures with the requirements of C32g, and had achieved compliance with this paragraph for the past four reporting periods. The Department must continue to focus on the concerns related to the documentation of medication disbursements and release of medications when a detainee is released or transferred; C32a through 32g all exceed the 94% compliance requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C33

The DPD shall provide appropriate clothing, such as paper gowns or suicide smocks, to all prisoners placed under suicide precautions.

Comments:

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

During our most recent inspections, we found sufficient inventory of paper gowns and/or suicide smocks. The staff we interviewed was knowledgeable regarding the use of the clothing and where the appropriate clothing was stored.

We find DPD in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C34

The DPD shall remove or make inaccessible all suicide hazards in holding cells including exposed pipes, radiators and overhead bars.

Comments:

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

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

January 16, 2014

Page 137

During all of our previous site visits, we conducted comprehensive inspections of each of the five districts/precincts that maintain holding cells, as well as the Detroit Receiving Hospital cells, and did not observe any hazards that could affect detainees or staff.

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
26	Prisoners' medical/mental health conditions	In Compliance	In Compliance
27	Medical/mental health screening program	In Compliance	In Compliance
28	Medical/mental health screening procedures	In Compliance	In Compliance
29	Medical protocols	In Compliance	In Compliance
30	Infectious disease policy required	In Compliance	In Compliance
31	Prisoner health information protocol required	In Compliance	In Compliance
32	Prescription medication policy required	In Compliance	In Compliance
33	Clothing-suicide prevention	In Compliance	In Compliance
34	Removal of suicide hazards	In Compliance	In Compliance

VI. PRISONER SAFETY POLICIES

CJ Requirement C35

The DPD shall ensure a reasonable level of safety of staff and prisoners through the use of appropriate security administration procedures.

Comments:

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

Phase 2 compliance is related to and contingent upon the implementation of staff and inmate safety measures required by C36-38; accordingly, the DPD is in compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

January 16, 2014

Page 138

CJ Requirement C36

The DPD shall develop and implement a prisoner security screening program for all buildings containing holding cells. At a minimum, the program shall:

- a. establish protocols based upon objective, behavior-based criteria for identifying suspected crime partners, vulnerable, assaultive or special management prisoners who should be housed in observation cells or single-occupancy cells; and*
- b. require that security screening information is documented and communicated between consecutive shifts.*

Comments:

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

DPD Form 659A (Platoon Daily Detainee Summary Log [PDDSL]), revised August 2011, is used to record information on detainees with medical conditions or special needs. During this reporting period, we reviewed logs that contained 2,518 entries. The Department's compliance rate for this reporting period is 98%. All Districts exceeded the 94% accuracy requirement.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C37

The DPD shall develop and implement procedures for the performance, documentation and review of routine cell checks in all holding cells to ensure safe housing. At a minimum, the procedures should:

- a. require that cell checks on the general population are performed at least twice per hour and that cell checks of prisoners in observation cells and DRH holding cells are performed every 15 minutes, unless constant supervision is required; and*
- b. require detention officers to document relevant information regarding the performance of cell checks in an auditable log.*

Comments:

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

General population well-being checks are entered on the DPD 659 Form every 30 minutes at the districts/precincts. Detainees held in observation cells are monitored every 15 minutes on DPD Form 661, Detainee Medical/Mental Health Monitoring (DMMHM) logs. During the current reporting period, our review of 4,938 entries in the Detention Cell Check Logs (DPD 659) for the general detainee population from the districts with holding cell facilities reflected a 98.9% compliance rate.

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

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

January 16, 2014

Page 139

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C38

The DPD shall record in a written policy and implement a procedure that requires detention officers to provide continual direct or on site remote observation of all observation cells while they are occupied.

Comments:

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

For the periods of July 12-17, August 4-9, and September 2-7, 2013, we reviewed logs for 16 detainees who required a 15-minute or constant observation watch, reported on Form DPD 661 (DMMHM Log). All districts met or exceeded the required $\geq 94\%$ compliance standard for 15 minute cell checks.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
35	Security procedures to ensure safety	In Compliance	In Compliance
36	Prisoner security screening program	In Compliance	In Compliance
37	Procedures for cell checks required	In Compliance	In Compliance
38	On-site remote observation of cells	In Compliance	In Compliance

VII. ENVIRONMENTAL HEALTH AND SAFETY POLICIES

CJ Requirement C39

The DPD shall ensure that all holding cells are cleaned immediately and thereafter are maintained in a clean and sanitary manner.

Comments:

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

During this reporting period, we evaluated all districts/precincts that were still holding detainees for general cleanliness and sanitation. The cleanliness level in the holding areas was satisfactory. Because of the pending closure of DPD holding cells, lighting and corroded benches were not evaluated during this tour.

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

January 16, 2014

Page 140

Documentation of holding cell cleaning continued to be satisfactory during this reporting period. All districts were above the required 94% compliance score for the reporting period.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C40

The DPD shall design and implement a cleaning policy for all holding cells. The policy shall require routine cleaning and supervisory inspection of the holding cells and nearby areas.

Comments:

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

This requirement addresses the design and implementation of a cleaning policy for all holding cells. It also requires the routine cleaning and supervisory oversight of cleaning of the cells and nearby areas. The policy is in place and is adequate.

DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C41

The DPD shall design and implement a maintenance policy for all holding cells that requires timely performance of routine maintenance and the documentation of all maintenance requests and responses in an auditable log.

Comments:

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

This section of the Consent Judgment requires “timely performance of routine maintenance.” Compliance with this requirement remains challenging due to the age of the facilities and furnishings and the lack of availability of replacement parts. However, we observed fewer than 10 holding cells closed in those districts still holding detainees. In each case, appropriate signage was placed on the front of the closed cells to inform staff that the cells were out of order. The closed cells did not negatively impact the districts’ ability to house detainees.

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

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

January 16, 2014

Page 141

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C42

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

Comments:

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

No HVAC issues were identified during our most recent site visit. As we toured the holding cells of those facilities still housing detainees, we checked the temperatures in the cell areas and found the temperatures to be within the limits established by the Department (between 66°F and 85°F).

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C43

The DPD shall repair all broken or malfunctioning lighting, toilets, sinks and windows in holding cells and observation cells.

Comments:

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

During our most recent inspection, we continued to find instances of malfunctioning lights, toilets, and sinks. As reported in C41, the General Services Division of the City of Detroit is grossly understaffed, and response times for maintenance requests can exceed 60 days. The facilities and the equipment are old and outdated. When these malfunctions occur in the holding cells, the cells are taken out of service and signage is posted on the front of the cell to prevent usage until repairs are completed.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

January 16, 2014

Page 142

CJ Requirement C44

*The DPD shall ensure that lighting in all cell block areas is maintained at an appropriate level for all tasks related to the housing of DPD detainees, including but not necessarily limited to, security, safety, cleaning and disinfection of housing areas.*⁴¹

Comments:

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

As in past visits, during our most recent site visit, lighting levels were determined to be marginally sufficient in the cell areas. No changes have occurred in this area since the last visit.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C45

The DPD shall provide all prisoners with reasonable access to toilets and potable water 24 hours-a-day.

Comments:

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

No issues were identified during our most recent site visit. All prisoners had access to toilets and potable water at all times. Cells with plumbing deficiencies were not being used and signage was posted accordingly.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C46

The DPD shall ensure that all Hepa-Aire purifiers comply with the Michigan Occupational Safety and Health Agency standards.

Comments:

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

⁴¹ Amended by Court Order dated April 23, 2012.

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

January 16, 2014

Page 143

All Hepa-Aire purifiers have been permanently removed from the district/precinct holding cell areas. DPD is in full compliance with the requirements of this Consent Judgment paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
39	Clean and maintain holding cells	In Compliance	In Compliance
40	Holding cell cleaning policy required	In Compliance	In Compliance
41	Holding cell maintenance policy required	In Compliance	In Compliance
42	Provide adequate heating and ventilation	In Compliance	In Compliance
43	Repair broken/malfunctioning cell elements	In Compliance	In Compliance
44	Insure sufficient cell lighting	In Compliance	In Compliance
45	Provide reasonable access to toilets and water	In Compliance	In Compliance
46	Hepa-Aire purifiers comply with standards	In Compliance	In Compliance

VIII. POLICIES CONCERNING PERSONS WITH DISABILITIES

CJ Requirement C47

The DPD shall ensure that persons with disabilities are provided with reasonable accommodations.

Comments:

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

No issues were identified during our most recent site visit. During our most recent site visit, we found that detention staff in the districts continue to demonstrate competency in the use of Telecommunications Devices for the Deaf (TDD). In addition, the TDD equipment was working properly in all sites still housing detainees. DPD detention staff are required, per policy, to conduct tests on a monthly basis to ensure the equipment is working properly. In each holding facility, detention staff were able to demonstrate the use of the equipment.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

January 16, 2014

Page 144

CJ Requirement C48

The DPD shall develop and implement a policy concerning the detention of individuals with disabilities in consultation with qualified medical and mental health professionals. The policy shall be approved in writing by qualified medical and mental health professionals. Thereafter, the program shall be reviewed and approved in writing by qualified medical and mental health professionals at least every year and prior to any revisions to the program.

Comments:

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

The provisions of this requirement are covered in DPD 305.1, Detainee Intake, and DPD 305.5, Detainee Health Care. These policies were reviewed and approved by qualified medical and mental health professionals on April 8, and March 13, 2013 respectively.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

IX. FOOD SERVICE POLICIES

CJ Requirement C49

The DPD shall ensure food is stored and served in a sanitary manner and in compliance with state and local health codes.

Comments:

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

January 16, 2014

Page 145

CJ Requirement C50

The DPD shall develop and implement a food service policy that shall be approved in writing by a qualified sanitarian. At a minimum, the food service policy shall:

- a. require that the meal plan is initially approved in writing by a qualified dietician and, hereafter, is reviewed and approved in writing by a qualified dietician at least every year, or prior to any revisions to the program;*
- b. require that all food is stored and handled in a sanitary manner;*
- c. ensure that all prisoners are provided with an alternative meal if they are unable to eat the standard meal for religious or dietary reasons; and*
- d. ensure that food service is provided to all prisoners who are held over six hours.*

Comments:

The DPD is in Phase 1 compliance with this paragraph. See Appendix B. DPD's Detainee Food Service and Hygiene Items Policy 305.8, was revised by the Detroit Police Department, dated January 9, 2013.

During the current reporting period, we reviewed Desk Blotter logs for the periods of July 12-17, August 4-9, and September 2-7, 2013. Food service documentation continued as required. Our review of the districts' Desk Blotter Logs for meal service documentation revealed that all districts exceeded the required 94% compliance standard. The Department's overall compliance rate was 98% for this reporting period. All districts/precincts are in compliance with this paragraph.

The Detention Refrigeration Log, DPD form 655, is used to capture daily refrigerator temperatures and weekly cleaning and sanitization information on a monthly basis. This revised form was implemented on June 7, 2012, Department-wide. During this reporting period, we found documentation that the refrigerators had been cleaned weekly and refrigerator temperatures were satisfactory. Expiration dates on the food were up to standard. All districts were 100% compliant with the refrigeration logs.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
49	Ensure sanitary food storage and service	In Compliance	In Compliance
50	Food service policies and practices	In Compliance	In Compliance

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

January 16, 2014

Page 146

X. PERSONAL HYGIENE POLICIES

CJ Requirement C51

The DPD shall ensure that personal hygiene items should include; soap, toothbrushes, toothpaste, toilet paper, a comb, deodorant, and feminine hygiene products. The DPD shall implement this provision within one month of effective date of this Agreement.

Comments:

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

In the current reporting period, we inspected each area where the hygiene kits are stored to determine if the kits were readily available, and found that in all facilities still housing detainees, there were an adequate number of hygiene kits to distribute to detainees when needed. Feminine hygiene products were also available in all sites. Our interviews with the PDOs demonstrate an understanding of the importance of providing personal hygiene items to the detainees on a daily basis. Detainees indicated they had no problems obtaining personal hygiene items when needed.

The DPD's compliance rate with this requirement is 100%. Accordingly, we find the Department in continued Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
51	Make available personal hygiene items	In Compliance	In Compliance

CJ Requirement C52

The DPD shall require that any use of force on prisoners in holding cells complies with the DPD's use of force policies and procedures.

Comments:

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

During the previous reporting period, we examined four SIRs regarding incidents occurring at detention facilities. Two were detainee injuries (DIs) with no force involved. All of the cases were in compliance with DPD's use of force policies and procedures. Two of the cases were attempted suicides. All four of the cases included video review. DPD is in Phase 2 compliance with this paragraph.

During this reporting period, we examined four SIRs regarding incidents occurring at detention facilities. One was a detainee injury (DI) with no force involved. One of the cases was in compliance with the DPD's use of force policies and procedures. The third involved the entry into a cell to remove a cell phone from a detainee, who refused surrender it. The Cell Block Supervisor could not be located, and officers entered the cell to retrieve the cell phone, resulting

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

January 16, 2014

Page 147

in a use of force. A supervisor was not notified prior to the use of force, and no exigency was articulated to justify the immediate action. The Desk Supervisor could have been contacted but was not. The fourth case involved the removal of a juvenile from a locked detainee interview room (used as a lock-up for juveniles) where he was beating on the glass and was observed urinating on the floor. A sergeant and three officers responded, and force was utilized to remove the juvenile to the male bullpen area. We believe this incident should have been handled as a cell extraction.⁴² Overall, two of the four cases complied with DPD use of force policies and procedures (50%). All four of the cases included video review. Although this 50% finding is problematic, in accordance with our methodology, we are making no change on the present compliance finding at this time..

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C53

The DPD shall revise and augment its policies regarding prisoners to require that:

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

Comments:

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

All districts/precincts that maintain holding cells are equipped with some level of videotaping/digital recording equipment that is linked to a camera system that monitors hallways and common areas as well as most, but not all, cells. In addition to the mounted video equipment, the detention districts/precincts have been issued handheld cameras that can be used for planned extractions. Our visits to the various holding facilities found that supervisors were aware of the handheld cameras and had received some training in their use. All supervisors contacted during our most recent site visit were aware of the cameras' location, and were aware of the need to check the recorders to ensure that the batteries were functional. In the previous reporting period, we found that there were four SIR investigations of incidents occurring in detention facilities cases; only one of these cases were cell extractions.

⁴² We believe they should have incorporated all of the cell extraction plan procedures.

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

January 16, 2014

Page 148

During this reporting period, we reviewed four cases, three in June and one in July.⁴³ One was a detainee injury with no force used. The detainees involved in the three uses of force all displayed resistant, recalcitrant behavior prior to the use of force. Another incident occurred in the processing area and a supervisor and sufficient personnel were present to effectively address the situation. The two remaining cases were not handled properly or in compliance with DPD policies. In one, the detainee had a cell phone in the cell and would not surrender it. The officers entered to remove it without notifying the Cell Block Supervisor or alternately, the Desk Supervisor. In the second, a juvenile was removed from a detainee interview room by three officers and a supervisor. As previously noted, we view it as a cell extraction and do not believe that the Department's protocol for cell extractions was followed. Overall, two of the cases were handled appropriately, and two were not (50%). Although this 50% finding is problematic, in accordance with our methodology, we are making no change on the present compliance finding at this time.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C54

The DPD shall not handcuff prisoners to benches for longer periods of time than are necessary.

Compliance Status:

Phase 1: In Compliance

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

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
52	Use of force policies	In Compliance	In Compliance
53	Revise policy re use of force with prisoners	In Compliance	In Compliance
54	Handcuffing of prisoners to benches	In Compliance	In Compliance

⁴³ In June there were three cases, one at the Northeastern District and two at the Second Precinct. The Northeastern case was the removal of the cell phone from a detainee in which a supervisor was not contacted prior to the use of force and no exigency was articulated. One of the Second Precinct cases resulted in a DI; the second involved the removal of the juvenile from the detainee interview room. The July case involved an incident in the processing area, which was handled appropriately with sufficient personnel present and the handheld camera utilized.

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

January 16, 2014

Page 149

XII. INCIDENT DOCUMENTATION, INVESTIGATION AND REVIEW

CJ Requirement C55

The DPD shall require that all uses of force, injuries to prisoners and in-custody deaths occurring in the DPD holding cells are investigated in compliance with the DPD's general incident investigation policies.

Comments:

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

During the last reporting period, we reviewed four cases, three of which were classified as detainee injuries. One of the three injuries involved a detainee who fell in his cell and struck his head on the bench; one involved an attempted suicide in which the individual complied with all instructions from the intervening officers; and the last involved an attempted suicide by an individual who failed to comply with the instructions given. In this last case, force was required to remove him from the cell he was flooding.

The fourth detainee injury involved a female prisoner who refused to leave the unit in the garage and had to be forcibly removed and escorted into the precinct.

The cases all had acceptable reviews (100%). All four cases (100%) met the 10- and 30-day requirements. There was one case in which the handheld camera was used. There were no in-custody deaths in the cell block area.

During this reporting period we reviewed four cases, one of which was classified as a detainee injury. In this case, the detainee was found on the floor in his cell and had suffered some injury from a fall. He was not responsive to personnel and an EMS unit was requested to the Second Precinct. The case had acceptable reviews, and met the 10- and 30-day requirements. There was sufficient review of the video obtained from the fixed cameras.

There were no in-custody deaths in the cell block area.

DPD is Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C56

The DPD shall require that all uses of force occurring in the DPD holding cells are reported and investigated in compliance with the DPD's use of force investigation policies.

Comments:

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

During the last reporting period, we found that all four reviewed cases had opportunities for video recordings and reviews. Four (100%) contained acceptable reviews;

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

January 16, 2014

Page 150

During this reporting period, we found that all four reviewed cases had opportunities for video recordings and reviews. Four (100%) contained acceptable reviews; DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C57

The DPD shall require that all injuries to prisoners occurring in DPD holding cells are reported and investigated in compliance with the DPD's prisoner injury investigation policies.

Comments:

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

During the last reporting period, we reviewed two attempted suicides and one detainee injury. One of the attempted suicides required minimal force to remove the detainee from the cell. The attempted suicides and the detainee injury were investigated in conformity with the requirements in C57. One detainee involved in an attempted suicide was not transported to DRH for treatment; instead the decision was made to transport him to the Wayne County Jail, as scheduled. During this reporting period, we reviewed one detainee injury and found that it was handled appropriately. EMS was requested to the precinct and subsequently transported the detainee to DRH. DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

- The issues that impact the quality of use of force investigations as described in the Use of Force section of the Consent Judgment are applicable to the use of force investigations of incidents occurring in the cell block area. The remedies we have recommended in those areas remain constant for the Conditions of Confinement requirements. Timely and thorough investigations, coupled with critical command level reviews, are the keys to achieving compliance. We have noted improvements in video review and the use of the handheld portable cameras.

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

January 16, 2014

Page 151

Next Steps:

During the next reporting period, we will:

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

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
55	Use of force investigations	In Compliance	In Compliance
56	Use of force investigations	In Compliance	In Compliance
57	Injury to prisoner investigations	In Compliance	In Compliance

XIII. EXTERNAL COMPLAINTS

CJ Requirement C58

The DPD shall ensure that it accepts and processes all external complaints regarding incidents occurring in holding cells consistent with the DPD's external complaint policies.

Comments:

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

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

During this reporting period, the Department closed seven complaints originating from detention facilities – two in August and five in September. All complaints were accepted and processed in accordance with DPD policy. All involved allegations of excessive force, and OCI retained investigation of all of the cases.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C59

The DPD shall ensure that all external complaints it receives regarding incidents occurring in holding cells are investigated and reviewed consistent with the DPD's policies concerning external complaint investigations and review.

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

January 16, 2014

Page 152

Comments:

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

We found the DPD in Phase 2 compliance with this paragraph during the last first reporting period.

OCI closed seven complaints originating from detention facilities during the reporting period. All involved allegations of force, with five cases stemming from force allegedly used during the arrests of the complainants. All of these cases were timely and we believe the findings were appropriate. One case was administratively closed. It was also opened as a force case, but the “complainant” merely asked to be treated for a separated shoulder while he was in custody. During the investigation, he indicated that the injury was an old weightlifting injury that did not relate to his contact with DPD, and it was never his intention to file a complaint.

DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
58	Receipt of external complaints	In Compliance	In Compliance
59	Investigation of external complaints	In Compliance	In Compliance

XIV. GENERAL POLICIES

CJ Requirement C60

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

Comments:

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

January 16, 2014

Page 153

CJ Requirement C61

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

Comments:

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

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

XV. MANAGEMENT AND SUPERVISION

CJ Requirement C62

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

Comments:

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

During this reporting period, CRIB staff inspected all of the facilities with holding cells and the DRH each month and documented their findings on Form 715 Evaluation of the Operation of Holding Cells. Upon review of the completed forms, we found that all forms contained critical findings – e.g., broken toilets and sprinkler heads, and inoperable video cameras. Requests for repairs had been made and were documented on the maintenance log. All 715 forms were complete with all of the required signatures.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

January 16, 2014

Page 154

CJ Requirement C63

The DPD shall operate the holding cells in compliance with DPD's comprehensive risk management plan including implementation of:

- a) the risk management database;*
- b) the performance evaluation system;*
- c) the auditing protocol;*
- d) regular and periodic review of all DPD policies; and*
- e) regular meetings of the DPD management to share information and evaluate patterns of conduct by DPD that potentially increase the DPD's liability.*

Comments:

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

Phase 2 compliance with this requirement is unchanged since the last report. The components of this requirement incorporate compliance requirements detailed in the Use of Force Consent Judgment and are applicable across the Department's patrol and holding cell personnel. These include U91 with regard to personnel evaluations; U92-U99, which address audit requirements, policy review, and monthly risk-related reviews; and U78-90, which establish requirements for the risk management database. Our findings of compliance with those requirements are reflected in the finding with regard to C63.

With the closing of DPD holding facilities and the changes in status of staff assigned to them, this is the last quarter for which any DPD staff will be covered by this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C64

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

- a. the installation and continuous operations of video cameras in all prisoner processing areas of the DPD holding cells within one year of the effective date of this Agreement;⁴⁴*
- b. supervisors to review videotapes of all incidents involving injuries to a prisoner or an officer, uses of force and external complaints;*
- c. that the DPD retain and preserve videotapes for at least 90 days, or as long as necessary for incidents to be fully investigated; and*

⁴⁴ Amended by Court Order dated June 1, 2011.

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

January 16, 2014

Page 155

- d. that the DPD conduct and document periodic random reviews of prisoners processing area camera videotapes for training and integrity purposes and conduct periodic random surveys of prisoners processing area video recording equipment to confirm that it is in proper working order.*

Comments:

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

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

During our January 2011 site visit, the Parties determined that video cameras were not required outside of the processing areas. During our previous site visits, the video cameras in all of the districts/precincts that maintain holding cells were operational in the processing areas.

During this reporting period we reviewed 24 Detainee Processing Area Video Review Forms (DPD-713, revised May 2012) from each of the five holding facilities and found only one instance where the video could not be accessed. DPD's compliance rate for COC 64c remains at 96%.

DPD has purchased handheld video cameras to achieve compliance with C53, subparagraph c, which states: "The DPD shall revise and augment its policies regarding prisoners to require that: the supervisor assesses the need to use force on a prisoner who is confined to a cell, direct any such use of force and ensure the incident is videotaped." Personnel in the one remaining facility were able to activate the handheld cameras. This equipment should be routinely checked to ensure its operability.

During this reporting period, we reviewed four cases, within or at the holding facilities that involved a use of force or a prisoner injury; in all four cases processing area video was captured or the use of the handheld video camera was utilized. Many of the issues of storing archived video should be resolved now that the Michigan Department of Corrections has transitioned to housing DPD detainees. DPD's compliance rate for all subsets of C64 remains at 96%.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C65

The DPD shall conduct regularly scheduled semiannual audits, covering all DPD units and commands that investigate uses of force, injuries to prisoners and allegations of misconduct in holding cells, including;

- a. reviewing a statistically valid sample of command, IAD, and Homicide Section investigations;*

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

January 16, 2014

Page 156

- b. evaluating whether the actions of the officer and the subject were captured correctly in the investigative report;*
- c. evaluating the preservation and analysis of the evidence;*
- d. examining whether there is consistency in use of force and injured prisoner investigations throughout the DPD;*
- e. evaluating the appropriateness of the investigator's conclusions; and*
- f. issuing a written report regarding the findings of the audit.⁴⁵*

Comments:

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

The CRIB Audit Team completed and issued its Combined Use of Force and Allegations of Misconduct in Holding Cells Investigations Audit for the audit period ending July 31, 2013. We reviewed the audit for that reporting period; and found that the Audit Team conducted a comprehensive audit regarding uses of force, injuries to prisoners, and allegations of misconduct in holding cells. The respective command staff were notified of the deficiencies and responded to the Command Action Notices with non-disciplinary corrective action and/or training as appropriate. .

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C66

The DPD shall create a Holding Cell Compliance Committee that is responsible for assuring compliance with requirements of this Agreement. The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate compliance with fire detection, suppression and evacuation program, including:

- a. testing a sample of smoke detectors and sprinklers;*

⁴⁵ Amended to reflect the below stipulated language contained in the Court order of April 15, 2009:

The audits required by paragraphs 65 to 71 in this Agreement shall be submitted on a semiannual basis with the first and second semiannual periods ending on January 31 and August 31, 2004. Subsequent semiannual periods shall end on January 31, 2005, and every six months thereafter. Each of these audits may be conducted on an annual rather than a semiannual basis when the Monitor concludes that the most recently submitted audit for the same topic is compliant, and the remaining requirements of this paragraph have been met for the prior audit of that topic. The DPD shall issue all audit reports to the Chief of Police and also provide copies to each precinct or specialized unit commander. The commander of each precinct and specialized unit shall review all audit reports regarding employees under their command and, if appropriate, shall take nondisciplinary corrective action or disciplinary action.

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

January 16, 2014

Page 157

- b. testing the back-up power systems;*
- c. reviewing a sample of fire equipment testing and maintenance records; and*
- d. issuing a written report regarding the findings of the audit.*

Comments:

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

The DPD established an active Holding Cell Compliance Committee that meets monthly and collaborates with the CRIB Audit Team to conduct the audits required by this paragraph.

The CRIB Audit Team conducted the semi-annual Fire Safety Practices and Policies Audit that was completed for July 31, 2013. The audit was comprehensive and indicated that deficiencies were discovered at three facilities relating to fire safety. Due to the transition of all detention responsibilities to the Michigan Department of Corrections, the DPD will consider corrective action for each violation within the overall context of the transition and plans for future operations of the buildings.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C67

The Holding Cell Compliance Committee shall conduct regularly scheduled audits in all buildings containing holdings cells to evaluate emergency preparedness, including;

- a. reviewing a sample of key and fire equipment maintenance and inventory records; interviewing selected detention officers about their participation in fire drills and on their responsibilities under emergency preparedness program and testing their ability to identify keys necessary to unlock all holding cell doors; and*
- b. issuing a written report regarding the findings of the audit.*

Comments:

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

The DPD established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph.

The CRIB Audit team completed the Comprehensive Emergency Preparedness Program audit for the period ending July 31, 2013. We confirmed that the DPD met the requirements for performance and documentation of requirements of this paragraph. The Audit Team examined documents and conducted tabletop exercises during unannounced visits in April and May to determine the knowledge and skills of the personnel working in the Detention areas. The percentage of total correct answers was 99%, Department-wide. The Fire Marshal conducted the required annual inspection of the Comprehensive Emergency Preparedness Program and the Fire

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

January 16, 2014

Page 158

Safety Program and approved both on July 18, 2013. Accordingly, we continue to find the DPD in Phase 2 compliance with these requirements of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C68

The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate the medical/mental health programs and policies, including:

- a. reviewing a sampling of hospitals referral forms in comparison to prisoner intake forms to evaluate the accuracy of the intake screening and whether appropriate action was taken;*
- b. observing intake screening interviews to assess thoroughness;*
- c. reviewing a sampling of the prescription medication log to ensure that medications were administered as prescribed and that their distribution was accurately recorded; and*
- d. issuing a written report regarding the finding of the audit.*

Comments:

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

The DPD established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph.

The most recent semi-annual audit was conducted in April and May and completed for July 31, 2013. The audit is comprehensive and addresses the deficiencies by issuing Command Action Notices to the appropriate command staff. Included in the audit are the responses from the commanders, indicating training or issuance of non-disciplinary or disciplinary notices. .

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C69

The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate detainee safety programs and policies, including;

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

January 16, 2014

Page 159

- a. reviewing a sampling of security screening records, including written supervisory approvals, to ensure that prisoners are being properly screened and housed;*
- b. reviewing a sampling of the cell checks logs to ensure that checks are being accurately and regularly performed and that cell checks logs are receiving supervisory review and written approval; and*
- c. issuing a written report regarding the findings of the audit.*

Comments:

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

The DPD established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph.

The CRIB Audit Team conducted the semi-annual audits during April and May and completed and issued its audit results for the Detainee Safety Program on July 31, 2013.

We conclude that the DPD has met the requirements for performance and documentation of the requirements of this paragraph. Accordingly, we find DPD in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C70

The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate the environmental health and safety programs, including:

- a. inspecting holding cells and surrounding areas to ensure that they are clean and clear of debris and that the lighting, sinks, and toilets are operable;*
- b. reviewing a sampling of cleanings and maintenance logs to ensure they are properly maintained and reflected the scheduled performance of the requisite cleaning and maintenance tasks;*
- c. reviewing the systems in place for assuring that all prisoners have reasonable access to potable water and toilets 24 hours a day;*
- d. observing whether holding cells are free of any potential suicide hazards; and*
- e. issuing a written report regarding the findings of the audit.*

Comments:

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

The DPD established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph.

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

January 16, 2014

Page 160

The CRIB Audit Team completed its first combined semi-annual audit of the Environmental Health and Safety Program, Detainee Food Services and Personal Hygiene Policies and issued their findings on January 31, 2012. The audits were combined for efficiency reasons. They cover C70-71 and focus on Paragraphs C34, C39-45, and C49-51. Additionally, CRIB staff conducts monthly audits of the elements of this paragraph and documents the results on DPD Form 715 Evaluation of the Operation of Holding Cells. The Audit Team conducted inspections in April and May and completed the current Audit Report on July 31, 2013. We reviewed the current Audit Team Report and found it to be comprehensive.

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

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C71

The Holding cell Compliance Committee shall conduct regularly scheduled semiannual audits of all building containing holding cells to evaluate the food service program, including:

- a. reviewing a statistically valid sample of food service documentation to evaluate whether prisoners who are held over six hours receive regular and adequate meals;*
- b. assuring that food is handled in a sanitary manner; and*
- c. issuing a written report regarding the findings of the audit.*

Comments:

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

The DPD established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph.

The CRIB Audit Team completed and issued its command-specific audit on the DPD food service program and hygiene practices on January 31, 2012. This was the first combined audit that also included Personal Hygiene Policies and Environmental Health and Safety Policies. We found the audit to be comprehensive and meeting the requirements for performance and documentation of requirements of this and the previous paragraph, C70. We reviewed the results of the audit that was conducted for July 31, 2013, and as stated in the previous paragraph, found it to also be comprehensive.

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

January 16, 2014

Page 161

CJ Requirement C72

The audits required by paragraphs 65 to 71 in this disciplinary action.⁴⁶ Agreement shall be submitted on a semiannual basis with the first and second semiannual periods ending on January 31 and August 31, 2004. Subsequent semiannual periods shall end on January 31, 2005, and every six months thereafter. Each of these audits may be conducted on an annual rather than a semiannual basis when the Monitor concludes that the most recently submitted audit for the same topic is compliant and the remaining requirements of this paragraph have been met for the prior audit of that topic. The DPD shall issue all audit reports to the Chief of Police and also provide copies to each precinct or specialized unit commander. The commander of each precinct and specialized unit shall review all audit reports regarding employees under their command and, if appropriate, shall take non-disciplinary corrective action or disc

Comments:

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

The CRIB is mandated under this Consent Judgment paragraph to provide written reports for the Chief of Police and specified commanders. In previous reporting periods, we found that the various reports and field responses were unacceptable, in that these reports were specific to the district/precinct and did not receive sufficient attention. The CRIB conducted a review of the audit process, and subsequently changed the audit process to focus on individual commands. These command-specific audits were anticipated to result in clearer command accountability and increased awareness to issues that are identified through the audit process.

For the last reporting period, we received and reviewed the command-specific audits for the period ending July 31, 2013. The audits included are Medical and Mental Health Program and Policies; Combined Environmental Health and Safety; Detainee Food Service and Personal Hygiene Practices; Fire Safety Practices and Policies; Allegations of Misconduct in Holding Cells and Uses of Force in Holding Cells Combined; and Comprehensive Emergency Preparedness Program. We also reviewed the Corrective Action Notices from the commands that were submitted prior to August 15, 2013.

The DPD remains in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
62	Evaluation of holding cell operation	In Compliance	In Compliance
63	Operate cells in compliance with risk plan	In Compliance	In Compliance

⁴⁶ Amended by Court Order, dated April 15, 2009.

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

January 16, 2014

Page 162

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
64	Augment policy regarding video cameras	In Compliance	In Compliance
65	Quarterly audits required	In Compliance	In Compliance
66	Fire safety audits required	In Compliance	In Compliance
67	Emergency preparedness audits required	In Compliance	In Compliance
68	Medical/mental health program audit	In Compliance	In Compliance
69	Detainee safety audits required	In Compliance	In Compliance
70	Environmental health/safety audits	In Compliance	In Compliance
71	Food service program audits required	In Compliance	In Compliance
72	Audit results to Chief and Commanders	In Compliance	In Compliance

XVI. TRAINING

CJ Requirement C73

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

Comments:

Inasmuch as DPD has reached an agreement with Michigan and is transferring detention responsibilities to the State's Department of Corrections, we have suspended monitoring the requirements that relate to training DPD officers for service in PD cellblocks.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C74

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

Comments:

Inasmuch as DPD has reached an agreement with Michigan and is transferring detention responsibilities to the State's Department of Corrections, we have suspended monitoring the requirements that relate to training DPD officers for service in PD cellblocks.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

January 16, 2014

Page 163

CJ Requirement C75

The DPD shall provide all detention officers, supervisors of detention officer and members of the Holding Cell Compliance Committee with annual training in emergency preparedness. Such training shall include drills and substantive training in the following topics:

- a. Emergency response plans and notification responsibilities;*
- b. Fire drills and use of fire extinguishers and other fire suppression equipment;*
- c. Key control drills and key control policies and procedures; and*
- d. Responding to emergency situations, including scenarios detention officers likely will experience.*

Compliance Status:

Phase 1: In Compliance

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

CJ Requirement C76

The DPD shall provide all detention officers, supervisors and members of the Holding Cell Compliance Committee with annual training in the medical/mental health screening programs and policies. Such training shall include and address the following topics:

- a. prisoner intake procedures and medical and mental health protocols, including protocols for transferring or housing prisoners with infectious diseases, disabilities and/or requiring increased monitoring;*
- b. recording, updating and transferring prisoner health information and medications*
- c. the prescription medication policy, including instructions on the storage, recording and administration of medications; and*
- d. examples of scenarios faced by detention officers illustrating proper intake screening and action in response to information regarding medical and mental health conditions.*

Comments:

Inasmuch as DPD has reached an agreement with Michigan and is transferring detention responsibilities to the State's Department of Corrections, we have suspended monitoring the requirements that relate to training DPD officers for service in PD cellblocks.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

January 16, 2014

Page 164

CJ Requirement C77

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

- a. *the security screening program, including protocols for identifying and promptly and properly housing suspected crime partners, vulnerable, assaultive or special management prisoners;*
- b. *protocols for performing, documenting and obtaining supervisory review of holding cell checks;*
- c. *protocols concerning prisoners in observation cells, including protocols for direct and continual supervision, for spotting potential suicide hazards and providing appropriate clothing; and*
- d. *examples of scenarios faced by detention officers illustrating appropriate security screening, segregation and monitoring techniques.*

Comments:

Inasmuch as DPD has reached an agreement with Michigan and is transferring detention responsibilities to the State's Department of Corrections, we have suspended monitoring the requirements that relate to training DPD officers for service in PD cellblocks.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C78

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

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

Compliance Status:

Phase 1: In Compliance

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

¶	Requirements	Phase 1 – Policy	Phase 2 - Implementation
73	Pre-service and in-service training	In Compliance	In Compliance
74	Maintain records training	In Compliance	In Compliance

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

January 16, 2014

Page 165

¶	Requirements	Phase 1 – Policy	Phase 2 - Implementation
75	Emergency preparedness training	In Compliance	In Compliance
76	Medical/mental health training	In Compliance	In Compliance
77	Detainee safety programs training	In Compliance	In Compliance
78	Environmental, safety, and hygiene training	In Compliance	In Compliance

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

January 16, 2014

Page 166

APPENDIX A: Use of Force – Directives/Policies

USE OF FORCE POLICY	
14	DPD Directive 304.2, Use of Force, effective March 19, 2012; and DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013).
15	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013); and Training Directive 04-3, Use of Force Continuum, effective May 9, 2005.
16	See paragraph #15 above.
17	DPD Directive 304.2, Use of Force, effective March 19, 2012; and DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013).
18	DPD Directive 304.2, Use of Force, approved by DOJ April 14, 2005, effective March 19, 2012; and DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013).
19	DPD Directive 304.2, Use of Force, effective March 19, 2012; and DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013).
20	DPD Directive 304.1, Firearms, effective September 27, 2012, which replaced DPD Directive 304.1, Firearms, effective August 4, 2011 which replaced DPD Directive 304.1, effective November 2010; and Directive 304.5, Training, effective July 10, 2012, which replaced Directive 304.5, Training, effective May 13, 2011.
21	DPD Directive 304.1, Firearms, effective September 27, 2012, which replaced DPD Directive 304.1, Firearms, effective August 4, 2011, which replaced DPD Directive 304.1, effective November 2010, and in Directive 304.5, Training, effective July 10, 2012, which replaced Directive 304.5, Training, effective May 13, 2011.
22	DPD Directive 304.1, Firearms, effective September 27, 2012, which replaced DPD Directive 304.1, Firearms, effective May 2, 2005 (revised November 1, 2010, and August 4, 2011).
23	See paragraph #22 above. Also, Directive 304.5, Training, effective July 10, 2012, which replaced Directive 304.5, Training, effective May 13, 2011.
24	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 304.4, PR 24 Collapsible Baton, effective July 1, 2008 (revised November 1, 2010 and May 15, 2013); DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013); and Training Directive 04-3, Use of Force Continuum, effective May 9, 2005.
25	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 304.3, Chemical Spray Device, effective July 2, 2008 (revised November 1, 2010); and DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013).
26	See paragraph #25 above.
INCIDENT DOCUMENTATION, INVESTIGATION, AND REVIEW	
27	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013); 102.4, Discipline/Misconduct Investigations, effective May 2, 2012; DPD Directive 102.6 Citizens Complaints, effective July 1, 2008 (revised November 2010) (revised April 13, 2011) (revised

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

January 16, 2014

Page 167

	December 29 2012); Training Directive 04-4, Garrity Protocol, effective February 9, 2006 (revised October 24, 2009); Office of the Chief Investigator, Standard Operating Procedure (August 29, 2013); and Internal Affairs Standard Operating Procedure, January 2011.
28	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013); DPD Directive 102.4, Discipline/Misconduct Investigations, effective May 2, 2012.
29	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012; DPD Directive 102.4, Discipline/Misconduct Investigations, effective May 2, 2012; DPD Directive 203.3, Notifications, effective February 22, 2012; Training Directive 04-4, Garrity Protocol, effective February 9, 2006 (revised October 24, 2009); Internal Affairs Standard Operating Procedure, (January 2011); and Office of the Chief Investigator Standard Operating Procedure (August 29, 2013).
30	See paragraph #29 above.
31	Training Directive 04-4, Garrity Protocol, dated February 9, 2006 (revised October 24, 2009).
32	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013); DPD Directive 102.4, Discipline/Misconduct Investigations, effective May 2, 2012; Training Directive 04-4, Garrity Protocol, effective February 9, 2006 (revised October 24, 2009); Internal Affairs Standard Operating Procedure (January 2011); and Office of the Chief Investigator Standard Operating Procedure (August 29, 2013).
33	See paragraph #32 above.
34	DPD Directive 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force & Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013); DPD Directive 304.1, Firearms, effective May 2, 2005 and revised August 4, 2011 (revised September 27, 2012); and Training Directive 11-01, Reporting/Documenting The "Acquiring of a Target" effective August 4, 2011, Training Directive 11-01a, Reporting/Documenting The "Acquiring of a Target" Audio/Video Review of the Incident, effective April 11, 2012.
35	See paragraph #34 above and DPD Directive 203.3, Notifications, effective February 22, 2012.
36	See paragraph #34 above.
37	See paragraph #34 above. Also DPD Joint Incident Shooting Team Standard Operating Procedures and DPD Training Directive 04-07, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating, effective November 21, 2005.
38	See paragraph #37 above.
39	DPD Special Order 09-13, Command Level Force Review Team (CLFRT) dated March 2, 2009, replaced with DPD Special Order 11-02, effective January 1, 2011; and DPD Directive 101.9, Special Purposes Committees, effective February 22, 2012 (revised September 27, 2012).
40	See paragraph #39 above.
41	See paragraph #39 above.
ARREST AND DETENTION POLICIES AND PRACTICES	
42	DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 2010 (revised December 6, 2012 and March 7, 2013).
43	See paragraph #42 above.
44	See paragraph #42 above (202.1); 202.2, Search and Seizure, effective May 2, 2005; revised

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

January 16, 2014

Page 168

	November 2010; 203.9, Custodial Questioning, effective November 20, 2010 (revised February 6, 2013); and 404.1, Definitions, effective November 20, 2010.
45	See paragraph #42 above.
46	DPD Directive 203.9, Custodial Questioning, effective July 1, 2008, and revised November 20, 2010 (revised November 17, 2011 and February 6, 2013).
47	See paragraph #46 above.
48	See paragraph #46 above.
49	DPD Directive 202.1, Arrests, effective July 1, 2008, and revised November 20, 2010 (revised December 6, 2012 and March 7, 2013).
50	See paragraph #49 above.
51	See paragraph #49 above.
52	DPD Directive 305.2, Detainee Registration, and effective September 12, 2005 (revised July 26, 2012).
53	See paragraph #52 above.
54	See paragraph #52 above.
55	See paragraph #52 above.
56	DPD Directives 202.1, Arrests, effective July 1, 2008 (revised November 20, 2010) (revised December 6, 2012 and March 7, 2013) and 305.2, Detainee Registration, effective September 12, 2005 (revised July 26, 2012). Also Training Directive #04-01, Confinement of Material Witness, effective March 1, 2005.
57	See paragraph #56 above.
58	See paragraph #56 above.
59	See paragraph #56 above.
60	DPD Directive 202.1, Arrests, effective July 1, 2008 (revised November 20, 2010) (revised December 6, 2012 and March 7, 2013); and DPD Directive 305.4, Holding Cell Areas, effective May 9, 2005 (revised March 3, 2010 and January 9, 2013).
EXTERNAL COMPLAINTS	
61	DPD Directive 102.6, Citizen Complaints, effective July 1, 2008 (revised November 2010) (revised December 29, 2012); IAD Standard Operating Procedures, Sections 1 and 3 (January 2011); and OCI Standard Operating Procedure, effective July 24, 2003 (revised April 29, 2004; July 1, 2010; and August 29, 2013).
62	Office of the Chief Investigator Standard Operating Procedures, effective July 24, 2003 (revised April 29, 2004; July 1, 2010; and August 29, 2013).
63	DPD Directive 102.6, Citizen Complaints, effective July 1, 2008 (revised November 2010) (revised April 13, 2011) (revised December 29, 2012).
64	See paragraph #61 above. Also see DPD Directive 102.6 (revised December 29, 2012).
65	See paragraph #63 above.
66	See paragraph #61 above.
67	See paragraph #61 above.

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

January 16, 2014

Page 169

68	See paragraph #65 above.
69	See paragraph #61 above. Also DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008; and Training Directive 04-4 Garrity Protocol, effective February 9, 2006 (revised October 24, 2009).
GENERAL POLICIES	
70	DPD Directives 101.1, Directive System, effective July 1, 2008 (revised November 1, 2010) (revised May 2, 2012) and 404.1, Definitions, effective July 1, 2008 (revised November 1, 2010).
71	DPD Directive 101.1, Directive System, effective July 1, 2008 (revised November 1, 2010) (revised May 2, 2012). The DPD also utilizes a Protocol for Proposed Policy Revisions; an SOP outlining procedures for posting proposed policies to the website; and a flow chart (Visio-DPD Policy Flow Chart) that tracks the movements of proposed policy revisions through the Department and public review.
72	DPD Directive 102.3, Code of Conduct, effective November 1, 2009 (revised November 1, 2010) (revised July 24, 2012) (revised December 6, 2012).
73	On November 6, 2007, the DPD agreed to a 1:10 ratio of supervisors to officers in patrol and specialized units. ⁴⁷ Also Directive 101.10, Organization and Management, effective March 30, 2011.
74	DPD Directive 102.3, Code of Conduct, effective November 1, 2009 (revised November 1, 2010) (revised July 24, 2012) (revised December 6, 2012).
75	See paragraph #74 above. Also DPD Directive 304.1, Firearms, effective May 2, 2005 (revised November 1, 2010 and August 4, 2011) (revised September 27, 2012).
76	Directives 305.4, Holding Cell Areas, effective May 9, 2005 (revised effective March 1 2010) (revised July 6, 2012 and January 9, 2013) and 305.7, Transportation of Detainees, effective February 29, 2012.
77	DPD Directive 202.7, Foot Pursuits, effective July 1, 2008 (revised November 1, 2010) (revised May 26, 2011).
MANAGEMENT AND SUPERVISION	
78	DPD Directive 401.13, Management Awareness System, effective November 6, 2008 (revised November 1, 2010).
79	See paragraph #78 above.
80	See paragraph #78 above.
81	See paragraph #78 above. Also see the DPD Data Input Plan, approved by the Department of Justice, June 9, 2011.
82	See paragraph #81 above.
83	See paragraph #78 above.
84	See paragraph #78 above.
85	See paragraph #78 above.
86	See paragraph #81 above.

⁴⁷Section I, Paragraph of the UOF CJ defines a supervisor as a sworn DPD employee at the rank of sergeant or above and non-sworn employees with oversight responsibility for DPD employees.

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

January 16, 2014

Page 170

87	See paragraph #78 above.
88	See paragraph #78 above.
89	See paragraph #78 above.
90	See paragraph #81 above.
91	DPD Directive 401.2, Performance Evaluation Ratings, effective July 1, 2008 (revised November 1, 2010 and June 20, 2013).
92	DPD Audit Protocol, effective September 30, 2011. Annual revision required.
93	See paragraph #92 above.
94	See paragraph #92 above.
95	See paragraph #92 above.
96	See paragraph #92 above.
97	See paragraph #92 above.
98	DPD Directive 303.3, In-Car Video, effective March 8, 2012 (revised September 4, 2012 and March 7, 2013).
99	DPD Directive 304.5 Training, effective May 13, 2011 (revised July 10, 2012).
100	DPD Directive 303.3, In-Car Video, effective March 8, 2012 revised September 4, 2012 and March 7, 2013).
101	See paragraph #100 above. Also, Teletype #11-1468, Roll Call Informational Bulletin, Use of Department Issued In-Car Video Equipment and Body Microphones.
102	See paragraph #100 above.
103	DPD Directive 102.4, Discipline/Misconduct Investigations, effective July 1, 2008 (revised November 1, 2010) (revised May 2, 2012) and the related DPD Discipline Matrix (DPD22a).
104	See paragraph #103 above.
105	See paragraph #103 above.
TRAINING	
106	DPD Directive 304.5, Training, effective May 13, 2011 (revised July 10, 2012).
107	See paragraph #106 above.
108	See paragraph #106 above.
109	See paragraph #106 above.
110	See paragraph #106 above.
111	See paragraph #106 above.
112	See paragraph #106 above.
113	See paragraph #106 above. Also Directive 304.1, Firearms, effective August 4, 2011 (revised September 27, 2012).
114	See paragraph #106 above.
115	See paragraph #106 above.

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

January 16, 2014

Page 171

116	See paragraph #106 above.
117	See paragraph #106 above.
118	See paragraph #106 above.
119	See paragraph #106 above.
120	See paragraph #106 above.
121	See paragraph #106 above.
122	See paragraph #106 above.
123	See paragraph #106 above.

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

January 16, 2014

Page 172

APPENDIX B: Conditions of Confinement – Directives/Policies

FIRE SAFETY POLICIES	
14	DPD Comprehensive Emergency Preparedness Plan (CEPP), which includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was approved by DOJ on May 23, 2006. The Fire Marshal reviews the FSP annually; the last review was conducted on June 7, 2012. Also, DPD Directive 305.4, Holding Cell Areas, effective July 6, 2012 (revised January 9, 2013).
15	See paragraph #14 above.
16	See paragraph #14 above.
17	See paragraph #14 above.
18	See paragraph #14 above.
19	See paragraph #14 above.
20	See paragraph #14 above.
21	See paragraph #14 above.
22	See paragraph #14 above.
EMERGENCY PREPAREDNESS POLICIES	
23	DPD Comprehensive Emergency Preparedness Plan (CEPP), effective May 2011 and DPD Directive 305.4, effective April 21, 2011 (revised July 6, 2012 and January 9, 2013).
24	See paragraph #23 above.
25	See paragraph #23 above.
MEDICAL AND MENTAL HEALTH CARE POLICIES	
26	DPD Directives 305.1, Detainee Intake Assessment; effective May 2, 2012; 305.5, Detainee Health Care and; effective February 22, 2012; 403.2, Infectious Disease Control Plan, effective February 29, 2012, reviewed and updated by a qualified health care professional on February 17, 2012 and February 29, 2012 as required (revised May 29, 2013). DPD Directive 305.5 cited above along with forms and logs, comprises the Comprehensive Medical and Mental Health Screening program (CMMHSP).
27	See paragraph #26 above (DPD 305.5).
28	See paragraphs #26.
29	See paragraph #26 above (DPD 305.1).
30	See paragraph #26 above (DPD 403.2).
31	See paragraph #26 above (DPD 305.5).
32	See paragraph #26 above (DPD 305.5).
33	See paragraph #26 above (DPD 305.1)
34	See paragraph #26 above.
PRISONER SAFETY POLICIES	
35	DPD Directives 305.1, Detainee Intake, effective May 2, 2012; Directive 305.2, Detainee Registration (revised July 26, 2012); Directive 305.3, Detainee Personal Property, effective May 20,

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

January 16, 2014

Page 173

	2010 (revised November 3, 2011); DPD Directive 305.4, Holding Cell Areas, effective February 1, 2008 (revised July 6, 2012 and January 9, 2013); Directive 305.5, Detainee Health Care, effective February 22, 2012; Directive 305.7, Transportation of Detainees; effective February 29, 2012 and Directive 305.8, Detainee Food Service and Hygiene, effective May 2, 2012 (revised July 19, 2012 and January 9, 2013 and July 9, 2013).
36	See paragraph #34 above (DPD 305.1)
37	See paragraph #34 above (DPD 305.4).
38	See paragraph #34 above (DPD 305.1 and 305.4).
ENVIRONMENTAL HEALTH AND SAFETY POLICIES	
39	DPD Directive 305.4, Holding Cell Areas, effective February 1, 2008 (revised July 6, 2012 and January 9, 2013). Annual review and revision required.
40	See paragraph #39 above.
41	See paragraph #39 above.
42	See paragraph #39 above.
43	See paragraph #39 above.
44	See paragraph #39 above.
45	See paragraph #39 above.
46	See paragraph #39 above.
POLICIES CONCERNING PERSONS WITH DISABILITIES	
47	DPD Directives 305.1, Detainee Intake and Assessment, effective May 2, 2012 (revised February 29, 2012); and 305.5, Detainee Health Care, effective February 22, 2012, approved and updated by a qualified medical and mental health professional on February 17, 2012 and February 29, 2012. Also the Comprehensive Medical and Mental Health Screening Program (CMMHSP), reviewed by the Consulting Department Physician, April 8, 2013.
48	See paragraph #47 above (DPD Directive 305.1).
FOOD SERVICE POLICIES	
49	DPD Directive 305.8, Detainee Food Service, effective May 2, 2012 (revised July 19, 2012 and January 9, 2013 and July 9, 2013).
50	See paragraph #49 above.
PERSONAL HYGIENE POLICIES	
51	See paragraph #49 above.
USE OF FORCE AND RESTRAINTS POLICIES	
52	DPD Directives 305.4, Holding Cell Areas, effective May 9, 2005 (revised March 1, 2010) (revised July 6, 2012 and January 9, 2013) and 304.2, Use of Force, effective March 19, 2012; DPD Directive 201.11, Use of Force and Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013).
53	See paragraph #52 above.
54	See paragraph #52 above.

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

January 16, 2014

Page 174

INCIDENT DOCUMENTATION, INVESTIGATION AND REVIEW	
55	DPD Directives 304.2, Use of Force, effective March 19, 2012; and 305.4, Holding Cell Areas, effective May 9, 2005 (revised March 1, 2010) (revised July 6, 2012 and January 9, 2013) and DPD Directive 201.11, Use of Force and Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013).
56	See paragraph 55 above. Also DPD Directive 304.2, Use of Force, effective March 19, 2012 and DPD Directive 201.11, Use of Force and Detainee Injury Reporting/Investigation, effective August 30, 2012 (revised August 27, 2013).
57	See paragraph #55 above.
EXTERNAL COMPLAINTS	
58	See paragraph #55 above. Also see DPD Directive 102.6, Citizen Complaints, effective July 1, 2008 (revised November 2010) (revised April 13, 2011) (revised December 6, 2012).
59	See paragraph #58 above.
GENERAL POLICIES	
60	DPD Directive 404.1, Definitions, effective November 2010.
61	DPD Directive 101.1, Written Directive System, effective November 2010 (revised May 2, 2012).
MANAGEMENT AND SUPERVISION	
62	DPD Directive 305.4, Holding Cell Areas, effective May 9, 2005 (revised April 21, 2011) (revised July 6, 2012 and January 9, 2013).
63	DPD Directive 401.13, Management Awareness System, effective November 6, 2008 (revised November 1, 2010 and August 27, 2013); DPD Directive 401.2, Performance Evaluation Ratings, effective July 1, 2008 (revised November 1, 2010 and June 20, 2013); and DPD Audit Protocol, effective September 30, 2011.
64	See paragraph #62 above.
65	DPD Audit Protocol meeting generally accepted government auditing standards (GAGAS), effective August 31, 2008 (revised October 31, 2010 and September 11, 2011).
66	See paragraph #65 above.
67	See paragraph #65 above.
68	See paragraph #65 above.
69	See paragraph #65 above.
70	See paragraph #65 above.
71	See paragraph #65 above.
72	See paragraph #65 above.
TRAINING	
73	Directive 304.5, Training, effective May 13, 2011(revised July 10, 2012).
74	See paragraph #73 above.
75	See paragraph #73 above.
76	See paragraph #73 above.

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

January 16, 2014

Page 175

77	See paragraph #73 above.
78	See paragraph #73 above.

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

January 16, 2014

Page 176

APPENDIX C: Acronyms

The following is a listing of acronyms frequently used in our quarterly reports.

ACRONYM	DEFINITION
AT	Audit Team
BOPC	Board of Police Commissioners
CAM	Command Accountability Meeting
CBS	Cell Block Supervisor
CCR	Citizen Complaint Report
CDDT	Curriculum Design and Development Team
CEPP	Comprehensive Emergency Preparedness Program
CFD	Critical Firearm Discharge
CI	Chief Investigator
City	City of Detroit
CJ	Consent Judgment
CLBR	Command Level Board of Review
CLFRT	Command Level Force Review Team
CLO	Compliance Liaison Officer
CLI	Command Level Investigation
CME	Confidential Medical Envelope
CMMHSP	Comprehensive Medical and Mental Health Screening Program
CO	Commanding Officer
COC CJ	Conditions of Confinement Consent Judgment
CRIB	Civil Rights Integrity Bureau
DCCL	Detention Cell Check Log
DDHWP	Detroit Department of Health and Wellness Program
DDMHIL	Daily Detainee Meal and Hygiene Items Log
DFD	Detroit Fire Department
DFF	Detainee File Folders
DFO/PDO	Detention Facility Officer
DDHWP	Detroit Department of Health and Wellness Promotion

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

January 16, 2014

Page 177

DIF	Detainee Intake Form
DOJ	Department of Justice
DPD	Detroit Police Department
DRH	Detroit Receiving Hospital
EMS	Emergency Medical Services
EPP	Emergency Preparedness Program
ERP	Emergency Response Plan
FI	Force Investigations (<i>interchangeable with FIS</i>)
FIS	Force Investigation Section
FSP	Fire Safety Program
FSPP	Fire Safety Practices and Policies
FY	Fiscal Year
GAS	Government Auditing Standards
HCCC	Holding Cell Compliance Committee
IA	Internal Affairs
IAD	Internal Affairs Division
IMAS	Interim Management Awareness System
ITS	Information Technology Services
JIST	Joint Incident Shooting Team
MAS	Management Awareness System
MCOLES	Michigan Commission on Law Enforcement Standards
MITN	MCCOLES Information and Tracking System
OCI	Office of the Chief Investigator
OCR	Office of Civil Rights
OIC	Officer in Charge
PDDSL	Platoon Daily Detainee Summary Log
PDO	Police Detention Officer
PEERS	Performance Evaluation and Enhancement Review Session
PFC	Policy Focus Committee
PI	Performance Indicator
PSA	Public Service Announcement

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

January 16, 2014

Page 178

RFP	Request for Proposals
RMB	Risk Management Bureau
SIR	Supervisor's Investigation Report
SME	Subject Matter Expert
SMT	Senior Management Team
SOP	Standard Operating Procedure(s)
TA	Technical Assistance
UOF CJ	Use of Force and Arrest and Witness Detention Consent Judgment
UOF	Use(s) of Force
USAO	United States Attorney's Office
WCPO	Wayne County Prosecutor's Office
WCJ	Wayne County Jail

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

January 16, 2014

Page 179

APPENDIX D: Monitoring Team

Robert S. Warshaw, *Monitor*

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

Lieutenant Colonel (Ret.) J. Rick Brown

Evaluates compliance with U16-17 and U19, General Use of Force Policy; U22, Use of Firearms Policy; U24, Intermediate Force Device Policy; U25-26, Chemical Spray Policy; U27-33, General Investigations of Police Action; U34-36, Use of Force and Prisoner Injury Investigations; and U37-41, Review of Critical Firearm Discharges and In-Custody Deaths.

Division Chief (Ret.) Rachel M. Burgess

Evaluates compliance with U27-33, General Investigations of Police Action; U34, Use of Force and Prisoner Injury Investigations; U61-63, External Complaints; U64-66, Intake and Tracking; and U67-69, External Complaint Investigations; C14-22, Fire Safety Policies; C23-25, Emergency Preparedness Policies; C60-61, General Policies; and C65-72, Management and Supervision.

Commander (Ret.) John M. Girvin

Evaluates compliance with U27-33, General Investigations of Police Action; U61-63, External Complaints; U64-66, Intake and Tracking; U67-69, External Complaint Investigations; and C58-59, External Complaints.

Chief (Ret.) Eduardo Gonzalez

Evaluates compliance with U14-19, General Use of Force Policy; U22, Use of Firearms Policy; U24, Intermediate Force Device Policy; U25-26, Chemical Spray Policy; U27-33, General Investigations of Police Action; U34-36, Use of Force and Prisoner Injury Investigations; and U70-72 and U74-77, General Policies.

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

January 16, 2014

Page 180

John M. Klofas, Ph.D.

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

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

Evaluates compliance with C35-38, Prisoner Safety Policies; C39-46, Environmental Health and Safety Policies; C47-48, Policies Concerning Persons with Disabilities; C49-50, Food Service Policies; and C51, Personal Hygiene Policies.

Chief (Ret.) Billy R. Riggs

Evaluates compliance with U42-43, Arrest Policies; U44-45, Investigatory Stop Policies; U46-48, Witness Identification and Questioning Policies; U49-51, Prompt Judicial Review Policies; U52-53, Hold Policies; U54-55, Restriction Policies; U56-57, Material Witness Policies; U58, Documentation of Custodial Detention; U59-60, Command Notification; C26-34, Medical and Mental Health Care Policies; and C64, Management and Supervision Policies.

Asst. Director (Ret.) Joseph R. Wolfinger

Evaluates compliance with U20-21 and U23, Use of Firearms Policy; U73, Pre-Service and In-Service Training for all Detention Officers; U98-99, Oversight; U100-102, Use of Video Cameras; U106-111, Oversight and Development; U112, Use of Force Training; U113, Firearms Training; U114, Arrest and Police-Citizen Interaction Training; U115-117, Custodial Detention Training; U118-120, Supervisory Training; U121-122, Investigator Training; U123, Field Training; C73, Pre-Service and In-Service Detention Training; C74, Retention of Detention Officer Training Records; C75, Detention Officer Emergency Preparedness Training; C76, Detention Officer Medical/Mental Health Training; C77, Detainee Safety Programs and Policies; and Environmental Health and Safety and Hygiene Training.

Robin Busch-Wheaton

Editor

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

January 16, 2014

Page 181

APPENDIX E: Detroit Police Department Management Dashboard Data

The table below presents data on measures relevant to the requirements set forth in the Consent Judgments. The data were compiled by the Detroit Police Department, and are displayed for presentation by the Monitoring Team. These data are presented here with the consent of the Police Department and serve simply as a means to provide information relevant to issues raised in the Consent Judgments.

Dashboard Data: Detroit Police Department 7/12-6/13												
	Oct-12	Nov	Dec	Jan. 2013	Feb	March	April	May	June	July	August	Sept
Total Arrests	1481	1508	1423	1386	1244	1703	1583	1760	1494	1827	1728	1460
Number of Events per 1000 Arrests												
Uses of Force	47.94	72.94	28.81	49.78	61.90	36.99	46.11	54.55	53.55	49.26	63.08	46.58
Firearms Discharge	5.40	2.65	0.00	1.44	4.02	1.17	3.79	0.57	2.68	3.28	3.47	2.05
Citizen Complaints	74.27	39.12	54.81	66.38	28.94	29.36	57.49	41.48	57.56	67.87	54.40	46.58
Traffic Crashes	7.43	3.98	9.84	6.49	8.84	7.63	2.53	6.82	6.02	3.83	3.47	10.27
Civil Litigation	6.08	5.97	7.73	1.44	1.61	0.00	8.21	6.82	1.34	10.95	13.31	3.42
Vehicle Chases	7.43	7.29	5.62	3.61	2.41	7.05	4.42	3.98	2.01	2.74	4.05	6.16
Disciplinary Action Closed Date	1.35	0.00	0.70	25.25	8.84	0.00	6.32	9.09	18.07	5.47	14.47	4.11
Arrests for Assault and Battery on a PO	14.18	24.54	7.73	15.15	18.49	3.52	6.95	6.82	14.06	10.40	10.42	10.27
Resisting or Obstructing Arrests	16.21	33.82	18.97	19.48	19.29	25.25	22.74	28.98	22.09	21.35	29.51	24.66
Disorderly Conduct Arrests	2.03	5.97	4.92	0.72	8.84	0.00	0.00	6.82	0.67	3.28	5.21	4.11
Interfering Arrests	2.70	3.98	0.70	0.72	0.00	1.17	1.90	1.70	4.69	3.83	2.89	0.00
Total Consent Judgment noted Arrests (above 4)	35.11	68.30	32.33	36.08	46.62	0.00	31.59	44.32	41.50	38.86	48.03	39.04