

**Fourth Quarterly Report of 2015 –
From The Independent Monitor For The Virgin Islands Police Department**

**FOURTH QUARTERLY REPORT OF 2015
FROM THE
INDEPENDENT MONITOR
FOR THE VIRGIN ISLANDS POLICE DEPARTMENT**



**CHARLES A. GRUBER CONSULTING INC.
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EXECUTIVE SUMMARY

It is discouraging to report that for the sixth consecutive quarter, the VIPD has not brought an additional Consent Decree paragraph into substantial compliance. One and one-half years, (eighteen (18) months) have elapsed since the IMT has been able to award substantial compliance for even one paragraph. Two Territorial and VIPD administrations span this period. One full year has now elapsed since the current Territorial Government took office. One full year has elapsed since the current VIPD Commissioner and his new command staff have been in place. Renewed commitments to accelerate compliance have been expressed by Territorial and VIPD leadership. We find these quite authentic. Measured by IMT-VIPD relationships and VIPD work efforts, the compliance environment is far healthier today than in 2014. A stronger resource investment has been made, most notably in the Audits & Inspections function and the Professional Standards Unit. Still, the substantial compliance record has not altered. It is fair to emphasize that during this period, the IMT has not taken any paragraphs or sub-paragraphs out of compliance.

Especially in light of the Court's expressed aspirations at the December 7, 2015, hearing that the Consent Decree be brought into substantial compliance and move toward its final assessment state by August 2016, all parties should now consider Consent Decree operations to be at a turning point. Failure to move forward dramatically in coming quarters just cannot be acceptable if we are to meet the Court ordered deadline. A new sense of urgency must guide compliance work strategically and operationally. The IMT's Fourth Quarter work centered on actions to materially accelerate VIPD momentum.

Incremental progress is reportable with regard to Court-approved goals only. Compliance was achieved during Quarter Four, 2015 for seven goals. These included a one day IAPro in-house conference, and two goals which are duplicative of each other. In addition, the VIPD had to file to extend the suspense dates on four of the 4th Quarter goals because of non-compliance.

Compliance Status

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The VIPD has achieved Substantial Compliance for 31 paragraphs. These are treated in Appendix A. Twenty paragraphs (20) are not yet in Substantial Compliance. These are addressed in Section III. Compliance/Non-Compliance patterns continue to vary among Consent Decree paragraph groupings. Three groupings have a majority of paragraphs in Substantial Compliance, two of these only a bare majority, Citizen Complaints, 15 of 17, Management & Supervision, 7 of 12, Training, 5 of 9. The Use of Force grouping, to many the most essential, lags far behind all others with only 4 of 11 paragraphs in Substantial Compliance, 36%. This pattern has not changed during the past six quarters either.

Global Assessment of Consent Decree Status

With the Court's recently expressed aspirational expectation in mind, the IMT feels it to be useful to complement the now-standard accounting scorecard of Consent Decree status presented in quarterly reports with summary appraisals of VIPD compliance performance and the global condition of the Consent Decree. We are constantly aware of potential for the parties to get distracted by the numbers – the status of about 74 non-compliant paragraphs (20) and goals (54). Accordingly, we stepped back/paused to qualitatively evaluate the condition of Consent Decree status, by mandate grouping and in totality (the sum of the parts) and the potential for compliance in 2016.

Four individual qualitative assessments, one for each category of Consent Decree mandates, Use of Force, Citizen Complaints, Management & Supervision, and Training, do not combine to support the likelihood of a 2016 transition to substantial compliance status for currently unmet paragraphs (20), sub-paragraphs, and Court-ordered “step” goals which total 54. The Citizen Complaint grouping is poised for substantial compliance this year. The condition/position of the other three groupings is distinctly problematic. Considerer the following bottom-line observations from our Monitor and the IMT's Police Practices Experts:

- **On Use of Force:** Several unmet Consent Decree requirements are those which the IMT believed would be among the first to come into compliance. These include matters of force application, supervision, documentation, and accountability. Most if not all of these mandates reflect professional standard

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policies and practices that are common in similarly organized police agencies. Needless to say, the fact that standard, routine policies and practices are not in place and/or were dysfunctional within the VIPD is alarming and does not bode well for the future of embedding and sustaining constitutional policing practices in the VIPD cultural and political environment.

- **On Citizen Complaints:** Although much work remains to be done to attain and maintain full compliance in this Consent Decree area, the VIPD, and particularly the personnel of this Working Group, deserve credit for the progress that has been made and continues to be built upon. At this time, with continued strong effort, this Consent Decree section will probably be the first to achieve full compliance. Hopefully, this will/can occur in a relatively short period of time.

- **On Management & Supervision:** Both EIP and the Audit function are essential components for a well managed police agency. At this time, it may be possible for the VIPD to reach compliance within 2016, but this will be very challenging. For this to occur, the VIPD needs to dedicate additional resources, very soon, and maintain a high standard for managerial and supervisory accountability, an area where it has fallen short since the inception of Consent Decree compliance work. Short of this, we cannot be optimistic that the entire management and supervision component of the Consent Decree will reach total compliance.

- **On Training:** Written IMT records, including Quarterly Reports, have consistently shown Training paragraphs compliance to be notably less successful than all other groupings, historically. Work toward substantial compliance with Paragraphs 73-81 of the Consent Decree continues to be woefully inadequate and critical systemic problems continue to retard VIPD's efforts to satisfy the requirements of the Consent Decree. Problems sort themselves into two categories, those that are Consent Decree mandate-specific and those that demonstrate/have demonstrated absence of recognition of basic principles of

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training and education, such as adult learning concepts, effective instructional design, and training process and outcome evaluations.

More detailed diagnostics appear later in the report. Interestingly and most significantly, each Police Practices Expert chose to highlight as a prominent challenge and barrier to better compliance work, historically and presently, the VIPD's accountability shortfall. This condition undermines the potential for many VIPD efforts to supply a compliance payoff.

Potential Momentum Changers

The IMT concentrated Fourth Quarter work on two applications designed to promote paragraph and goal achievement: (1) Goals Action Plans and (2) Priorities 2016.

In November, 2015, the DOJ, IMT, and VIPD collaborated to "...develop a comprehensive plan to comply with outstanding goals and paragraphs." The intended Work Product was to be, and is, a plan (a progressive series of action steps) for each unmet paragraph of the Consent Decree and Court-ordered goal. Using the IMT-designed GMS (Goals Management Software), VIPD Work Group members were tasked to choose and document action steps, action officers, priority choices, and suspense dates that are reasonable and possible to comply with. The IMT facilitated the event. The goals work to date – done prior to, during, and after the Summit, is very mixed in quality and still undergoing review and modification by VIPD compliance staff and the IMT. More work is scheduled for the February 2016 Summit. IMT technical assistance is ongoing.

At its annual retreat in January, 2016, IMT and VIPD representatives looked ahead to 2016 monitoring requirements. With conscious regard to the reinforcing objectives of - (1) responding to the stated aspiration of the Court that the VIPD achieve Consent Decree compliance in August, 2016, (2) singling out the paragraphs and sub-paragraphs and goals most essential to satisfying that aspiration, and (3) maximizing return-on-resource investment (of all parties) – the IMT and VIPD representation completed a compliance priority & monitoring plan for 2016 (January-June), which can be found Section IV,. The Plan was developed in concert with the IMT and VIPD representation, and subsequently endorsed by everyone present. The Plan has been reviewed by the USDOJ and discussed with the Work Groups during the January Monthly

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Call (2-3-16). And VIPD's Consent Decree Work Groups have been provided with the compliance priority plan. Worthy of note, consensus on the 17 priorities selected emerged very readily. There was a high level of consistency among the choices of PPE's and others from the outset. Emphasis is overwhelmingly on Use of Force mandates. To be successful – to achieve compliance for Priorities 2016, as well as other unmet mandates, the Goals and Action Plans must be well crafted and carried out in a timely manner. In this regard, the Priorities cannot/is not likely to be met if the Action Plain initiative fails. (The Plan is summarized below in Section IV.)

Finally, and of major consequence for monitoring and compliance progress, IMT staffing has been augmented. We have added a Police Practices Expert (PPE) who will devote time primarily to Use of Force monitoring, technical assistance, and compliance status matters. Chief Chet Epperson has already begun work. The Court and the VIPD can expect a measurable increase in both monitoring and technical assistance during coming quarters.

First Quarter

The Fourth Quarter 2015 Summit was held February 11-12, 2016. Guided by the primary need to materially accelerate paragraph compliance, priority objectives for the Summit were:

- Further refining the compliance plans started in December within the GMS software.
- Develop 1Q2016 Goals
- Finalize a comprehensive plan that addresses paragraphs and goals.

Accomplishments will be discussed at the February, 2016 Court hearing and reported on in the next quarterly report.

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I. COMPLIANCE STATUS:

The following 8 charts document Paragraph Status at the end of the Fourth Quarter of 2015. Compared to Quarter One, Two, and Three of 2015, and Quarters Three and Four, 2014, there has been no change at all with regard to Overall Status (Chart 1), and therefore with regard to Overall Compliance by Paragraph Groups (Charts 4-8). Trending is depicted in Charts 2-3.

A. Overall Status

The VIPD has achieved Substantial Compliance for 31 paragraphs. Twenty paragraphs (20) are not yet in Substantial Compliance. These paragraphs are detailed in Appendix A to this report.

Compliance/Non-Compliance patterns vary among Consent Decree paragraph groupings. Charts 4-8 show that three groupings have a majority of paragraphs in Substantial Compliance: Citizen Complaints, 15 of 17, Management & Supervision, 7 of 12, Training, 5 of 9, two of these reflect a bare majority. The Use of Force group remains at only 4 of 11 paragraphs in Substantial Compliance. The Use of Force grouping has the majority of steps and checkpoints for compliance within the reporting and investigation processes and thus a significant number of problem areas which continue to exist, thwarting compliance, even at the sub-paragraph level.

B. Compliance at the end of Quarter Four, 2015:

1. Consent Decree Paragraphs That Came Into Compliance During the 4th Quarter

No Consent Decree Paragraphs came into compliance during the 4th Quarter 2015. One sub-paragraph (60-H) came into compliance.

2. Paragraphs in Substantial Compliance at the end of the 3rd Quarter, 2015 are: 31, 39, 40, 41, 42, 43, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 61, 62, 63, 64, 65, 66, 70, 75, 76, 78, 79 and 80.

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(NOTE: Bolded/underlined paragraphs have training evaluated under paragraph 75 and implementation under paragraph 100)

Paragraphs Not In Substantial Compliance: 32, 33, 34, 35, 36, 37, 38, 44, 58, 59, 60, 69, 71, 72, 73, 74, 77, 81, 100, 101.

Paragraphs Having Not Applicable (NA) Status: 67, 68

The IMT issued a memorandum on November 13, 2014 that displays the linkage between paragraph 100 sub-paragraph compliance requirements or items (a-w) and their original location in another paragraph of the Consent Decree. This is included as Appendix C to this report.

The following charts display this status information.

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CHART 1

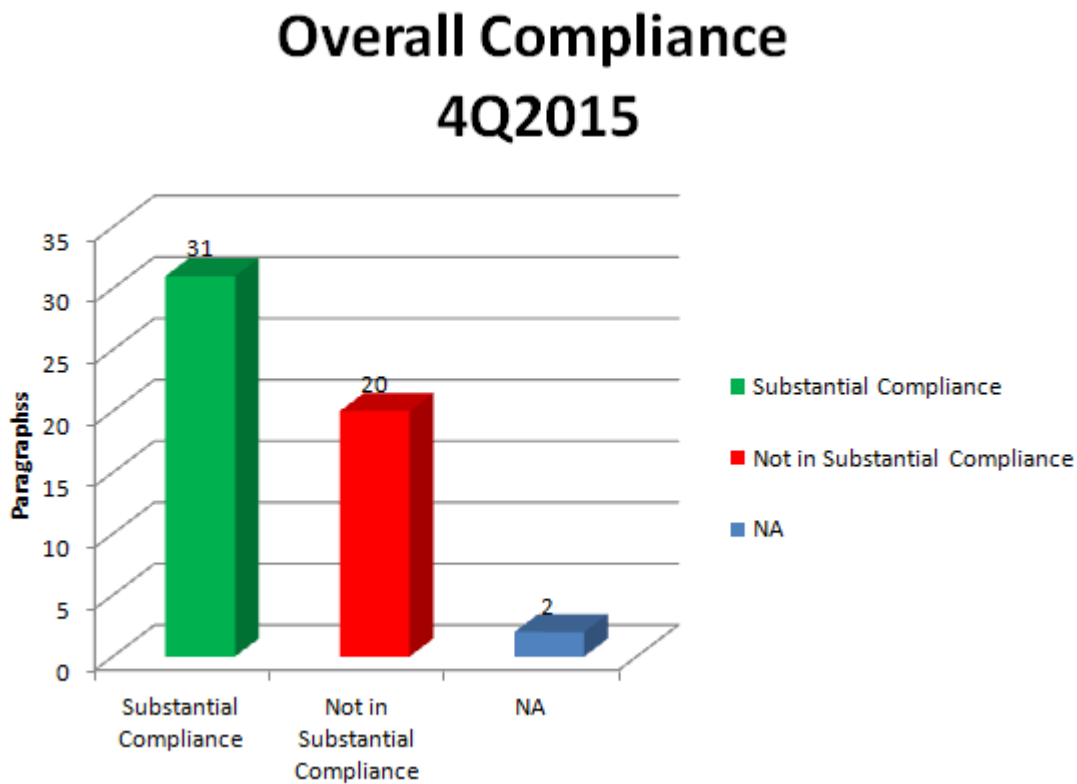


CHART 2

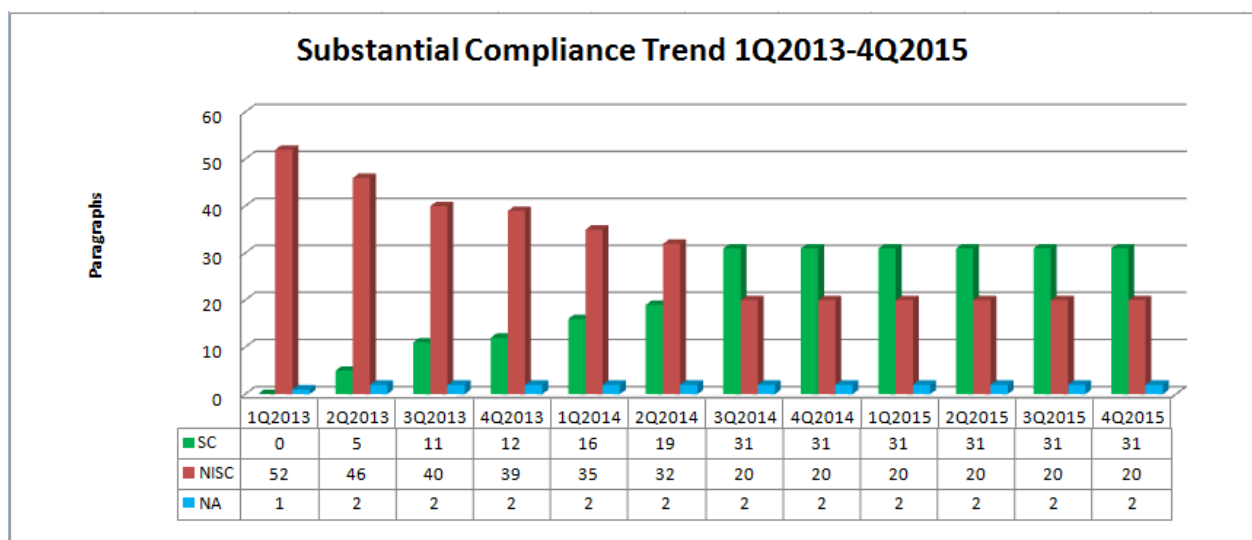


CHART 3

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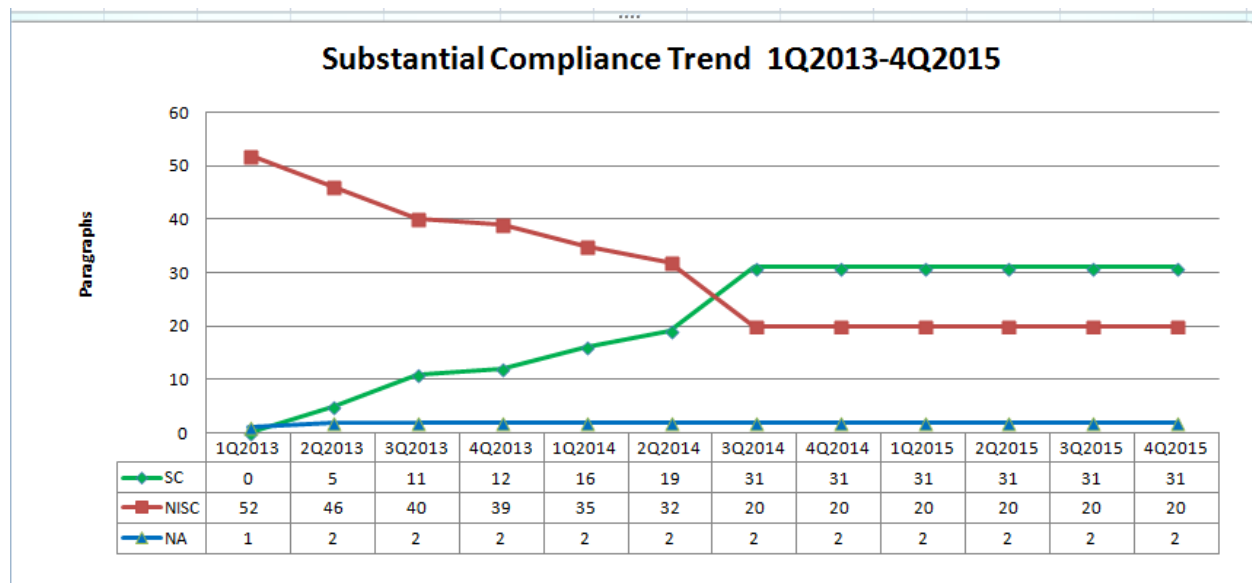
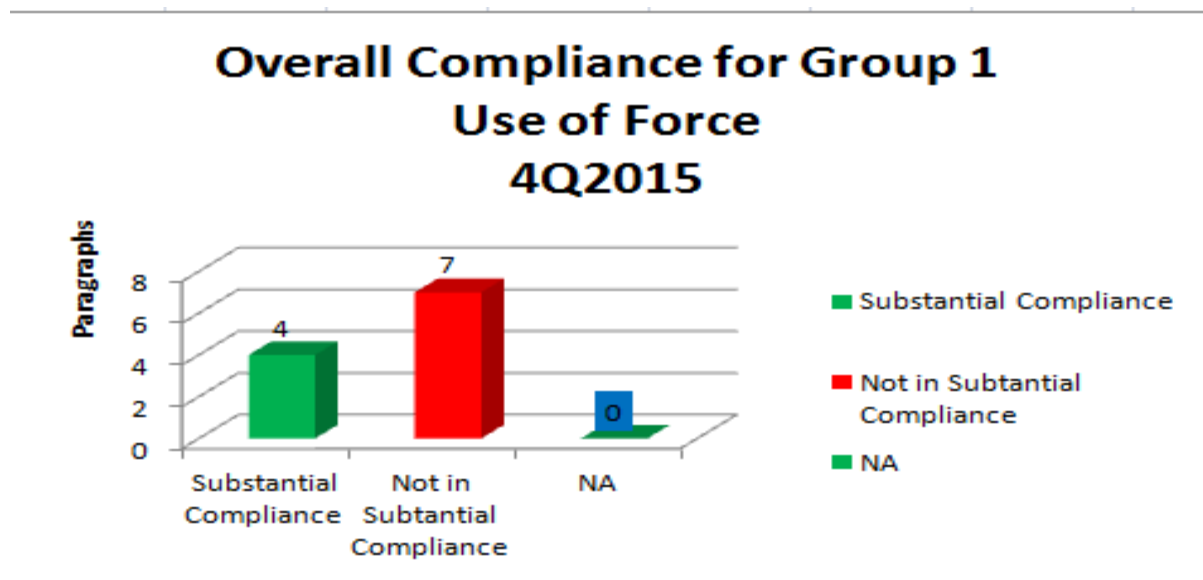


CHART 4



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CHART 5

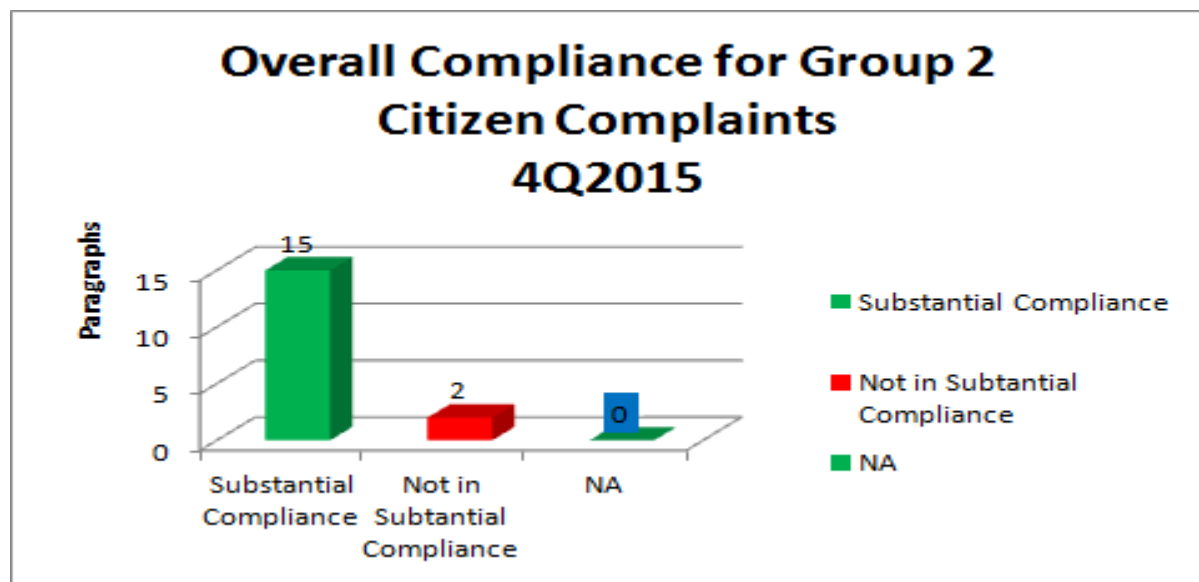
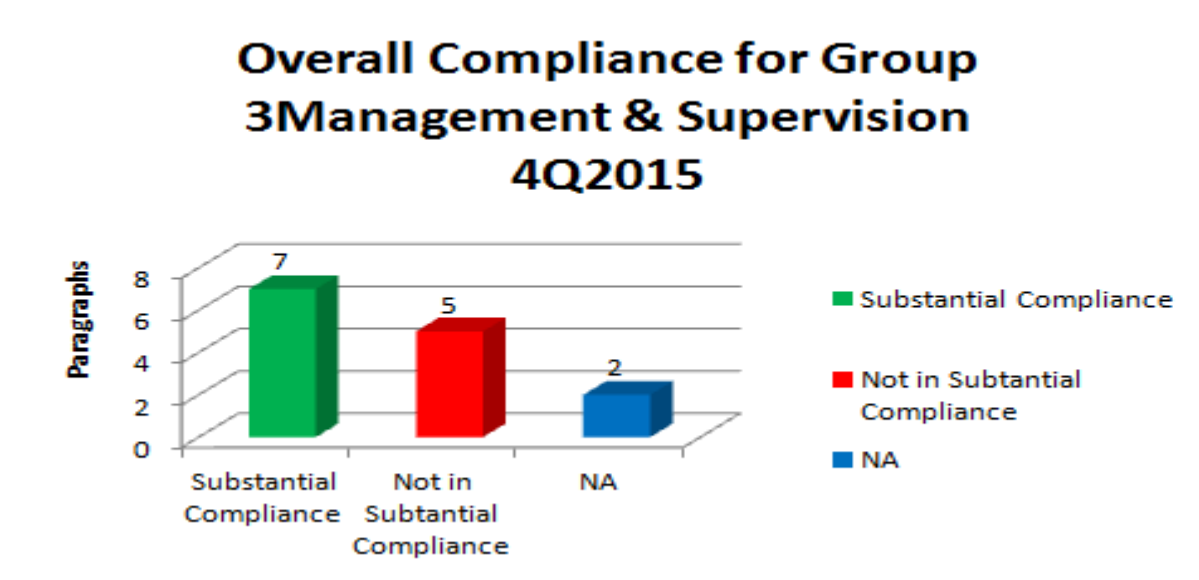


CHART 6



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CHART 7

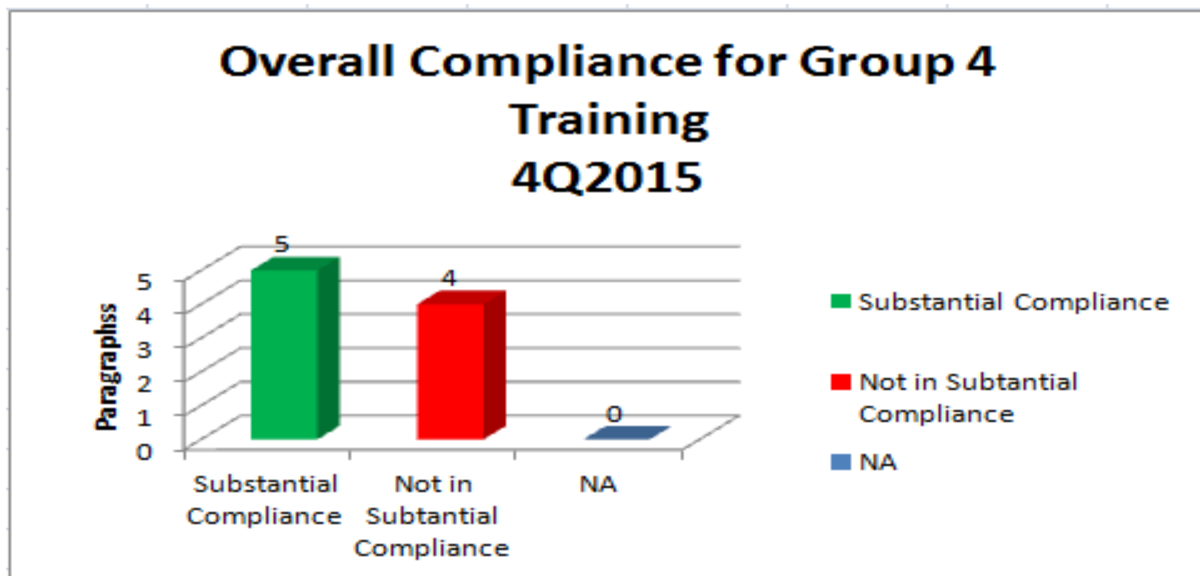
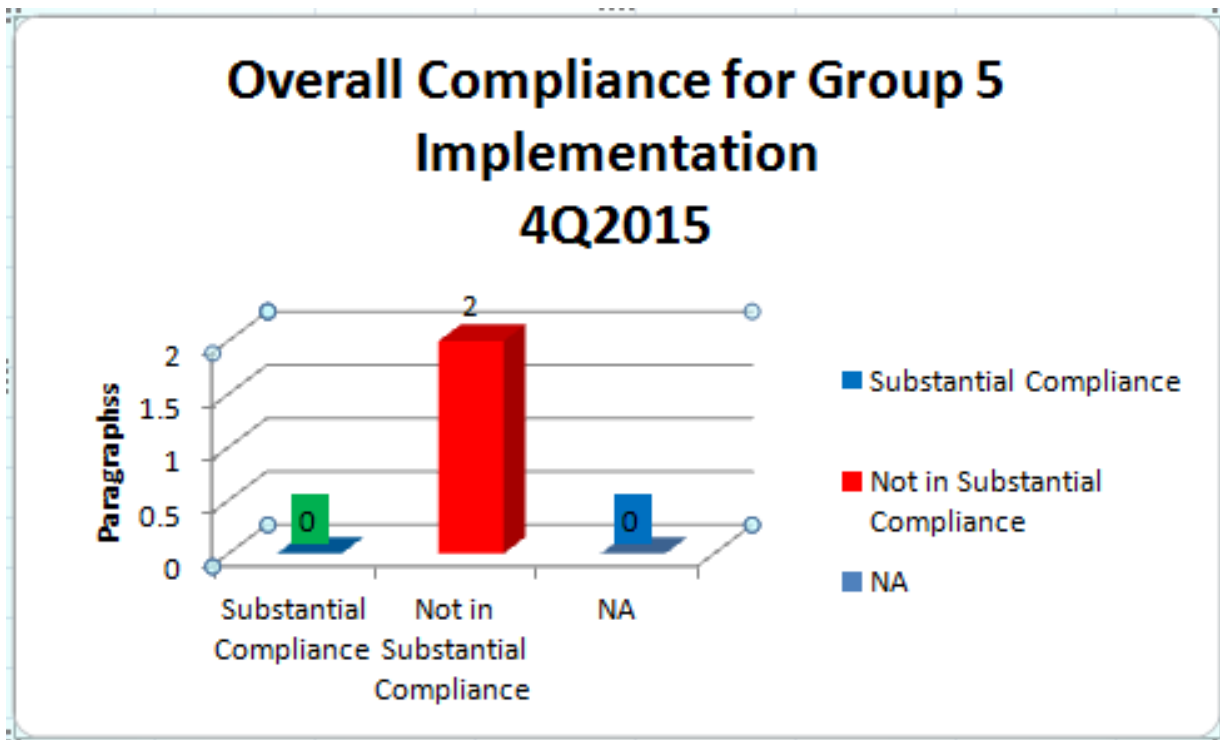


CHART 8



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C. Court Ordered Goals for the 4th Quarter 2015

The following VIPD submitted goals for the 4th Quarter 2015 were approved by the Court. Their status as of the end of the 4th Quarter 2015 are as follows:

4Q5-1

Goal Statement

Develop Standard Operating Procedure (SOP) for the Force Review Board (FRB).

IMT Evaluation

IMT will provide technical assistance during the week of Feb 7, 2016, to assist with the development of the referenced SOP. This goal will be updated at the end of that week. The IMT worked with VIPD personnel during the week of Feb 7 and developed a final draft SOP for the FIT operations. This SOP is currently being reviewed by the Parties.

Completed

02/12/16

4Q5-2

Goal Statement

Develop SOP for Force Investigation Team (FIT)

IMT Evaluation

IMT will provide technical assistance during the week of Feb 7, 2016, to assist with the development of the referenced SOP. This goal will be updated at the end of that week. The IMT worked with VIPD personnel during the week of Feb 7, 2016 and developed a final draft SOP for the FRB operations. This SOP is currently being reviewed by the Parties.

Completed

02/12/16

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4Q5-3

Goal Statement

Chiefs of Police will hold at least two (2) Use of Force Review Boards for the quarter. FIT members to observe or participate.

IMT Evaluation

IMT will provide technical assistance during the week of Feb 7, 2016, to assist with the conduct of two Force review Boards by each District; this goal will be updated at the end of that week. While the IMT did work with the FIT and FRB personnel during the week of Feb 7, 2016, time and data constraints (lack of investigative files by FIT and naming of the FIT and FRB personnel delayed until 02/11/16,) the IMT was only able to conduct briefing meetings with these personnel, where the draft SOPs were reviewed as were limited cases, focusing on force compliance with policy issues. The IMT believes this goal should be re-written to address the lack of Level 1 investigations available within a quarter and the IMT will attend the first iterations of the FRB hearings to provide mentoring and training as needed.

The VIPD, in its filing dated 02/12/16, extended the compliance date for this goal to 05/06/16.

Not Completed

4Q5-4

Goal Statement

Establish process for on-call Supervisor(s) to respond to Use of Force incidents when off duty.

IMT Evaluation

The IMT has advised the VIPD that they need to standardize their On-Call Supervisor Call Back form Territory-wide. The IMT received a revised format from the VIPD on the day this draft report was completed and will evaluate that format and update this evaluation during the week of Feb 7, 2007. This issue regarding schedule formats was not resolved during the Summit week and the IMT will continue to work with the VIPD regarding this issue.

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Not Completed

4Q5-5

Goal Statement

VIPD will bring backlog of cases current by designating a time period for supervisors responsible for the delinquent cases to complete the investigation of each delinquent case.

IMT Evaluation

As reported previously and repeatedly by the IMT, the VIPD has attempted to resolve the timeliness problems by issuing Commissioner's directives in both Districts, which mandate the completion of all outstanding 2013 and 2014 investigations. There has also been a focus on completing 2015 cases. As a result of these directives the number of outstanding cases for both Districts was reduced significantly. More recently, as a result of the November 2015 summit, the

Chief of St Croix reassigned supervisors to his office to complete their overdue cases. St

Thomas chose an alternative plan to address the same issue. Originally, the due date for these overdue cases to be completed was mid-January 2016. At the request of VIPD this date was extended to February 5, 2016. IMT will assess the effectiveness of these efforts.

VIPD needs to clearly identify the specific reasons for the delay and address same.

Additionally, VIPD must continue to hold managers and supervisors accountable for inappropriate delays.

Not Completed

4Q5-6

Goal Statement

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The VIAG will provide the VIPD with a log of all criminal proceedings initiated by, as well as civil lawsuits and administrative claims served upon the Attorney General in 2015 resulting from VIPD operations or the actions of VIPD personnel

IMT Evaluation

The VIPD submitted a copy of an internal VIAG SOP outlining the process for notifying/forwarding VIPD of any/all actions filed against VIPD personnel (civil and criminal). According to this SOP, the initial notification process is to be completed within 72 hours. During mid-2015, VIAG representative stated that, although this SOP was signed by a former AG, the current AG agreed to follow/continue this process. IMT was told they would be informed by VIAG should this change. Additionally, at the November 2015 Summit, VIAG committed to start providing a log of all such actions/notifications. The VIAG determined that, in addition to the initial notice, it will provide a log on a quarterly basis. VIPD submitted a copy of the first of such logs. On January 5, 2016, the VIPD submitted a log for cases filed resulting from VIPD actions, thus complying with this goal.

The VIPD should monitor the continued delivery of these reports by the VIAG and ensure that these updates are entered into the IAPro system, with an established suspense date for periodic follow-up. Further the VIPD should establish a permanent folder for the filing of all such submissions from the VIAG. The VIPD AIU should include these reports as part of their future audit plans on a continuing basis. Exceptions to the continued reporting by the VIAG should be promptly reported to the USDOJ and the IMT.

Completed

01/06/16

4Q5-7

Goal Statement

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VIPD will conduct IAPro summit on December 21, 2015, in an effort to better track status of cases and bring about increased managerial accountability.

IMT Evaluation

The VIPD conducted a summit (seminar) on IAPro use and recent developments with executive and management staff, They produced a report that detailed the items and training conducted during the session.

IMT Recommendation for Continued Compliance

The IMT recommends that this type of review and training be repeated periodically and to the broadest range of personnel who regularly utilize the system.

Completed

01/08/16

4Q5-8

Goal Statement

Determine where more effective adult learning can be applied and be more effective. Re-examine curricula to identify opportunities to introduce and use adult learning concepts and practices to improve learning for the attendees. Priority to Consent Decree related curricula.

- a. Identify a training for adult learning concept
- b. Identify training dates and location
- c. Obtain course outline and training material for review and approval

IMT Evaluation

This goal should be a part of an overall revision of all lesson plans. While there is a priority to revise and update CD related lesson plans, the entire system needs review and revision. There was an Instructor “Retreat” in November, 2015; there is a meeting scheduled to take place by 1-29-16 to advance this goal. Another meeting was scheduled for 12-17-15 which IMT believed would produce a lesson plan revision schedule. While the meeting took place, IMT did not see

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any additional progress. Progress should be reported during Monthly meeting 2-3-16 but was not. We would very much want to come away from our next “summit meeting” with VIPD with a revision plan.

The VIPD in its filing of 02/12/16 extended the compliance date of this goal to 03/31/16.

Not Completed

4Q5-9

Goal Statement

Training Division will collaborate with the other three (3) working groups to identify and respond with training support to Consent Decree issues and areas identified by the working groups. Training Division’s support will include assessment of the needs; identification of the trainees; development of the curricula; delivery of training; and, in conjunction with the audit unit, evaluation of the training effectiveness.

- a. Design the training support process
- b. Meet with each of the working group and explain protocol.

IMT Evaluation

The IMT is aware that the Training Division has developed a training support request form and has distributed this to the other three working groups. The IMT is further aware that based on Training Division reports, they have met with these groups and briefed them on the substance of this goal and the process by which they will be providing training support. However, the IMT continues to wait for Training Division generated reports and schedules for training support services delivery to the three other working groups and therefore VIPD has not met the goal. This is further complicated by the fact that in a large number of compliance plans within the GMS software there are references to training initiatives as solutions to problems, but we have not seen any evidence of the Training Division involvement.

In addition, we are not sure that the steps to achieve this goal are leading to the desired result. This goal is attempting to install a system for other Consent Decree Work Groups to

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communicate to the Training Bureau that there is a need for Training to conduct Consent Decree related training. We would think that something less formal might be more effective. There has to be a system in place already for training requests to be sent forward to the Training Director. This may be a duplication of effort.

The VIPD in its filing of 02/12/16 extended the compliance date of this goal to 03/31/16.

Not Completed

D. Other Court Ordered Goals Completed During the Fourth Quarter 2015.

A total of three (3) other goals were completed during the quarter, including 60-c, 60-h, and M&S 11. The analysis of those goals, along with those 4Q2015 goals completed can be found at Appendix E to this report.

D. Current Status of All Other Court Approved Goals

All remaining Court Order Goals, not noted above, remain non-compliant. To view a detailed listing of these goals, the reader is directed to Appendix B to this report, which includes a total of 54 goals non-compliant.

E. Sub-Paragraphs Not Associated With a Goal

There are a total of twelve (12) sub-paragraphs monitored by the IMT that are not associated with a specific Court Ordered Goal. These are listed in Appendix D to this report. During the Fourth Quarter of 2015 there was no work done by the VIPD to prepare compliance plans within their GMS software, nor any work done and reported to the IMT, toward compliance with these sub-paragraphs. The IMT has, on several occasions, reminded the VIPD of the need to complete these work plans and to begin work in response to same towards compliance.

F. Current Status of Consent Decree Paragraphs Not In Substantial Compliance

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Detailed listing of Consent Decree paragraphs, along with their sub-paragraphs, can be found in Appendix A to this report. There are a total of 73 sub-paragraphs located within 20 paragraphs that remain non-compliant.

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II. COMPLIANCE OVERVIEW: A GLOBAL ASSESSMENT

The previous section offered a quantitative overview of Consent Decree compliance. This has become a staple of our Quarterly Reports, designed to supply a current and accessible summary of bottom-line status. With the Court's recently expressed aspirational expectations in mind, and the Territory's declaration for August, 2016 Consent Decree compliance, the IMT felt it would be useful to all parties to supplement the standard quantitative overview with a global qualitative, PPE-crafted assessment of (1) the condition of the Consent Decree in its entirety and in its component parts and (2) judgments regarding a 2016 wind-down.

Prospects for 2016 Compliance

Four group-specific assessments follow. One is positive. The Citizens Complaint paragraph group is positioned for substantial compliance in 2016. Two potential momentum changers notwithstanding, the Goals Action Plans & Priorities 2016, the IMT is not optimistic that any of the other three paragraph groupings are currently positioned for substantial compliance, in their entirety. Our individual assessments, collectively – the “sum of the parts,” simply cannot support such an expectation.

Use of Force Paragraphs

Virgin Islands Police officers must conduct themselves in accord with clear and concise policies that establish guidelines on the limitations of the use of force and on use of deadly force in particular. The VIPD must train officers on the appropriate and proficient use of the full range of force options, not just firearms. Especially important is a focus on the value of less lethal force and de-escalation techniques. The most important component for managing and regulating the use of force by the Virgin Islands Police Department's law enforcement officers is the role and effectiveness of first-line supervisors. Policies and procedures, and training officers on their applications of force are of little value in absence of oversight of line supervisors and command-personnel ensuring officer compliance and conformity and with VIPD directives. This concern makes it essential that VIPD command staff create formal procedures for reporting force and for

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investigating, reviewing, auditing and especially exacting accountability for use-of-force incidents. The Consent Decree mandates design and institutionalization of all of these practices in the Use of Force paragraphs. Reduced to fundamentals the Consent Decree comes down to these core items.

So why is it taking so long for the VIPD to comply with what should have been and should be an uncomplicated process? Retrospectively considered, the answer is neither simple nor necessarily easily tracked. We believe an early administration thought the department would simply follow direction because officials were told to “do it.” Without follow-up, detailed assignment of personnel, and organizational accountability, little if any progress was made regarding Consent Decree implementation. The condition prevailed for some time. Personnel changed positions, and commissioners came and went. Judge Gomez has stated several times he is now on his 6th commissioner since the start of the Consent Decree. Each new leader wants his stamp of approval on policies and practices. With each Deputy Chief, Chief, Deputy Commissioner, and Commissioner came more delays, changes, and varying degrees of across-the-board organizational lethargy.

Years of writing approved policies on force practices and many different force training programs have not produced compliance with the paragraphs in the Consent Decree. Previous efforts to gain substantial compliance with force paragraphs have been found wanting for a number of reasons, not the least of which is an insufficiently supported departmental desire to contribute to constitutional policing practices. The Consent Decree requirement to write use of force reports was alien to the VIPD culture and unexpectedly challenging. VIPD supervisors were unequipped and or unwilling to accomplish the required reporting elements of the Consent Decree. To be sure, there are still members of the VIPD staff and supervisors who oppose doing the work, for reasons known only unto them. While this resistance is less prevalent than it has been in years past, it still resonates in the department culture. This is evident from the number of officers who continue to fail to properly file use of force reports. Six officers from throughout the territory were charged by the department with failing to carry out this duty (Mar 2015 thru Dec 2015). To the credit of the VIPD they did charge the officers! These cases still remain open as of January 2016. The failure of the department to investigate and close these cases in a timely

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way could preclude discipline and accountability of the offenders. This lack of formal accountability, even when a preponderance of evidence has been determined, creates the culture of no accountability at all.

In 2015 a new governor and his team came to power. This resulted – again, in across-the-board changes in VIPD leadership and another setback for the Consent Decree. This change brought a new team forward, however, that is more energized and determined to implement the Consent Decree than previous leadership groups. This is a welcome change for the entire Consent Decree team. Progress started with the VIPD working and developing a plan of action, assigning personnel as analysts, and auditors, and by hiring new personnel designated specifically to implement the Consent Decree. A true sense of commitment to the policies and practices embedded within the Consent Decree, and confirmed by the court, emerged from the VIPD's new Compliance Unit, Professional Standards. It was immediately apparent to the IMT that a new sense of urgency had replaced years of both passive and active resistance to the consent decree by members of the VIPD. All of this notwithstanding, compliance is still “stuck” at 31 paragraphs and with no movement during the four quarters, the current leadership group has been at the controls!

Fixing Force Review & Accountability. Thirteen (13) force mandates have been prioritized for immediate attention. Major steps await near-term introduction to the VIPD force review and accountability process. First, an appointment of a Use of Force Review Board Administrator, as required under Policy 3.3, Force Review Board. The coordinator will also be responsible for preparing force review cases and related packages, calendaring inquiries for the UFRB, and following-up with written findings.

Second is completion of the operating procedures (SOPs) for the Force Investigating Team (FIT). An initial working draft was developed by the VIPD Force Working Group and submitted to the IMT for use during the TA visit Feb 9-10, 2016, where a final version is to be completed. Key elements required for successful deployment and operation were missing from the document and it was returned with areas for improvement noted. The IMT scheduled Police Practices Experts to meet with the Working Group and assist VIPD with completing the documents

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necessary for FIT team deployment during the Fourth Quarter 2015 Summit, scheduled for early February 2016. A final draft SOP for FIT operations was completed at the Summit and is currently out for review by the Parties.

Third, the Use of Force Review Board operating procedures were also scheduled for review at the February meeting as well. The VIPD has identified additional training for the UFRB from skilled and experienced police executives, currently operating a UFRB. This training is under scheduling review by the VIPD Training Director. A specific date has not been given by the Training Director. Like the FIT SOP, a final draft SOP for the UFRB was completed during the Summit and is currently out for review by the Parties.

Successful introduction of the components to the VIPD force review and accountability system will result in comprehensive force analysis and have an immediate positive impact on identifying areas of the force environment in need of attention. **Paragraph compliance should follow soon thereafter if the VIPD allows the system to identify both process and human behavior issues as they surface.**

The Force Accountability System in the VIPD is actively managed by the supervisors and leadership of the VIPD. The learning curve has been steep for a majority of members of a department that has not experienced the level or depth of such training before. Supervisors have remarked to the IMT that they have not received any training on force accountability and evaluations before. This new responsibility has come to them without sufficient attendant direction or organizational clarity. This problem has repeated itself since the Consent Decree was initiated. How the VIPD is organized, staffed, directed and managed is colored by politics. The VIPD is still a top down structure starting from the Government House itself. Not much changes without the concurrence of the political leaders of the territory including operational policing matters. We recommend that the new government look hard at reorganizing the police department so politics is not involved in the selection, deployment or promotion of police personnel up to the level of Deputy Chief.

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Accelerating Force Mandate Compliance. Force paragraphs, sub-paragraphs and goals are not yet in substantial compliance. The Court has expressed its desire for compliance in calendar year 2016 clearly. In the view of the IMT, this may be beyond the capacity of the VIPD. Our considered judgment notwithstanding, the IMT and VIPD are positioning to meet the challenge, if at all possible. We call the Court's attention to two initiatives recently designed to focus our collective energies on compliance: The Compliance Priority & Monitoring Plan for 2016 (see Section IV) and the Goals Action Plan (which is a VIPD internal produced document.) While these planning tools are discussed in other sections of this quarterly, we will note a few items about them. They were designed to bring about as much substantial compliance to the **out of compliance paragraphs** as is possible and to advance Judge Gomez's stated timeline of August 2016. They are, simultaneously, initiatives/applications to plans that organize the VIPD efforts and keep a focus on stated goals. Each PPE will work directly with the Work Group leaders in a prescriptive step-by-step partnership.

Monitoring & Technical Assistance Resources. With the above needs and plans in mind, IMT staffing has been augmented with the hiring of a PPE who will devote time primarily to Use of Force monitoring, technical assistance, and compliance status matters. The Court and the VIPD can expect a measurable increase in both monitoring and technical assistance during coming quarters. The aforementioned FIT/FRB SOP development were among the already scheduled assignments.

Citizen Complaints Paragraphs

Earlier VIPD efforts to address Consent Decree citizen complaint intake and investigations requirements necessitated a focus on policy development. At the initiation of our monitoring, policies were either glaringly inadequate or non-existent. After an extended period of time relevant policies were developed, reviewed and formally authorized by the VIPD. Following these accomplishments was a lengthy period of time while appropriate training on said policies was developed and delivered. The period of time required for citizen complaint policy and training development and delivery was underestimated by all parties involved in Consent Decree compliance work. The skills to address policy and training development did not exist in the

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VIPD during the initial Consent Decree compliance period. To move forward, the VIPD hired a consultant. While the summary of these actions is reflected in one paragraph, the actual effort took multiple years to complete.

Following another extended period of time, and a number of retraining efforts, a second glaring deficiency became readily apparent – a lack of management and supervisory accountability throughout the VIPD. While a select number of managers/supervisors attempted to hold personnel accountable for the requirements associated with the citizen complaint process, overall effort was very limited and not reinforced throughout the agency. This condition and challenge was reinforced by constant turnover in Police Commissioners during the initial 5 years of Consent Decree compliance work. Repeated leadership change should not be underestimated for its effect on the delays in Consent Decree compliance. Absence of the required demonstration of management/supervisory accountability continues to be an issue. The IMT has witnessed increased recognition of accountability requirements under the current administration. While we appreciate the increased attention, it must be materially intensified and continually reinforced to reach Consent Decree compliance – across the mandate groupings.

A specific area in the Citizen Complaint paragraphs with which the VIPD continues to struggle is the timeliness of investigations. Reported previously and repeatedly by the IMT, the VIPD has attempted to resolve the timeliness problems by issuing Commissioner's directives for both Districts, which demand completion of all outstanding 2013 and 2014 investigations. There is also pressure to complete 2015 cases. The result of these directives is a significant reduction in the number of outstanding cases in both Districts. More recently, as a result of the November 2015 summit, the Chief of St Croix reassigned supervisors to his office to complete their overdue cases. St Thomas chose an alternative plan to address the same issue. Originally, the due date for these overdue cases to be completed was mid-January 2016. At the request of VIPD this date was extended to February 6, 2016. No real progress on this issue resulted from the Summit and the VIPD extended the suspense date on the related goal (4Q5-1) until 04/08/16 in their court filing of 02/12/16. The IMT will continue working with the VIPD to seek pathways to reduction of this case backlog now and in the future.

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The IMT continues to be concerned about the number of outstanding investigations – and the causes for these delays. Validity and reliability of the exact number associated with IAPro-sourced citizen complaint data frustrates, indeed inhibits, performance diagnostics, evaluation, and decision-making that would otherwise be possible. During the August 15, 2015 monthly meeting the VIPD could not provide the number of outstanding /overdue cases. Subsequently, the IMT requested and received listings of outstanding and overdue cases. The IMT has received multiple reports that are not entirely consistent.

The VIPD is obligated to convey and document the specific reasons why cases are not completed in a timely fashion. Numerous discussions reflect a belief in the zones that the delay is in IAB, and the opposite. Zone personnel claim that when cases are completed at the zone, they sometimes “sit” at IAB. At the same time, there are occasions where cases may be at IAB for review and are forwarded back to the zone for deficiencies. To address this problem properly and completely, the VIPD must clearly identify the specific reasons for delays and address same.

Due to a large number of overdue/outstanding cases that have developed during the last few years, the workload appears onerous to many supervisors. One bright spot: once delayed investigations are addressed, the actual numbers of cases handled by the VIPD on a yearly basis appear to be a very manageable number.

The IMT recognizes that the VIPD is attempting to ensure that if delays are necessary, appropriate waiver requests are initiated. The VIPD must continue to ensure that the reasons for these waivers are appropriate and consistent with their own policies.

While timeliness in responding to citizen complaints has improved during the Consent Decree continuance period, the IMT continues to be concerned with a number of the more serious investigations. Many of these involve officer-involved shootings (IAB and CID) and for protracted periods of time (sometimes for years). While the VIPD has been the source for many of the delays, responsibility is shared with the VIAG. The current administration has voiced a commitment to address this significant issue.

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One final concern is the very limited number of individuals assigned to assist/guide the VIPD to compliance in this area. While the current Working Group is functioning diligently to address concerns and deficiencies, only a few individuals are assigned to this responsibility. The same individuals that work on citizen complaint paragraphs are also responsible for the management and supervision paragraphs.

While the VIPD has achieved compliance with most of the paragraphs in the citizen complaint area of the Consent Decree, the VIPD must remain vigilant in their efforts to continue to maintain this compliance. The key in this area rests with the managers and supervisors.

Although much work remains to be done to attain and maintain full compliance in this area, the VIPD (and particularly the VIPD personnel in this Working Group) deserves credit for the progress that has been made and continues to be built upon. At this time, with continued strong investment, this Consent Decree section will/can probably be the first in full compliance. Hopefully this will occur within a relatively short period of time.

Management & Supervision Paragraphs

The Management and Supervision paragraphs of the Consent Decree center on two main components. The first is developing and implementing a risk management system (RMS) to include a new computerized relational database or paper system to maintain, integrate, and retrieve information necessary to supervise and manage the VIPD. The VIPD is to regularly use this data to promote civil rights and best police practices; to manage risk and liability; and to evaluate the performance of VIPD officers across all ranks, units and shifts. (CD Para 59.) The second is a requirement that the VIPD develop a protocol to conduct audits. The protocol is to be used by each officer or supervisor charged with conducting audits. The protocol will establish a regular and fixed schedule to ensure that audits occur with sufficient frequency, and cover all VIPD zones. (CD Para 69.)

VIPD internal capacity for RMS development and auditing simply did not exist at the outset of Consent Decree compliance efforts. Compounded by absence of appropriate managerial and supervisory direction and accountability, effective work in these areas was severely hampered

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and compliance was delayed for years. The challenge was intensified by the constant turnover of Police Commissioners during the first 5 years of Consent Decree compliance activity. Repeated leadership change should not be underestimated for its effect on the delays in Consent Decree compliance, generally. The absence of and/or inattention to management/supervisory accountability continues to be an issue. The IMT is witnessing an uptick in this regard under current VIPD leadership.

EIP

The Early Intervention Program (EIP) of the VIPD is being developed pursuant to requirements contained in the current Consent Decree. The development and implementation of an EIP is the significant result of compliance with the RMS components.¹

During the second quarter of 2011, the Management & Supervision Working Group concentrated much of its attention on the Department's Data Input Plan. Although the DOJ approved the VIPD's initial Data Input Plan on March 22, 2011 the Department never disseminated the Plan department-wide. Now, nearly five years later, the plan is in need of revision. VIPD submitted a revised plan on Dec. 29, 2015. The IMT and the DOJ are working with the VIPD to finalize the plan.

The IAB was entering information into IAPro as early as 2009. Because IAPro seeks to identify potentially problematic conduct based on established norms, IAPro functions best when it has a wealth of information to analyze. Unfortunately, despite multiple requests for additional personnel, IAB did not have the resources (while also carrying out its other functions) to complete this process on a reasonable time-line. While IAB has obtained additional personnel (analysts) in 2015, the attention to EIP plan entry to the system does not seem to have been increased.

During the 4th Quarter 2014, the IMT was informed that 97 Alerts were forwarded during 2014. Significantly, the VIPD could not immediately provide a status update other than a statement that

¹ The last IMT Quarterly Report summarized VIPD progress.

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very few had been addressed appropriately. This indicates a VIPD supervisory issue which continues into 2015.

As reported in numerous IMT quarterly reports, including last quarter's report, response to supervisory/managerial response to Alerts forwarded has been limited and ineffective. This allows employees who may be starting to exhibit signs of problematic behavior to continue the same behavior, potentially resulting in citizen complaints and/or uses of force. It is anticipated that with the hiring of new analysts, more focused attention will occur to ensure that the EIP protocols are followed correctly. IMT review seems to indicate they have not had a dramatic effect on increasing the EIP plan presence. The analysts alone cannot, however, bring the required Consent Decree paragraphs into compliance. With the analysts, additional managerial staff assigned to the Consent Decree and managerial/supervisory accountability (throughout the chain of command), the IMT believes the VIPD can move toward effective EIP compliance late in 2016.

During late 2015, the VIPD revised their Data Input Plan, which still needs work, and held an IAPro Summit. Also, currently the VIPD is reviewing and responding to comments regarding their revisions to the EIP-RMS policy.

At this time, the EIP is very much a work in progress. While the infrastructure to support EIP has improved, IMT has not yet seen evidence that managers and supervisors are effectively, and uniformly, utilizing the system. Management and supervisory accountability in this area is an essential step for compliance.

Audits

Compliance progress in the Audits area has been very slow. Historically, VIPD initiated Audit efforts solely through the Working Groups. This resulted in very inconsistent, uneven and vastly different approaches – and results. From a very early point, the IMT strongly recommended a fully staffed and trained Audit Unit. This recommendation was not embraced until the current administration took office. While the assignment of full-time personnel has been helpful in this

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area, not enough staff has been assigned. While the individuals are very hard working, the capacity to complete the number of audits required by the Consent Decree is not present.

During early 2015 Audit submissions were severely delayed. During the second quarter 2015, the IMT received the 3rd-4th quarter 2014 audit and the 1st quarter of 2015, in a “batch.” As of February 11, 2016, neither the IMT nor the DOJ had received VIPD’s audits for the 3rd or 4th quarter of 2015. While the Audits continue to improve, the IMT hopes that these Audits will be completed in a more timely fashion than has occurred previously.

During the last quarter the IMT received a VIPD proposed Audit SOP, which the IMT commented on. While we have been informally told that this is the final version, we have not received such officially from the Consent Decree Coordinator, as per written policy between the VIPD and the IMT and the IMT is still awaiting the final published version. Since the audits had been delayed, the IMT looks forward to assessing to what level the draft is being appropriately applied.

Regardless of the historically slow progress in this area, there is good news to report. The IMT reported in our last Quarterly Report that there had been significant progress.

Approximately 175 measurements have now been defined, applicable to and encompassing quantifiable paragraphs and sub-paragraphs in all four Consent Decree categories: Use of Force, Citizen Complaints, Management & Supervision, & Training. Approximately 120 measures are new, having been developed since submission of the last Audit, First Quarter, 2015. For each measure, data can be collected for each quarter, going forward. Historical data is available for Use of Force. Legacy data is not otherwise available. Some measurements yield only to yes/no decisions. Next steps will include IMT review of proposed measurements, and should include beta-testing by the VIPD, followed by appropriate revisions.

At some point in the future, to exit the Consent Decree, the VIPD will have to demonstrate sustained implementation. Accordingly, it would be useful to examine and array the data by quarter to explore patterns to show, for example, sustained positive quarters or interruptions.

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At this moment, a quarterly drill down effort would not produce sufficient value because of limited numbers of events (force investigations) in the VIPD within individual quarters. Ten (10) events per quarter (or other qualitative assessments) are needed to achieve the 95% threshold in any/every quarter. There are too many instances when the base of ten (10) is not reached. This is likely to remain a feature of the VIPD experience. An alternative measurement period will probably have to replace quarters to gauge sustained implementation.

While the IMT is encouraged by some of the recent Audit progress, much remains to be done. As stated in earlier reports, the IMT strongly encourages the VIPD to enhance the Audit staff, prepare annual audit plans, and complete /submit audits in a timely fashion.

Both EIP and the Audit function are essential components for a well managed police agency. At this time, it may be possible for the VIPD to reach compliance in 2016, but this will be challenging. For this to happen, the VIPD needs to dedicate additional resources, very soon, and maintain a high standard for managerial and supervisory accountability, a condition it has not promoted and maintained sufficiently since the earliest days of the Consent Decree. Short of this, we cannot be optimistic that this entire management and supervision component of the Consent Decree will reach total compliance.

Training Paragraphs

Written IMT records, including Quarterly Reports, have consistently shown Training paragraphs compliance to be materially less successful than all other groupings. Work toward substantial compliance with Paragraphs 73-81 of the Consent Decree continues to be woefully inadequate. Critical systemic problems continue to retard VIPD efforts. Problems sort themselves into two categories, those that are Consent Decree mandate-specific and those that demonstrate/have demonstrated inattention and absence of recognition of basic principles of training and education, such as adult learning concepts, effective instructional design, and training process and outcome evaluations. The recent T&M Report specifies some of the very same concerns that the IMT raises.

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Several of the Consent Decree training requirements are those which the IMT believed would be among the first to come into compliance: training records, for example. Most if not all training mandates reflect policies and practices that are common in similarly organized police agencies. That “routine” policies and practices are not in place and/or operationally dysfunctional is alarming and does not bode well for the future, immediate and longer term.

That the Training Director, for all purposes, works without the real supervision and oversight typically found in a department the size of VIPD is troubling and the root of several organizational problems that have all come to the fore during the life of this Consent Decree. We emphasized this “across-the-Consent Decree” problem in the previous global assessments.

Training Paragraph Issues

Several Consent Decree paragraphs require review and analysis of training processes and outcomes. In most organizations, these responsibilities are managed by command staff functioning as a committee or by a more formally instituted training committee which, in either case, functions under general Police Officer Standards and Training (POST) guidelines. No such function previously existed in the VIPD. The IMT recommended organizing a Training Advisory Committee more than a year ago. We felt this committee would mirror the tasks and responsibilities of its counterparts throughout the industry. We believed that a training committee would facilitate many of the requirements of Paragraphs 73, 74, 75 and 78, which call for analysis of the effect of training in the field, needs assessment and oversight of curricula and lesson plan development. We additionally expected that a number of allied requirements like best-practice instructor selection and roll call training would be facilitated by a Training Advisory Committee. The VIPD has now established its Training Advisory Committee, however the IMT has made numerous comments on the policy and believes it is not appropriately structured nor focused with regard to actually improving training. Additionally it has not met frequently enough. While the VIPD appears to be close to initiating substantive activities, the IMT expects that it may take time for the Committee to become acclimated to its new duties. Because of this, we have recommended that the Committee meet monthly for at least the next year.

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Paragraph 73 requires the VIPD to conduct a semi-annual review of use of force training to ensure quality, consistency and compliance with applicable law and VIPD policy. From the outset, the VIPD has interpreted this requirement to refer only to a companion requirement that use of force policy be reviewed semi-annually. To that end, the VIPD has ensured only that use of force training is consistent with, and in compliance with, applicable law and VIPD policy. However, any use of force policy or training review requires assessment and analysis of how well force outcomes reflect training objectives. The VIPD has yet to assess its force policies and training accordingly.

Substantial Compliance with Paragraph 74 requires performance of several activities. These include ensuring the quality of all use of force training, evaluation of all training curricula and procedures and a regular use of force training needs assessment. Several of these requirements repeat mandates in Paragraph 73. Paragraph 74 also calls for in-service and roll call training. These requirements, just like those of Paragraph 73, need coordination, evaluation and analysis, best approached in a manner more independent from the Training Bureau conducting its own self-analysis or making its own judgments without consulting with field units. Again, the VIPD has not yet implemented the necessary measures.

The remaining requirement of Paragraph 74 involves selection and training of VIPD trainers. The directive that now outlines the selection process took over a year to finalize, due largely to actions of the VIPD which resisted standard selection and vetting policies that resemble those used universally by similarly situated police agencies. Primary sticking points had to do with the autonomy of the training staff to ignore standard practices related to review and consideration of disciplinary and performance records of trainer candidates. This amounted to the training staff being able to waive standard disqualifiers without the check and balance of meaningful oversight. It would have meant that training was evaluating its own selections. This activity prevented compliance in an area of standard practice throughout the industry and speaks directly to the lack of substantial progress in areas that are among the simplest of the Consent Decree requirements. Now that the directive has been finalized, the VIPD must successfully implement its selection and training requirements. We, the IMT, need to verify that the directive is

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followed. Our very cursory review of instructor files uncovered expired instructor certification, poorly constructed files and no evidence of a vetting process for current instructors.

Paragraph 75 replicates parts of Paragraphs 73 and 74 which require the VIPD to provide training that is consistent with VIPD policy, law and proper police practices. There is also a provision that makes reference to approved lesson plans. We have been critical of the quality of lesson plans which, in some cases, are little more than a cover sheet with inadequately defined learning objectives placed on top of an applicable policy. The VIPD has begun to update and revise Consent Decree related lesson plans to add meaningful objectives and adult learning exercises. We are afraid that if a review and revision process is not initiated very soon, we will be forced to take this paragraph out of compliance.

Paragraphs 76 and 77 outline training records requirements, as well as others. Paragraph 76 states that basic training records, including lesson plans, be kept in centrally accessible files. While we awarded compliance for this paragraph, issues remain that might cause this paragraph to be moved out of compliance. Initially, records were maintained separately in each district and they were organized and maintained in a different fashion. Acquisition of PowerDMS has largely eliminated this problem. However, compliance was awarded with the understanding that “adequate records of lesson plans” meant presence of a plan or system for revision that raised the standard of curricula and lesson plan development. We had found inconsistent lesson plan development since most were written by several instructors, with little or no oversight from the Training Bureau. A current goal calls for the revision and updating of all lesson plans. This project should be a priority.

Reaching compliance with Paragraph 77 has been a much bigger problem. Compliance has been elusive and a source of contention between the VIPD and IMT. The primary mandate refers to officer training attendance records. Additional requirements remain unmet. Each officer training record must also reflect:

1. the course description and duration,
2. the curriculum; and
3. the instructor(s) for each officer.

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Since Power DMS has been brought online, attendance records with course description and duration are being captured in a department-wide database. Current curricula, much of which is being updated, are also being entered into the database. Current instructor records are also being entered but obtaining historical data is proving to be difficult at best.

The problem is twofold. We established a two-year standard for accumulating historical training data. The accuracy of the curricula database content for the past two years is spotty. A two-year history of instructor histories does not exist. Second, instructor files contain little more than the certificates that trainers received upon the satisfactory completion of certification. No evaluations or listings are included that contain the instructional history of each instructor. We've not yet agreed upon an approach to clearing this hurdle to paragraph compliance but need to soon.

Paragraph 78 is largely a repeat of Paragraph 73 with the additional caveat that regular review of use of force training be conducted in conjunction with the Attorney General's Office. As is the case in Paragraph 73, the VIPD has misinterpreted this to be in compliance based on the AG's review of use of force policy. As is also the case with Paragraph 73, this is a very simple requirement that should have been in compliance for some time.

Paragraph 79 is composed of a comprehensive list of requirements for annual use of force training. The VIPD has satisfactorily complied with the mandates relating to use of force policy training. We recently concentrated on expanding use of force and use of force reporting training to include more practical and situational exercises. While scenario based and practical and simulator use of force training remains a work in progress, the VIPD has come a long way. The highest priority at this point surrounds de-escalation techniques. In an allied area, we have recommended that the VIPD expand Crisis Intervention Training. A small number of VIPD personnel attended a CIT class during 2015. There needs to be an expanded effort to make officers more aware of signs that they may be dealing with an emotionally disturbed person.

Paragraph 80, In-Service Training on policies regarding the Citizen Complaint process and protocols, is in substantial compliance.

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Paragraph 81 poses a unique set of problems. This paragraph calls for classroom and/or roll call training. The VIPD has trained supervisors on burdens of proof and complainant and witness credibility, to promote recommendations that are unbiased, uniform and legally appropriate. We still find errors in use of force and citizen complaint investigations that lead us to believe that the training has not been effective enough when we compare the VIPD investigations to those of other agencies we have served.

There has been and still is ongoing disagreement with the VIPD purporting that the Training Bureau's responsibility ends with the delivery of training with no regard for actions that ultimately play out in the field. We have a very different view. We contend that it is necessary to evaluate the participant learning at the time of training, again at 60-90 days following training and to evaluate the effects of training by polling operations supervisors and managers.

Paragraph 81 calls for leadership and command accountability training for supervisors. There is a real need for all police agencies to train field supervisors to investigate use of force incidents and citizen complaints and to competently perform an assortment of core supervisory duties like performance appraisal and counseling and managing the troubled and/or problem employee. There is a companion need to send middle and senior managers to executive development and leadership training for system-wide management and the command staff role in administration of discipline and good order, among a broad range of additional competencies.

Very little attention has been given to either executive development or leadership training by the VIPD. Beyond a first line supervision class for newly promoted sergeants, there has been little field supervision training. One in-service training class was held for supervisors last year. It appears that no in-service training was offered to supervisors this year that focused on areas we have consistently indicated need improvement, including the investigation of uses of force and citizen complaints and the role of the supervisor in the early intervention system. Moreover, sergeants and lieutenants appear to attend the same in-service training as officers. The need for both in-service and roll call training designed specifically for supervisors is clear, with special attention to competencies that our reviews, audits and the T&M Report indicate are deficient.

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Executive development training is tougher to supply because it typically means sending command staff members to a specialized course, e.g., the FBI National Academy (FBINA), Southern Police Institute (SPI), or to a certificate program conducted by a local college or university. It appears only that a small percentage of VIPD members have attended the FBINA, not enough to create “critical mass.” Recently, selected members of the VIPD have been attending professional police conferences. There is no system in place, however, to package information so that it gets passed on to others who are unable to attend.

The IMT considers the outcomes of training including its effect on VIPD management and supervision to be central and critical elements of this Consent Decree. As such, compliance must be measured on the impact of training and education on the policies, practices and procedures of the organization. Counsel for the VIPD argues that training outcomes should be assessed in some other paragraph of the Consent Decree. We’re not sure that there is another paragraph that is more appropriate than this one. More important, the placement of the paragraph is of little significance compared to achieving compliance.

We strongly recommend that VIPD closely examine the parameters of Paragraph 81 and establish a detailed plan to implement a departmental training, education and career development program.

Going Forward

While we are enjoying the best relationship we have had with a VIPD Training Bureau administration, we do not believe that the current staff can bring about substantial compliance for the unmet training paragraphs without additional help – resources and skills, particularly in view of the Court’s declared aspiration that Consent Decree compliance be accelerated. Whether help comes from in-house staff or a consulting resource, there is no mistaking the need for someone with requisite professional experience in a police training academy, to assist with day-to-day management and oversight of the Training Bureau.

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Mr. Tony Emanuel, VIPD's Director of Office of Professional Standards, has the kind of necessary experience but we believe that his primary and collateral duties would not allow him to devote the time and energy it will take to significantly impact the effectiveness of VIPD training, coordinate training classes and instructors and manage the training records. The IMT is not aware of the presence of required skill sets and experience among other members of the VIPD. A limited term contractual professional (or team of professionals) seems to be a more predictably successful option at this time.

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III. THE GOALS PLANNING SUMMIT

On November 12 and 13, 2015, DOJ, IMT and VIPD professionals collaborated to "...develop a comprehensive and predictably successful plan for complying with both outstanding goals and paragraphs." (Summit Memorandum, 11-12-15.) Responding to a 15 months absence of compliance achievement on 20 outstanding Consent Decree paragraphs (since August of 2014), the IMT set the following expectations for the Summit:

- **Objective One:** Review the status of six (6) goals for the Third Quarter of 2015.
- **Objective Two:** Review remaining court-ordered and Consent Decree non-completed goals (59) using the IMT developed Goals Monitoring System (GMS) software.
- **Objective Three:** Review the draft 3Q2015 Report by/with the Parties.
- **Objective Four:** Review paragraphs not specifically linked to listed Action Plans/GMS goals components.
- **Objective Five:** Review policy/practice on goals setting, specifically what constitutes a goal and how incremental goals are to be used within goals.

An expected Work Product was defined for each objective. The most important - declared as such was for Objective Two:

WORK PRODUCT: Completed compliance plan for all goals that use the format of the GMS software and identified steps, step action officer, priority choices, and step suspense dates, as well as suspense dates for the goal itself that are reasonable and most important **possible to comply with!**

The Work Sessions

Hosted, led and facilitated by the VIPD Commissioner and Deputy Commissioner, the Department of Justice, Consent Decree Monitor, and the IMT, the Summit included several plenary sessions, but mainly featured VIPD Work Group work sessions. Over eight of ten available work hours were scheduled for Work Group activity. Work Groups invested hours

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beyond scheduled activity on Day 2, and several hours the next day. The VIPD has been refining step-plans since the Summit. The January 5 VIPD-IMT Monthly Call concentrated on a pre-arranged update on Step Plans.

Status & Accomplishments

Work to date is documented in the VIPD's Goals Monitoring System. Our overall judgment on the value of the work product (for Objective Two) is mixed. VIPD participants exhibited professionalism and diligence. For many, the Summit activities (and preparatory activities) represented a hands-on strategic planning experience that can and will have to be built upon as the action-step planning process continues. These cultural dimensions are offset by the condition of the work product – not yet good enough. During the February 2016 Summit, the IMT conducted a review of observed deficiencies in the proposed action steps in the VIPD GMS software for completion of goals. Examples of these included too many assignments for one person to handle, unrealistic suspense dates, an over-reliance on training as a solution, and at the base of most, a failure to really determine what the compliance problem was. After some group work, the IMT held a feedback session where the VIPD presented examples of their step plans and the group made suggestions for improvement. Some improvements were seen, but understanding and competency with the planning process needs improvement. We understand that this is the first time many if not most members in the VIPD have had exposure to developing a document to plan major organizational change. The IMT has suggested to the VIPD that they obtain some training on the planning process from external sources, such as the University of the Virgin Islands or other venues.

Next Steps

We are expecting the Professional Standards Unit staff to review and strengthen the action plans, paragraph-by-paragraph and through each subparagraph. The IMT and Professional Standards Unit Director and VIPD Compliance Coordinator have agreed upon this step. The "scrubbed" product will be passed on to the IMT and DOJ for reaction and approval. Iterations will occur. Time is of the essence for several reasons, the most important, operationally, the IMT and VIPD

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have to employ the action plans to achieve the intent of the Compliance Priority & Monitoring Plan, as described in the next section.

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IV. 2016 PRIORITIES

With conscious regard to the reinforcing objectives of (1) responding to the stated "aspiration" of the Court that the VIPD achieve additional CD compliance by August, 2016, (2) singling out the paragraphs and sub-paragraphs and goals most essential to satisfying that aspiration, and (3) maximizing return on resource investment of all parties, the IMT and the VIPD have established a Compliance Priority & Monitoring Plan for 2016 (January-June). The Plan was developed with VIPD representation at the table, and subsequently endorsed by VIPD executive staff, including the Commissioner. Declaring a focus on selected priorities does not signal intent to relax attention to paragraphs and goals not enumerated in the Plan, or inattention to maintenance of the status of paragraphs and goals in compliance. The IMT expects the VIPD to bring the following paragraphs into compliance and meet the following goals before or by June 2016:

- ☐ **32b.** RRRs indicate each and every type of force used (95%).
- ☐ **34b.** Supervisor completes narrative description of RRR as required by Consent Decree Paragraph 34 (90%).
- ☐ **34c.** Supervisor completed evaluation according to VIPD Use of Force policy and justified or failed to justify officer conduct (90%).
- ☐ **35b.** All relevant evidence is documented, considered, and credibility determination is made (90%).
- ☐ **36b.** All witnesses are interviewed (90%).
- ☐ **44i.** All complaints are documented, resolved in writing, and investigations comport with provisions of Consent Decree (90%).
- ☐ **4Q5-1.** SOP for FRB.
- ☐ **4Q5-2.** SOP for FIT.
- ☐ **72a.** Discipline is imposed when called for by Matrix (90%).
- ☐ **CC17.** Protocols to disseminate directives.
- ☐ **74c.** Process to select and evaluate trainers.
- ☐ **74e.** Process to develop, implement, and approve Roll Call training curricula.

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- **72b.** Evidence that VIPD has also considered non-disciplinary correction action (90%).
- **M&S16.** Audit Unit protocols.
- **4Q5-8.** More effective adult learning.
- **35c.** Resolve material inconsistencies between witness statements (90%).
- **32f.** Reports will include audio/video statement, except lowest level (95).

Methodologically, the selection exercise was non-exclusionary. The IMT and VIPD participants were free to prioritize any currently unmet paragraph or goal, from a total of 78 options. It is notable that a consensus on the 17 priorities selected emerged very readily. There was a high level of consistency among the choices of PPE's and others from the outset. Notable also is that the emphasis is overwhelmingly on Use of Force mandates. These focus areas are shown in Table 1, below.

Goals Plan

The success of the priorities focus is heavily dependent on immediate/and forward movement on the paragraph action plans being crafted. The inter-dependent, pre-requisite nature of the VIPD's Action Plan and the Monitoring Priorities must remain omnipresent. Functionally, the action plan is/must be the "driver."

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Table 1 IMT Monitoring Priorities

Paragraph, Sub-Paragraph, or Goal	Priority	Focus Month
32b	1	Apr 2016
34b	1	May 2016
34c	1	May 2016
35b	1	Jun 2016
36b	1	Mar 2016
44i	1	Apr 2016
4Q5-1	1	Feb 2016
4Q5-2	1	Feb 2016
72a	1	Mar 2016
CC17	2	May 2016
74c	2	Mar 2016
74e	2	Mar 2016
72b	2	Apr 2016
M&S 16	2	Mar 2016
4Q5-8	2	Feb 2016
35c	2	Jun 2016
32f	2	Jun 2016

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V. RECOMMENDATIONS

The IMT has included recommendations for the next quarter in each report since the First Quarter 2015. As this current report is the final one for this reporting year, it seems appropriate to review the VIPD response to previous recommendations before listing new ones for the next quarter, 1Q2016. Recommendations were somewhat general in the beginning, tending to become linked more specifically to established goals as the year unfolded. Our review indicates quite compellingly that much remains to be done with regard to implementing the recommendations to position the VIPD to move forward toward compliance.

Paralleling our recommendations are recommendations produced during the year by the Audit and Inspections Unit (AIU). These have been published in each quarterly audit and in summary form in an AIU document, Unresolved Audit Recommendations (an internal VIPD document available from the VIPD AIU; undated – 2015). This was discussed in detail in the IMT Second Quarter 2015 report in Section IV, C., page 73. What is disturbing is that, like many of our recommendations, only a limited number from the AIU have been acted upon by the VIPD administration. They have squandered a significant opportunity to move the department forward both professionally as well as for Consent Decree compliance purposes.

The following table depicts the IMT recommendations in sequential manner, with an assessment of implementation activity next to each recommendation. If a recommendation was made in the first quarter there are several evaluations of implementation.

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Recommendations Summary Quarters 1-3 2015

1Q2015	2Q2015	3Q2015	4Q2015
1. <u>Engage supervisors in an examination of their primary concerns.</u>	IMT Review 2Q2015 <i>The first related to comments gleaned from IMT interviews of supervisors and managers and synthesized within the report. During the Fourth Quarter we continue to hear the same complaints on subjects ranging from training to inclusion in the management process. From this we must consider that the problems identified within our surveys conducted in Dec 2014 and January 2015 remain needing attention.</i>	IMT Review 3Q2015 <i>We did not discover any change in this issue.</i>	IMT Review 4Q2015 <i>To our knowledge this issue remains unaddressed by VIPD management, with the exception of some early work on a revised promotional exam.</i>
2. <u>Concentrate mutual attention on the primary dissatisfiers, the disciplinary process, including the Matrix, the Alert System, and citizen complaint "repeaters."</u>	IMT Review 2Q2015 <i>The EIP Alert System continues to resent problems and from our interaction with the VIPD and review of its components and outputs, does not seem to be achieving its mission. To a great degree this appears to be the result of managers and supervisors failing to support the system's objectives with cogent and well developed remedial plans that are then followed through on.</i> <i>The Disciplinary system, and</i>	IMT Review 3Q2015 <i>We have included in this quarter's report a section that details the EIP situation and issues since the program was initiated. It appears there are lingering problems especially with remedial action plans.</i>	IMT Review 4Q2015 <i>As with previous quarters we have seen little action in this area from the department, with the possible exception of recent activity to review and improve the promotional process. We applaud the VIPD for this effort and believe it may ultimately help their staffing problems which have been, from their perspective, at the heart of their ability to improve compliance with both Use of Force and Citizen</i>

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	<p><i>specifically the associated punishment matrix, are not only central to complaints from personnel, but management seems to agree that it needs review and revision, However despite an initial effort which included some union participation, the effort seems to have stagnated and little or no action has been seen, with the exception of the very recent, but preliminary efforts, by the new Director of the Office of Professional Responsibility to move this issue forward. This issue has broad impact on how well the entire Consent Decree is perceived in terms of workload and the impact on officer's performance. It deserves immediate attention,</i></p> <p><i>The issue of "repeat citizen complaint" filers relates to the reality or perception that some number of those people filing citizen complaints do so repeatedly and in most cases, the cases end up unfounded. Whether true or a perception, it is an issue that needs at least some research and subsequent feedback to VIPD personnel on</i></p>		<p><i>Complaint processing. This is, however, tempered, with our other observations regarding the lack of adequate staffing data and position allocation information upon which to confirm this lack of supervisory personnel.</i></p>
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	<i>the results to gain their buy in with the department's efforts in handling citizen complaints.</i>		
3. <u>Get the answers to the "how many sergeants" question.</u>	<u>IMT Review 2Q2015</u> <i>This is one that has perplexed the IMT since the beginning and addresses a critical question for not only the IMT, but also for VIPD managers, especially when asking for more sworn supervisory personnel. At the end of the Fourth Quarter we are no closer to having a firm picture of the VIPD staffing than when this recommendation was written. In order to understand, develop responses and better assist the VIPD in overcoming supervisory deficiencies that impact Consent Decree operations, as clear, up to date, and comprehensive staffing allocation charts and supporting system is necessary.</i>	<u>IMT Review 3Q2015</u> <i>No movement on this issue.</i>	
4. <u>Continue to professionalize training practices.</u>	<u>IMT Review 2Q2015</u> <i>As each issue arises, regardless of from what work group, more training seems to be the group answer to audit and IMT identified problems.</i>		
	<u>2Q2015 Recommendations</u>		
	1. <u>Address the Audit Unit's self-reported portfolio of the Unresolved</u>	<u>IMT Review 3Q2015</u> <i>This, like all compliance matters, is</i>	<u>IMT Review 4Q2015</u> <i>The IMT continues to note that</i>

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	<u>Audit Recommendations.</u>	<i>a primary responsibility of, first, the Commissioner and second, the Deputy Commissioner and is a repeat recommendation from previous Quarterly Reports. The IMT would like a report that summarizes movement with regard to the Unresolved Audit Recommendations set forth in the VIPD's (undated) document.</i>	<i>too little follow-up or action has been taken by management to address the ever-growing list of audit recommendations by the Audit Unit. The IMT has always stressed and continues to do, that the Audit Unit is a critical and significant support operation to management and specifically to compliance with the Consent Decree. Yet as indicated in our Third Quarter report, we have yet to see management begin to capitalize and exploit these recommendations. We cannot stress strongly enough that these recommendations have merit and deserve attention all the way up the management ladder.</i>
	<u>2. Continue to position the Citizen Complaint, Management & Supervision and Training Work Groups to conduct Metrics-Centered Auditing.</u>	<u>IMT Review 3Q2015</u> <i>We noted that impressive and significant progress was being made to transform what was data thin audit and analysis into a more robust, data driven assessment of the Citizen Complaint reporting and investigative process.</i>	<u>IMT Review 4Q2015</u> <i>We have seen no significant improvements in this area.</i>
	<u>3. Build on the Annual RRR Report prototype to produce comprehensive and outcome focused body of force patterns, trends and analytics.</u>	<u>IMT Review 3Q2015</u> <i>We reported that The IMT is not aware of any progress/action on this recommendations, however there were some indications that the</i>	<u>IMT Review 4Q2015</u> <i>VIPD commanders simply do not produce formal documented force patterns. Zero progress here, as far as</i>

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		<i>Audit Unit is working on developing the ability to assess this information.</i>	<i>we know.</i>
	4. <u>The VIPD must reengineer its training practices to ensure that courses of instruction comply with best learning practices and adult/student-centered learning principles.</u>	<p><u>IMT Review 3Q2015</u></p> <p><i>Until base changes are made in the design, delivery and evaluation of training, the progress of the Consent Decree compliance will certainly remain stagnant. The VIPD exhibits greater awareness of the values of recommended actions but the "base changes" are not nearly in reach.</i></p>	<p><u>IMT Review 4Q2015</u></p> <p><i>We continue to note deficiencies in developing well designed adult learning based instructional materials. During the quarter the IMT noted that the UVI was being contacted to provide some assistance here. The proof will be the redesigned lesson plans, which currently lack usable performance objectives or adult learning techniques of delivery and practical work. They appear to be primarily lecture oriented and comments from supervisors and managers in the surveys discussed in 1Q2015, identified this absence of adult learning opportunities as a problem. The Training Division established a 4Q2014 goal of identifying where in these lesson plans such insert could be made, but the IMT has not seen any work products from that goal or an indication of compliance.</i></p>

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	5. <u>Review and restructure as needed the recruit curriculum to ensure that Consent Decree values, objectives, and policies and practices are consistently imparted.</u>	IMT Review 3Q2015 <i>The IMT has no evidence of progress/action.</i>	
	6. <u>Strengthen the level of oversight, guidance, and collaboration between command staff and the Training Bureau staff to ensure that goals and objectives are understood and shared.</u>	IMT Review 3Q2015 <i>The IMT has no evidence of progress/action.</i>	
	7. <u>Revisit, all parties and the Court, the calendar proposed earlier which presented a process for collaborating on goal setting and quality real-time quarterly reporting overall.</u>	IMT Review 3Q2015 <i>The IMT conducted a Summit in November 2015 and participated, with DOJ, in some goal setting and compliance planning exercises with the VIPD. The results of this exercise were deemed successful and it was agreed that the IMT would host similar Summits at the end of each quarter to review the quarter's accomplishment and failures and set compliance goals for the next quarter.</i>	IMT Review 4Q2015 <i>Based on the success of the November Summit, the 4Q2015 Summit was held Feb 11-12, 2016 and was organized to review goal and paragraph compliance, determine goals for the next quarter, and provide an opportunity for the parties to discuss the draft Fourth Quarter report.</i>
		3Q2015 Recommendations	
		1. <u>Acquire immediate strategic planning capacity to facilitate completion of the court required plans for both the goals and paragraph compliance.</u>	IMT Review 4Q2015 <i>The IMT supplied the GMS software and provided training in its use to enable the VIPD to create detailed step oriented planning for goal and paragraph compliance. While the VIPD is becoming</i>

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			<p><i>acclimated to this software the strategic or operational planning process that the software supports, initial work products have much to improve upon. The plans produced so far do not indicate an understanding of step planning and the plans need some review and updating to better describe the process toward compliance. Management needs to take an increased oversight role and become active partners with the workers with in the work groups that are attempting to use the software to manage their compliance And management needs to become comfortable using the software as a management tool and not look at it as a paper producer to somehow satisfy the IMT.</i></p>
		<p><u>2. Prioritize use-of-force trends and outcome measurements data collection. Appoint a Territorial Force Coordinator.</u></p>	<p><u>IMT Review 4Q2015</u> <i>Progress has been slow in this area and as of the end of the quarter the VIPD has failed to officially appoint a Territorial Force Coordinator although the IMT has been informed that one has unofficially been assigned. The IMT has not received any official</i></p>

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			<i>documentation to this effect. Additionally, problems still remain in terms of management focus and control of use of force reporting; accountability still remains central to the problem.</i>
		3. <u>Prioritize correction to the EIP shortfalls itemized above and in numerous preceding Quarterly reports.</u>	<u>IMT Review 4Q2015</u> <i>IMT monitoring and work with the Management and Supervision work group indicates that issue still remain with follow-up on remedial action plans as well the development of same. Numerous instances have surfaced that seem to indicate many of the required remedial plans just don't exist. This certainly still requires management attention and focus.</i>
		4. <u>Accelerate FIT/FRB development.</u> <u>-Develop Standard Operating Procedure (SOP) for Force Investigation Team (FIT).</u> <u>-Develop Standard Operation Procedure (SOP) Force Review Board (FRB).</u>	<u>IMT Review 4Q2015</u> <i>The IMT will be working with the VIPD during the week of Feb 7 to develop and get approved SOPs for both the FRB and FIT units, As part of that effort , the IMT will assist the FRB on both islands to conduct their first two case reviews in response to 4Q5-1 through 4Q5-3 goals.</i>

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		<p><u>-Chiefs of Police will hold at least two (2) Use of Force Review Boards for the quarter.</u></p> <p><u>-Develop Standard Operating Procedure (SOP)/Commissioner Directive to identify and provide for an on-call supervisor(s) to respond to Use of Force incidents when no other supervisor is available.</u></p>	<p><i>The SOPs, in draft format, were completed during the Summit week and are currently out for comment to the Parties. No cases were reviewed but briefings were provided to members of the FIT and FRB on both islands by IMT staff. The IMT has reviewed and commented on the recent Commissioner's Directive regarding On-Call Supervisors and has raised some issues regarding standardized formats for the associated schedules.</i></p>
		<p><u>5. Ensure the Action Plan is completed in a timely and quality manner.</u></p>	<p><u>IMT Review 4Q2015</u></p> <p><i>In our Third Quarter report, we reported on the Goals Management System software that was supplied by the IMT to the VIPD to assist with their planning process for producing an action plan for compliance with both the goals and paragraphs. Early in the Fourth Quarter IMT staff spent several days training the VIPD personnel on how to use the software and begin imputing specific step oriented plans for each goal and sub-paragraph associated with the Consent Decree. Recently, several</i></p>

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			<i>shortcomings in those plans have been noticed, including a lack of thoughtful steps, proper sequencing of steps, and lack of understanding on how to use the software to actually manage the compliance process. The IMT has offered further assistance and works daily with the OPS personnel to further effective use of the software. During the January Monthly Meeting, the missed suspense date focused report generated by the system was used as the agenda for the meeting and clearly confirmed some of the above noted deficiencies.</i>
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Recommendations for First Quarter 2016

The IMT submits the following recommendations for priority attention by the VIPD during the First Quarter of 2016:

1. The VIPD command and management should review, prioritize, and begin immediate implementation of the AIU recommendations. (An internal VIPD document available from the VIPD AIU; undated – 2015). Discussed in Second Quarter 2015 report, page 73.
2. The VIPD should seek assistance to conducting the step planning process and hire/contract for an expert to assist the Working Groups and chairs to improve their initial compliance plans in the GMS software and transform those plans into operational action by the department. We emphasize the need for understanding by management that these plans are action tools not just documents that managers must use daily to monitor the progress of compliance.
3. Address the continuing training deficiencies noted with the addition of professional contract staff to restructure, rejuvenate, and refocus the Training Division from a training scheduling operation to one that is fully integrated, supportive, and responsive to the adult learning needs of the agency members. The IMT fully believes that much of the problem with the Use of Force and Citizen Complaint investigative processing can be traced to the manner in which the previous training was conducted. Learning did not take place because of the lack of adult focused training initiatives.
4. Ensure that leadership renews and demonstrates more intensely its commitment to satisfy Consent Decree requirements. This can be done by visits by the Commissioner and senior staff to roll calls where the Consent Decree-related material is discussed – as a strategy to enhance police professionalism. Until the work force is convinced of the commitment to compliance with the Consent Decree it will languish.

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APPENDICES

See Separate Appendix Package