

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiffs,

v.

Case No. 03-CV-72258
HONORABLE JULIAN ABELE COOK

CITY OF DETROIT,

Defendant.

_____ /

THIRD QUARTERLY REPORT OF THE NEW INDEPENDENT MONITOR FOR THE
DETROIT POLICE DEPARTMENT ISSUED JULY 15, 2010

**Third Quarterly Report
of the
Independent Monitor
for the
Detroit Police Department**



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July 15, 2010



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SECTION ONE: INTRODUCTION

The report that follows is the Third Quarterly Report of the Monitoring Team in the case of United States of America v. City of Detroit (Case no. 03-72258). The Report is based on our site visit of April 19, through April 23, 2010, and our subsequent analyses of relevant data. As with our previous Reports, we assess compliance with all 176 of the requirements of the combined Use of Force (111 requirements) and Conditions of Confinement (65 requirements) Consent Judgments.

Based on our review of the Use of Force requirements, the Department is in Phase 1 compliance with 108 (97%) of the 111 requirements, up from 94% during our second reporting period. We found the Department in Phase 1 and Phase 2 compliance (full compliance) with 57 (51%) of the 111 requirements, up from 41% during our second reporting period.

Based on our review of the Conditions of Confinement requirements, the Department is in Phase 1 compliance with 62 (95%) of the 65 requirements, up from 92% during our second reporting period. We found the Department in Phase 1 and Phase 2 compliance (full compliance) with 35 (54%) of the 65 requirements, up from 51% during our second reporting period.

Overall, we have concluded that the Detroit Police Department is in Phase 1 compliance with 170 (97%) of the 176 monitored requirements, up from 93% during our second reporting period. We found the Department to be in full compliance (that is, both Phase 1 and Phase 2 compliance) with 92 (52%) of the 176 monitored requirements of the applicable paragraphs of both Consent Judgments, up from 44% during our second reporting period. We also found the Department to be in pending Phase 2 compliance with an additional five requirements, or 2.8% of the total. We have observed the Department's improvement in compliance levels across our three visits.

EXECUTIVE SUMMARY

This is our Third Quarterly Report in the case of United States of America v. City of Detroit (Case no. 03-77758). The Report is based on our site visit, which took place from April 19, through April 23, 2010, and our subsequent analyses of relevant data. Consistent with the practice we established in our first review, we continue to consider the totality of the requirements of both active Consent Judgments. This includes a total of 111 requirements in the Use of Force Judgment, and an additional 65 requirements in the Conditions of Confinement Judgment. In this executive summary, I will review the levels of compliance found for the quarter and highlight what the Monitoring Team believes are some of the more significant findings, trends, patterns, and concerns that arose as a result of our evaluation.

During our third quarterly site visit, we continued our processes of review, including data collection and analysis, and interviews with key members of the Detroit Police Department. We appreciate the assistance of personnel throughout the Department as we work to complete our mission. We are especially grateful to the DPD Civil Rights Integrity Bureau (CRIB) for its diligence as our requests grow in volume and complexity, and as we spend increasing time conducting onsite observations and inspections in the field.

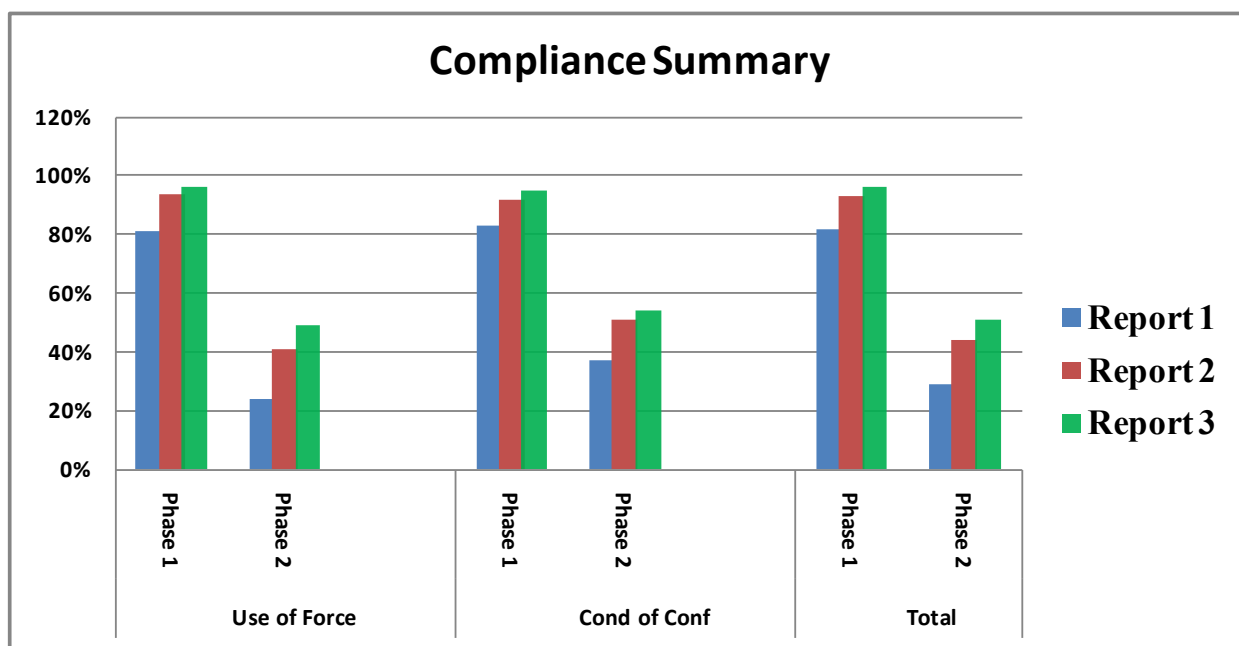
The majority of this document is dedicated to the reporting of the assessment of compliance with the requirements of the Consent Judgments. Based on our review of the Use of Force requirements, the Department is in Phase 1 compliance with 108 (97%) of the 111 requirements, up from 94% during our second reporting period. We found the Department in Phase 1 and Phase 2 compliance (full compliance) with 56 (50%) of the 111 requirements, up from 41% during our second reporting period.

Based on our review of the Conditions of Confinement requirements, the Department is in Phase 1 compliance with 62 (95%) of the 65 requirements, up from 92% during our second reporting period. We found the Department in Phase 1 and Phase 2 compliance (full compliance) with 35 (54%) of the 65 requirements, up from 51% during our second reporting period. These figures are reported in the table below.

	Third Quarterly Report Summary					
	Use of Force		Cond of Conf		Total	
	Phase 1	Phase 2	Phase 1	Phase 2	Phase 1	Phase 2
Paragraph Numbers	14-123		14-78			
Number of Requirments	111	111	65	65	176	176
Pending Compliance	0	5	2	0	2	5
Not in Compliance	3	49	1	30	4	79
Deferred	0	0	0	0	0	0
In Compliance	108	57	62	35	170	92
Percent in Compliance	97%	51%	95%	54%	97%	52%

Overall, we have concluded that the Detroit Police Department is in Phase 1 compliance with 170 (97%) of the 176 monitored requirements, up from 93% during our second reporting period and 82% during our first reporting period. We found the Department to be in full compliance (that is, both Phase 1 and Phase 2 compliance) with 92 (52%) of the 176 monitored requirements of the applicable paragraphs of both Consent Judgments, up from 44% during our second reporting period. We also found the Department to be in pending Phase 2 compliance with an additional five requirements, or 3% of the total; these requirements include U72 (policy violators are disciplined), U74 (enforce misconduct reporting requirements), and U76 (revise prisoner-related policies). The chart below illustrates the levels of compliance achieved on both Judgments and across all three reporting periods. While we have observed the Department's improvement in compliance levels across our three visits, we remain mindful that this is the seventh year of this undertaking. The department's strive towards excellence cannot be abated by complacency. We have found the resolve of the Mayor, Deputy Mayor and the Chief to be the essential catalysts for organizational change within the Detroit Police Department.

In our Second Quarterly Report, we found the Department in pending Phase 2 compliance with seven requirements, and we deferred judgment on four requirements. In this report, for the period of January 1, 2010 through March 31, 2010, three of the requirements previously in pending compliance status have come into compliance. All four of the requirements previously in deferred compliance status have come into compliance during this reporting period. We moved one such requirement, U40, which addresses reviews of critical firearms discharges, from “not in compliance” to “pending compliance” status for this quarter. No requirement went from in compliance to any other status. During the course of this quarterly review we noted some measure of slippage in a few requirements that are “in compliance.” In our next report, we will hold the Department in “non-compliance” if it fails to resolve the relevant issues.



The chart below provides the summary data illustrating the increases in compliance over the two visits.

	Percent in Compliance					
	Use of Force		Cond of Conf		Total	
	Phase 1	Phase 2	Phase 1	Phase 2	Phase 1	Phase 2
Report 1	81%	24%	83%	37%	82%	29%
Report 2	94%	41%	92%	51%	93%	44%
Report 3	97%	50%	95%	54%	97%	52%

In this Report, as with our previous Reports, we consider the compliance status of each of the requirements laid out in the Consent Judgments. We provide our assessment of compliance levels and the justification for our findings. We also highlight issues that we consider to be

critical to the continued progress of the Department, especially in areas that we believe are of substantial seriousness and importance to the DPD's efforts to achieve compliance. Our hope is that DPD will heed these concerns, and remove barriers that thwart its compliance progress.

One such critical issue from our previous two Reports involves the potential underreporting of uses of force. We raised this concern with the DPD when we noted significant declines in the number of reports, when compared with the numbers from previous time periods. In fact, we argued that the available data needed to be regarded as unreliable until the DPD recognized the seriousness of this issue and acted quickly to address it. We are pleased that the Department formed Inspection Teams that are responsible for critically reviewing Crisnet reports to ensure that force is documented properly, and conducting audits of the MAS system to locate missing and overdue SIR investigations. This approach identified over 33% more uses of force in the quarter covered in this Report than over the last reporting period, and has allowed us to begin to look beyond the simple existence of reports and to their quality and completeness.

In another critical area, however, the Department's progress is not as evident. The Consent Judgments require the documentation of almost all activities and the subsequent review and approval by supervisors up the chain of Command. Each of these steps is significant for management practice, personnel supervision, and quality control. However, even on our third site visit, too many reports lacked the required level of specificity, whether it involves documenting the flushing of a subject's eyes following a chemical spray, or sign-offs on a Command-level review of investigations. It may be useful for DPD to take the same systematic approach to this problem that led to the Department's success with the issues noted above. That approach might involve a close review of reports, and appropriate training and intervention where needed.

The continuing character of this problem is noted quite critically in several areas of this Report. I will list three of these areas below.

First, it is unclear whether some DPD Command personnel are, after seven years, sufficiently familiar with the content of the Consent Judgments to properly conduct investigations in a manner consistent with the requirements. Unfortunately, that speaks to the measure of sensitivity to issues of civil rights and liberties that command level personnel may, or may not, have.

Second, we have serious questions about the usefulness and utility of the DPD's risk management system. Specifically, the Department needs to assure that data collection is accurate and timely, and that the system can generate reports of immediate value to managers on a daily basis. Overall, the technical issues, while substantial, cannot overshadow the operational questions: how the system can be most useful in identifying and remediating risk-related behavior by officers. The output of any risk management system is of little use if it does not facilitate outcomes that facilitate behavioral outcomes.

Third, consistent with the discussion above, the Department must improve in the area of personnel training, both with regard to the breadth of materials covered and the completion of requirements by all relevant DPD staff.

The comments above and their more complete discussion in the body of this Report are offered in the spirit of working toward the same end: effective, just, and quality policing. In each of our Reports, we document improved compliance with the requirements of the Consent Judgments. Beyond these accomplishments, we recognize efforts by the DPD in its newly formed oversight

processes, and explorations of new ways of managing the Department and its personnel. The City should be pleased with the progress the Department is making and it is our hope that the organization continues to look at itself, its relationship with the community, and the requirements of this process as it plans its future implementation strategies. Above all, the goal must be quality policing, which by its very nature will include the best interests of the community, the crime fighting responsibilities of the Detroit Police Department, and compliance requirements of the judgments..

This report covers the period of January 1, 2010 through March 30, 2010. As a post-script, I would add that in June, members of the Detroit Police Departments, the City Administration, the Monitoring Team and the United States Department of Justice visited two jurisdictions to examine their risk management databases systems. The City also worked to create more effective investigative protocols to manage and better address the cases assigned to the Office of the Chief Investigator. It is our expectation to report on the outcomes of these efforts in our future reports.



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

III. USE OF FORCE POLICY

This section of the Consent Judgment containing paragraphs U-14 through U-26 requires that the DPD review and revise its general use of force, firearms, and chemical spray policies; select an intermediate impact device and develop guidelines on its use; and provide appropriate training relating to the use of force. To determine compliance with this section's various requirements, we verify that the DPD has both developed the required policy and effectively implemented the policy, including providing any necessary and appropriate training.

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

To assess implementation of these policies for this and our two previous Reports, we visited police Districts, Precincts, and other Commands; met and discussed operational activities with Command, supervisory, and Training staff; observed training classes; reviewed Arrest, Use of Force, and related Police Reports; and reviewed investigations of force, detainee injuries, and allegations of force. While conducting these activities, we met with many talented and dedicated DPD personnel, but we believe that DPD needs to strengthen its supervisory oversight of uses of force. For example, as we noted in prior Reports, our review of historical data indicated the probable underreporting of uses of force.¹ The DPD is addressing this issue by implementing several measures, including conducting stringent reviews of Crisnet arrest reports and requiring a declarative statement by officers regarding whether or not they used force. These changes resulted in an increase in the number of completed use of force reports by 33.5% during this reporting period.

Similar to our findings in previous Reports, our review of Use of Force Reports and Force Investigations for this report indicated that officers were making efforts to de-escalate encounters

¹ DPD data indicates 1,200 use of force, detainee injuries, and allegations of force in 2007. These records were manually maintained at that time. DPD reports this recordkeeping became automated in August, 2008. A subsequent review of this same data for the period of November, 2008 through October, 2009 indicates a reduction to 568 for these same activities.

where force was considered or deemed necessary, but many of the Reports lacked specificity and were silent on disengagement details. We found it encouraging that in several instances, we noted officers making arrests in difficult situations without relying on the use of force.

Our two prior assessments of uses of force found no instances where DPD officers inappropriately employed choke holds; however, we noted one instance where an officer used a “neck restraint.” This event was appropriately investigated and addressed.

In our prior Reports, we also noted that while a significant number of officers completed the required firearm training, a significant number also failed to report for, or successfully complete, required firearms training. As a result of measures taken by the DPD, including enforcement of its policy to remove firearms and police authority from officers who fail to qualify, we found considerable improvement. Finally, we note that the DPD must train >55% of its members within the remaining three months of the fiscal year to maintain compliance with training requirements.

During previous reporting periods, we also carefully reviewed three events wherein officers fired at moving vehicles. The investigations conducted by Force Investigations (FI) appropriately determined the officers’ conduct to be inconsistent with policy, and recommended referral for corrective action in two cases. However, in the third case, while FI noted a deviation from policy, it cited exigent circumstances and found the officer’s firing at the moving vehicle reasonable. We agreed that the use of deadly force was reasonable and that exigent circumstances were present in this case; however, we found the policy to be absolute with no exceptions for exigencies, and therefore did not concur with FI’s finding. We suggested that the DPD review its policy to either affirm or modify the absolute prohibition of firing at moving vehicles, and are awaiting its response.

To assess compliance with the requirements relating to the issuance and carrying of authorized weapons and ammunition, we examined the investigations of critical firearm discharges by FI during each reporting period. We found that officers were carrying authorized weapons and ammunition in each case; however, the investigations disclosed that the number of rounds reportedly carried was inconsistent with policy requirements. Our inquiries disclosed an ongoing problem with the ammunition magazines that in some cases did not allow them to be fully loaded; however, the case reports contained no verification that such a problem was present in the specific cases that FI reviewed. The DPD advised us that it plans to issue replacement equipment to address this issue. Although this issue remains present in the cases reviewed for this reporting period, we note that the DPD has a procedure in place requiring the inspection of officers’ weapons and ammunition as part of the required biannual firearms training program.

The DPD selected the PR-24 Collapsible Baton as its impact device and has provided training on its use to 70% of its personnel during this fiscal year. DPD officers have, by all accounts, exercised restraint regarding the employment of the PR-24, having used it on two occasions, both of which were consistent with policy and training. We also noted however, one instance of an officer’s “accidental” PR-24 strike to the face of an individual. The efficacy of the investigation of that event is in question.

We reviewed instances of chemical spray deployments during this and previous reporting periods. The reports indicate that although officers are providing appropriate warnings prior to deployment, decontamination, and subsequent medical assistance, they are not consistently doing

so. In addition, they are not consistently adhering to the time requirements on contamination or indicating how the decontamination was accomplished. There were no reported instances of an officer spraying an unruly crowd, of the deployment or allegations of the deployment of chemical spray against a subject in a police vehicle, or instances or allegations where officers placed or kept subjects in a face-down position after being sprayed.

Our detailed compliance assessment for each of the requirements in this section follows.

A. General Use of Force Policy

CJ Requirement U14

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

Comments:

To assess compliance with these requirements, we met with DPD staff, observed operational activities, and reviewed applicable DPD Directives and completed investigations of the use of force. In our two previous reports, we noted our review of applicable DPD Directives found that they defined force consistent with the Phase 1 compliance requirements of this paragraph.² We also noted that our review of historical use of force data indicated the probable underreporting of uses of force; this precluded our finding the DPD in Phase 2 compliance.³ In our more recent report, we acknowledged the efforts of DPD to identify problems that might be occurring in the Department's reporting process, but we were not sufficiently assured that the underreporting issue was resolved.⁴

To assess compliance during this reporting period, we verified the existence of applicable policy; reviewed the DPD 26th Quarter Status Report, dated March 31, 2010; and reviewed use of force (UF002), IAD, FI, and OCI investigations; which are further described in other sections of this report. In its status report, DPD detailed some of the measures it has implemented to address this issue, including stringent reviews of Crisnet arrest reports and the inclusion of a declarative statement by officers regarding whether or not they used force.⁵ In addition, the number of uses

² DPD Directive 304.2, Use of Force, effective June 27, 2005, defines the following actions by an officer as force; "any physical strike or instrumental contact with a person; any intentional attempted physical strike or instrumental contact that does not take effect; or any significant physical contact that restricts the movement of a person. The term includes the discharge of firearms; the use of chemical spray, choke holds or hard hands; the taking of a subject to the ground; or the deployment of a canine. The term does not include escorting or handcuffing a person, with no or minimal resistance. Use of force is lawful if it is objectively reasonable under the circumstances and the minimum amount of force necessary to affect an arrest or protect the officer or other person is used."

³ DPD data indicates 1,200 uses of force, detainee Injuries, and allegations of force in year 2007. These records were manually maintained at that time. DPD reports that this recordkeeping was automated in August, 2008. Our review indicated that there were 568 such incidents from November, 2008, through October, 2009.

⁴ The First and Second Quarterly Reports of the Independent Monitor were issued January 15, and April 15, 2010, respectively.

⁵ The status report notes, "In response, the DPD's *Planning and Accreditation* has implemented a procedure that involves the ongoing reviews of Crisnet incident reports in order to identify documented use of force instances in

of force form numbers submitted from which we could draw our sample (370)⁶ exceeded the 277 provided for the previous quarter, a 33.5% increase. DPD is clearly making progress in addressing our concerns regarding the underreporting of uses of force.

It is necessary for police officers to use force from time to time to protect citizens and themselves from individuals who may want to cause them bodily harm. Proper reporting of uses of force ensures that the actions taken by officers are appropriate in light of the situation(s) they were confronting. DPD is in compliance with the requirements of this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U15:

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

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

Comments:

To assess compliance with this CJ paragraph, we reviewed applicable DPD Directive(s) and Use of Force (UF-002) Reports. In our two previous reports, we noted that our review of applicable DPD Directive(s) found that they defined force consistent with Phase 1 compliance requirements of this paragraph.⁷⁸ In our more recent report, we noted that our review of 175 Use of Force

comparison with inputted use of force reports into MAS. When a use of force incident is identified and the member(s) failed to enter the auditable form into MAS, a Corrective Action Notice (CAN) is forwarded to the member(s) command for the immediate input of the incident into MAS and proper disciplinary action. Also, effective January 29, 2010,⁵ the DPD has mandated that all Crisnet arrest reports include a declarative statement by the arresting officers to whether or not force was required during the course of the arrest.”

⁶ This number includes 103 in January, 134 in February, and 133 in March, 2010.

⁷ DPD Directive 304.2, Use of Force, effective June 27, 2005, defines the following actions by an officer as force: “any physical strike or instrumental contact with a person; any intentional attempted physical strike or instrumental contact that does not take effect; or any significant physical contact that restricts the movement of a person. The term includes the discharge of firearms; the use of chemical spray, choke holds or hard hands; the taking of a subject to the ground; or the deployment of a canine. The term does not include escorting or handcuffing a person, with no or minimal resistance. Use of force is lawful if it is objectively reasonable under the circumstances and the minimum amount of force necessary to affect an arrest or protect the officer or other person is used.”

⁸ DPD Directive 304.2 Use of Force, effective June 27, 2005, Section 5.2 and DPD Training Directive 04-3, Use of Force Continuum, effective May 5, 2005, sets forth the requirements of this paragraph.

Reports (UF002) found that officers may have made attempts to de-escalate their encounters; however, the reports lacked sufficient documentation or specificity with regards to de-escalation and were silent on details regarding actual disengagement.⁹

To assess compliance for this report, we verified the existence of applicable policy and again reviewed reports to determine the extent to which policy requirements noted here are reflected in practice. We examined Use of Force Reports and verified that the Reports justified the use of force under the policy, described the conduct of individuals against whom force is used, and described the efforts at de-escalation or avoidance that were employed. We found that in 95% of the 194 Use of Force Reports (UF002) we reviewed, officers attempted to de-escalate their encounters with verbal commands prior to resorting to force. However, again the reports lacked sufficient documentation or specificity with regards to de-escalation efforts and any details of actual disengagement.

It appears that a better gauge for evaluating compliance with UF15(c) would be a review of Disorderly Conduct, Resisting a Police Officer, Obstruction, and Assault on Police Officers Crisnet reports – incidents where interactions between officers and subjects are strained, at best. Accordingly, we review these cases on a quarterly basis to monitor the reporting of uses of force.

During this quarter, we reviewed 323 events.¹⁰ We were encouraged to find that officers are making arrests in difficult situations without relying on the use of force. The reports do not yet meet the >94% standard required in the Judgment, but DPD is making progress towards that end.¹¹ We suggest that the Parties meet to clarify and redefine this and other requirements in the Judgment. DPD remains out of compliance for Phase 2 with the requirements of this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U16

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

⁹ Report of the Independent Monitor issued April 15, 2010.

¹⁰ This number includes 99 in January, 97 in February, and 127 in March.

¹¹ In 79 of the cases, force was used and a corresponding report was prepared; in 27 of the cases, force was used and a corresponding report was not prepared. That leaves 217 cases, or 67% of the total, in which arrests of individuals in stressful situations were made with no force used. CRIB brought these cases to the attention of the respective commands.

Comments:

In our two previous reports, we found the applicable DPD Directive5(s) defined force consistent with the Phase 1 compliance requirements of this paragraph.¹² The DPD remains in Phase 1 compliance.

During our first reporting period, our review of 175 Use of Force Reports (UF002) disclosed that 163 (93%) included verbal commands and an opportunity to submit to arrest prior to the use of force.¹³ Similarly, in our second reporting period, our review of 175 UOF Reports disclosed that 166 (95%) included verbal commands and an opportunity to submit to arrest prior to the use of force.¹⁴

To assess compliance for this reporting period, we reviewed 194 Use of Force Reports and found that 184 (96%) included verbal commands and an opportunity to submit to arrest prior to the use of force.¹⁵ In some instances, officers advised subjects that they were under arrest and to place their hands behind their backs for handcuffing.

We find DPD in Phase 2 compliance with the requirements of this CJ paragraph.¹⁶

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U17

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

Comments:

In our two previous reports, we noted that the DPD implemented a Directive consistent with the Phase 1 compliance requirements of this paragraph.¹⁷ The DPD remains in Phase 1 compliance.

¹² DPD Directive 304.2, Use of Force, effective June 27, 2005, Section 5.2, and Training Directive 04-3, Use of Force Continuum, effective May 5, 2005, set forth the requirements of this CJ paragraph.

¹³ First Report of the Independent Monitor, issued January 15, 2010.

¹⁴ Second Report of the Independent Monitor issued April 15, 2010.

¹⁵The eight reports in which officers provided no warning involved two incidents in which gunshots were exchanged before any warnings could be provided, an incident where chemical spray was used and no warning was given due to the dangerous situation, an incident in which a subject fell from a fence and was immediately cuffed, and two incidents involving K-9 tracks with no contact. There were also two reports which provided no indication of why verbal commands were not given.

¹⁶ Our previous concern regarding the extent to which incidents consistent with the required definition of force were not reported has been minimized with the provision of 370 Use of Force Reports from which to draw our sample, a number higher than the combined total for the first two quarters (350).

¹⁷ DPD Directive 304.2, Use of Force, effective June 27, 2005, Section 4.3, prohibits the use of the described holds.

Our two previous reports also noted our review of Command Investigations and Use of Force Reports. In our more recent report, we noted no cases in which a choke hold was applied, but in our first report we noted one case in which a choke hold may have been applied during a struggle in an effort to force a subject to release a choke hold he had on an officer. The UF002a did not indicate this case was treated as a deadly force case. However, we found the cases reviewed were indicative of implementation compliance with this CJ paragraph, but withheld this finding until there is a resolution to the underreporting concerns outlined in the U14 section, above.

To assess compliance for this reporting period, we reviewed 194 Use of Force Forms, 86 completed Supervisory Investigation Reports (SIRs), and 17 completed FI investigations.¹⁸ In one FI case, while conducting an investigation relating to the shooting of a dog and the arrest of the dog's owner and others, investigators found an officer's "use of a neck restraint is a violation of Directive 304.2," and recommended forwarding the matter to Disciplinary Administration to draft charges.

The cases reviewed, including the one wherein a neck restraint was applied in violation of DPD Directives but appropriately investigated, are indicative of implementation compliance with this paragraph. DPD is in Phase 2 compliance with the requirements of this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U18

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

Comments:

In our two previous reports, we noted that the DPD issued, and DOJ approved, an appropriate Directive for Phase 1 compliance.¹⁹ The DPD remains in Phase 1 compliance. Phase 2 compliance will rely on effective field implementation of the specific Directive requirements contained in paragraphs U14-17 and U19.

U18 was determined to be out of Phase 2 compliance during the last quarterly review and insofar as U15 remains not in Compliance for Phase 2 this quarter, this requirement also remains Not in Compliance.

¹⁸ Many of the Command-Level Investigations contained multiple uses of force forms, and three additional cases were subsequently assumed by Force Investigations.

¹⁹ DPD Directive 304.2, Use of Force, effective June 27, 2005, and approved by DOJ, April 14, 2005, is in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U19

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

Comments:

In our two previous reports, we noted that the DPD implemented a Directive consistent with the Phase 1 compliance requirements of this paragraph.²⁰ During our review of Use of Force Reports and FI completed cases for our first report, we found one instance of an accidental strike to the face with a PR-24 Collapsible Baton; however, there was no accompanying completed Command Investigation Report (UF002a), as required. Moreover, we were unable to determine from the information provided whether the event was reported to or referred to another command or unit for investigation. Our review of similar documents for the more recent report found no instances of a strike to the head. Despite this, we withheld finding the DPD in Phase 2 compliance pending resolution of the underreporting of force issue described in the U-14 section, above.

To assess compliance with these requirements for this reporting period, we reviewed 194 Use of Force Reports and 17 completed FI cases. We found no instances of a strike to the head documented in any of the reports. There is a claim by a subject in one of the SIR reports that he was struck on the head with a metal stick, but there was no evidence in the report that the strike occurred. In addition, we recognize the progress the DPD is making towards resolution of the underreporting issue (U-14); accordingly, we find DPD in compliance with the requirements of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

B. Use of Firearms Policy

CJ Requirement U20

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

²⁰ DPD Directive 304.2, Use of Force, effective June 27, 2005, Section 4.2.4, provides that “a strike to the head of any person with an instrument constitutes a use of deadly force.”

Comments:

In our two previous reports, we noted that DPD implemented a Directive consistent with the Phase 1 compliance requirements of this paragraph.²¹ Our review of 2008 training data for our first report found that while a significant number of officers completed the required firearm training, a significant number also failed to report for required training. Training data for 2009 was not available for review due to apparent automation issues. Accordingly, we were unable to find the DPD in compliance with these requirements.

To assess compliance for our more recent report, we reviewed training data for the period July 1, – December 31, 2009 and found that the DPD trained 2,755 (99%) of its 2,781 officers; therefore, the Department is in full compliance with these requirements for that reporting period.

To assess compliance with the requirements for this reporting period, we reviewed the DPD 26th Quarter Status Report, dated March 31, 2010, DPD Administrative Message, Teletype #10-0054 and again reviewed training data. The Status Report outlines an improved means of tracking officers' firearms training attendance, which should prove beneficial.²² The Administrative Message sets forth requirements for reporting the failure to report for firearms training and corrective action. The data indicates that during the period January 1 – March 31, 2010, 1,071 (38.6%) of 2771 eligible members received firearms training. During the remaining three months of this fiscal year, DPD must train >55% of its members to maintain its Phase 2 compliance status.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U21

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

Comments:

In our two previous reports, we noted that the DPD implemented a Directive consistent with Phase 1 compliance requirements of this paragraph.²³ In our first report, we noted that a significant number of officers did not attend 2008 firearms training. We also noted that 2009 training data was not available for review, and our intent to review that data for the subsequent

²¹ DPD Directive #304.1, Firearms, effective May 25, 2005, Section 8.1, provides that “All members are required to train and qualify with their primary on duty firearm and any other on duty or off duty DPD issued or approved firearm bi-annually.”

²² “During this bi-annual training period, Training implemented an electronic systematic scheduling process in order to ensure that each DPD member attends the training on a bi-annual basis, which is continuously updated and accessible on the DPD-Intranet.”

²³ DPD Directive 304.1, Firearms, effective May 25, 2005, Section 8.1, provides that “All members that fail to qualify with their duty weapon shall relinquish their DPD issued firearms and be relieved of their police powers.”

report. In our more recent report, we noted our review of applicable training documentation for the period July 1 – December 31, 2009, wherein we found that the DPD had implemented the policy of removing firearms and police authority from officers who fail to qualify, as required. The officers who failed to qualify during their initial shoots were all re-qualified at a later time.

To assess compliance with the requirements for this reporting period, we reviewed the DPD 26th Quarter Status Report, dated March 31, 2010, that outlines positive steps taken by the DPD regarding firearms training attendance and/or the failure of an officer to qualify with his or her firearm.²⁴ We also reviewed DPD Administrative Message, Teletype #10-0054, which sets forth the requirements for reporting the failure to show for firearms training and specified corrective action and applicable training documents. This review found that 13 had failed to qualify and were relieved of their police powers and relinquished their firearms. Of that number, seven have re-qualified and have had their police powers restored. The remaining six still have not qualified and we will check on their status during the next site visit.²⁵ Accordingly, the DPD remains in compliance with requirements of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U22

The firearm policy shall prohibit firing at or from a moving vehicle. The policy shall also prohibit officers from intentionally placing themselves in the path of a moving vehicle.

Comments:

In our two previous reports, we noted that the DPD implemented a Directive consistent with the Phase 1 compliance requirements of this paragraph.²⁶ The DPD remains in Phase 1 compliance. Our review of Use of Force Reports (UF002) and completed FI cases for the applicable reporting period found three instances where officers fired at moving vehicles. In the first two instances, the investigation conducted by FI appropriately determined the officer's conduct to be inconsistent with policy and recommended referral for corrective action. In the third instance, which we reviewed for our more recent report, FI conducted a thorough investigation, but found the officer's firing at a moving vehicle reasonable. Investigators and reviewers appropriately noted the firing at a moving vehicle was a deviation from DPD policy, but cited the presence of exigent circumstances. We agreed that, under such exigent circumstances, the use of deadly force was reasonable. However, we found the policy to be absolute with no exceptions for

²⁴ "Any member that did not qualify while attending the current bi-annual firearms training and was relieved of his or her police powers and relinquished his or her firearm, was required to attend and re-qualify at a remedial training session during the current bi-annual firearms period. In addition, commands are being required to take corrective action regarding the members that failed to attend the current bi-annual firearms training, which may include requiring that those members relinquish their firearms until such time that they qualify."

²⁵ Information provided by Training reflects the following: 1 is currently no-gun status; 1 is on extended sick leave; 1 is disabled; 1 retired; 1 is restricted duty w/ shoulder injury; 1 is no-show and is being disciplined

²⁶ DPD Directive 304.1, Firearms, effective May 2, 2005, Section 5.3, provides that "Firing at, or from a moving vehicle is prohibited...Moreover, officers shall not intentionally place themselves in the path of a moving vehicle."

exigencies; therefore, we did not concur with the finding. We suggested that the DPD review its policy to either affirm or modify the absolute prohibition of firing at moving vehicles. Finally, while our review indicated that the Department was in Phase 2 compliance, we were unable to find compliance until there is a resolution to the underreporting of force issue described in the U-14 section, above.

To assess compliance with the requirements for this reporting period, we reviewed the DPD 26th Quarter Status Report, dated March 31, 2010, which states, “[T]he Investigation Shooting Team (JIST) continues to respond to, investigate and recommend corrective action (disciplinary and/or non-disciplinary) when applicable, all CFDs involving firing at or from a moving motor vehicle (sic).” Our review of completed FI cases verified this assertion. In addition, we reviewed 194 Use of Force Reports and 17 FI completed cases for the period January 1 – March 31, 2010. We noted two cases involving shots fired at a moving vehicle. In the first case, an officer was checking on a vehicle stopped in the street and a second vehicle drove at him; in the second case, the officers were conducting surveillance, and when they approached the subject he shot at them as he drove away. Both cases were referred to, and the investigation was assumed by, Force Investigations; however, neither investigation has yet been completed and forwarded for our review.

Given the results of our document review, interviews with various operational and investigative staff and progress with the under reporting issue noted in U-14, we have determined the DPD to be in compliance with reporting requirements; however the DPD must address the policy relating to the firing at moving vehicles discussed above to achieve full compliance with this paragraph. The Monitor expects the DPD will address this issue for inclusion in the next quarterly report.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U23:

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

Comments:

In our two previous reports, we noted that the DPD implemented a Directive consistent with the Phase 1 compliance requirements of this paragraph.²⁷ In addition, we noted our findings during our review of closed FI cases involving critical firearm discharges. We found officers to be carrying authorized weapons and ammunition in each case; however, the investigations disclosed that the number of rounds reportedly carried was inconsistent with policy requirements. Upon our inquiry regarding this finding, we learned of an ongoing problem with the ammunition magazines that did not allow them to be fully loaded, leaving the officer short of the required number of rounds. While this difficulty was sometimes noted, the case reports contained no

²⁷ DPD Directive 304.1, Firearms, effective May 25, 2005, Section 4, effective May 2, 2005, complies with the requirements of this paragraph.

verification by the involved officer(s) that such a problem was present in the cases reviewed. We were advised and made note in our previous reports that the DPD planned to issue replacement equipment to address this issue, and suggested that in the meanwhile, each officer should be required to note and justify any deviation from the policy requirements in order to support a compliance finding for this paragraph.

In our more recent report, we noted our meeting with DPD training staff to discuss firearms training and related matters. We found a procedure in place requiring the inspection of officers' weapons and ammunition as part of the required biannual firearms training program (qualification). Officers fire the ammunition they are carrying at the time; following that, they are issued a new supply of approved ammunition. We determined that since 99% of the officers participated in the biannual qualifications, DPD would be placed in Phase 2 compliance with the requirements of this paragraph.

To assess compliance for this report, we reviewed the DPD 26th Quarter Status Report, dated March 31, 2010; met with staff regarding their planned transition to a new weapon; reviewed training data; and reviewed 17 closed FI cases, four of which involved actual critical firearm discharges. We also reviewed DPD Administrative Message, Teletype #10-0893 (Roll Call Training 10-09), regarding the requirement to carry approved ammunition and inspections.

The Status Report outlines the DPD response to our expressed concerns regarding the amount and type of ammunition officers are carrying.²⁸ Two of the four cases involving alleged or actual critical firearm discharges contained a discrepancy between the number of rounds accounted for and the number of rounds required by policy.

The Administrative Message contains authorization for the carrying of different models of firearms than prescribed by the applicable Directive. However, our review of training data verified that 1,071 (39%) of the 2,771 members had qualified with their firearms, which means that the same number have had their weapons and ammunition inspected and/or replaced. Accordingly, we find the DPD in compliance with these requirements; however, we do note our serious concerns regarding the ammunition discrepancies noted in closed FI cases, which should be affirmatively addressed.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

²⁸ "The Command Level Force Review Team (CLFRT), which reviews the investigations of all CFDs, evaluates whether DPD involved members are adhering to this policy. When there is a determination that an involved member has violated these requirements, corrective action is required. More recently and in response to the Monitor's current review, the DPD has implemented a department wide monthly equipment inspection on the third Monday of each month, which commenced January 2010. This mandate includes inspecting for the proper amount and type of ammunition the member is carrying. Additionally, the DPD in a roll call training disseminated on March 5, 2010, Teletype #10-0893, requiring that the Ordnance Officer also inspect and report any violation of a member not in possession of the proper amount and type of ammunition when completing his/her 90 day firearm inspection."

C. Intermediate Force Device Policy

CJ Requirement U24

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

Comments:

In our two previous reports, we noted that the DPD implemented a Directive consistent with the Phase 1 compliance requirements of this paragraph. This continues to be the case.²⁹ In our more recent quarterly report, we noted that our review of training documents for the period July 1 - December 31, 2009 disclosed that 45.3% of eligible personnel received PR-24 training. In addition, we noted the documentation of officer's PR-24 identification number and most recent PR-24 training for the events reported.

To assess compliance for this report, we reviewed the DPD 26th Quarter Status Report, dated March 31, 2010, and applicable training data. The DPD commenced training its members on the PR-24 in November 2005, and commenced its second consecutive annual in-service use of force/PR-24 training in July 2009. It has trained 89% of its members in the inaugural annual training period for FY2008/2009.

During our review for this reporting period, we determined that 1,940 of the 2,771 members have been trained in the use of the PR-24. In our review of the 194 Use of Force Reports, we found two instances of use of the PR-24. In both instances, the use of the PR-24 was consistent with the training provided. In one, the PR-24 was used as a wedge in an elbow-type lock, and in the other, to strike at the leg of the individual they were attempting to arrest. DPD is Phase 2 compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

D. Chemical Spray Policy

CJ Requirement U25

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

- a. provide a verbal warning and time to allow the subject to comply prior to the use of chemical spray, unless such warnings would present a danger to the officer or others;*

²⁹ DPD Directive 304.2, Use of Force, effective June 27, 2005, Section 6.3; DPD Directive 304.4, PR-24 Collapsible Batons, effective July 1, 2008, and DPD Training Directive No. 04-3, effective May 9, 2005, identify the PR-24 as the authorized DPD impact device offering a less lethal method for apprehending and subduing violent and/or actively resisting subject(s), relate the PR-24 to the force continuum, and set forth training requirements for all officers.

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

Comments:

In our two previous reports, we noted that the DPD implemented a Directive consistent with the Phase 1 compliance requirements of this paragraph.³⁰ We also noted our review of Use of Force Reports (UF002) for each of the reporting periods wherein officers documented the deployment of chemical spray in 30 instances. Officers indicated the provision of appropriate warnings in 18 (60%) of the 30 and decontamination in 24 (80%).³¹ Several of the cases reviewed contained no information on how the decontamination was accomplished and others indicated that decontamination was not accomplished within the 20-minute requirement. In our more recent report, we noted that none of the UOF reports articulated the existence of danger as the reason for not providing warnings. Officers also indicated in all cases that windows were rolled down to allow for proper ventilation during the transport of subjects. Ten of the individuals sprayed either on scene received medical assistance from an EMS unit or at the hospital. There were no reported instances of an officer spraying an unruly crowd.

To assess compliance for this reporting period, we reviewed 194 Use of Force reports and found 11 deployments of chemical spray, with warnings or danger articulated in nine of the 11. Danger was articulated in one of the nine deployments. No warning nor was danger articulated in the remaining two cases. In five of the 11 cases, decontamination was reported to have occurred within the 20 minutes allotted. In one case, decontamination was not possible, as the subject fled from the officer's custody and was not recaptured. In the five cases, one was with a water bottle provided by the officer, three were at the district stations, and one was at the home where the spraying took place. Officers noted in all cases that windows were rolled down to allow for proper ventilation during the transport of subjects. Medical assistance was provided to two of the 11 sprayed, with another of the subjects transported to a hospital for a psychiatric condition rather than the chemical spray. There were no reported instances of an officer spraying an unruly crowd.

We again emphasize that the DPD should require thorough documentation of where, when, and how the decontamination or flushing of the subject's eyes was accomplished.

Compliance Status:

Phase 1: In Compliance

³⁰ DPD Directive 304.3, Chemical Spray Device, effective July 2, 2008 is in compliance with the requirements of this paragraph.

³¹ Officers documented the deployment of chemical spray in 13 and 17 instances during our previous two reporting periods; they reported the provision of warnings in six (46%) and 12 (70%) respectively.

Phase 2: Not in Compliance

CJ Requirement U26

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

Comments:

In our two previous quarterly reports we noted that the DPD implemented a Directive consistent with the Phase 1 compliance requirements of this paragraph.³² We also noted that our review of Use of Force Reports (UF002) identified no reported instances of the deployment or allegations of the deployment of chemical spray against a subject in a police vehicle. Neither did our review identify any reported instances or allegations where officers placed or kept subjects in a face down position after being sprayed. We did note that when sprayed individuals are transported in scout cars, officers generally indicate the lowering of windows to provide ventilation beneficial to the subject.

Although the reviews of documents for both of the reports were indicative of Phase 2 compliance, we withheld that finding pending resolution of the underreporting of force described in the U14 section, above.

To assess compliance with these requirements for this reporting period, we reviewed 194 Use of Force Reports, and again found no reported instances of either the deployment or allegations of the deployment of chemical spray against a subject in a police vehicle or any instances reported involving officers placing subjects in a face down position after being sprayed. We continue to note that when sprayed individuals are transported in scout cars, officers indicate the lowering of windows to provide ventilation beneficial to the subject.

The cases reviewed are indicative of Phase 2 compliance with this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues

DPD has taken appropriate measures to assure the Monitor that uses of force are being captured appropriately. The Department has created inspection teams that are critically reviewing Crisnet reports to ensure that force is documented properly when used, and the teams are conducting audits of the MAS system to locate missing and overdue SIR investigations. It is critically important that DPD maintain this pressure to ensure the proper reporting and documenting of uses of force, not simply to satisfy the Monitor and the Federal Courts, but to reassure the citizens of Detroit that the Police Department is doing all it can to properly monitor itself on how it interacts with the citizens it serves.

³² DPD Directive 304.3, Chemical Spray, effective July 2, 2008, Sections 5.1 and 6.1(6) prohibits the use of chemical spray on a handcuffed subject in a police vehicle of when a face down position.

Next Steps

The Detroit Police Department has been engaged in these consent judgments for over seven years. The Monitor believes that it would benefit all concerned if the parties to the Judgment convened a meeting to reassess all of the requirements for appropriateness and continued applicability, as well as to define more clearly the expectations with respect to each requirement. It is apparent to the Monitor that over the years, the meaning and expectations for many of the requirements being evaluated has eroded and it is time to refresh and refine the Judgments.

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

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

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

Comments:

We reported the implementation of applicable Directives consistent with the Phase 1 requirements of this paragraph in our first two quarterly reports.³³ We also reported on our

³³ Reports of the Independent Monitor issued, January 15, and April 15, 2010. DPD Directives 102.4, Standards of Conduct, and 102.6 Citizens Complaints effective July 1, 2008; DPD Directive 304:2, Use of Force, effective June

review of completed Command-Level, FI, IAD, and OCI investigations. To assess compliance with this requirement for this reporting period, we verified the existence of the required Directives; met with relevant staff; assessed Command-level, FI IAD and OCI investigations completed during this reporting period; and reviewed the DPD 26th Quarter Status Report, dated March 31, 2010, which sets forth some of the corrective measures initiated by the DPD to improve compliance.³⁴

Command-level Investigations: During the first reporting period, we noted only 55% of the Use of Force Reports (UF002) requiring reviews were appropriately submitted, and in some cases, those submitted were lacking required information; as a result, we recommended that the DPD conduct and document more comprehensive, thorough, and detailed command investigations. We also recommended that the DPD review its accountability system and available training to determine if they are sufficient to assure a thorough understanding, especially by supervisory and command staff, of the requirements and responsibilities set forth in the Judgment and DPD policy. Our review of second reporting period reports found that only 78% of the use of force events were investigated as required; furthermore, there was no documentation demonstrating the remaining the use of force events were investigated at any level.

We reviewed 194 Use of Force reports, which resulted in 86 investigations, completed during this reporting period.³⁵ There were 175 Use of Force Reports that were distributed among the 86 SIR investigations.³⁶ The remaining 19 uses of force were not investigated at any level. We noted no instances where a SIR investigation was closed simply because a subject or complainant was unavailable, unwilling, or unable to cooperate, including a refusal to provide medical records or proof of injury.

Force Investigations: In our two prior reports, we noted that our reviews of FI and JIST investigations, which included critical firearm discharges, pursuits, and allegations of excessive force, found these investigations sufficiently detailed to support the findings relating to the

27, 2005; Training Directive 04-7, Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating; Force Investigations, Standard Operating Procedures, revised November, 2009; Internal Affairs Division Standard Operating Procedures, Section Five; and the Office of the Chief Investigator, Standard Operating Procedure (Rev 2008) are individually and/or collectively compliant with the requirements of this and other paragraphs contained in this section of the Judgment.

³⁴ The DPD 26th Quarter Status Report notes, "In an effort to provide an additional resource to ensure that investigations of uses of force contain the required information, and that the appropriate reviews are conducted, the OCR developed a *Use of Force Evaluation Guide* for supervisory personnel and the executives to utilize." The guide was disseminated to all executives on August 6, 2007, at the Senior Management Team meeting and also via email. In addition, during this quarter, the guide was revised and improved after the DPD received comments from the Monitor. The guide has been redistributed to the executives of the DPD and it is provided to all attendees at the *Supervisory, Leadership and Accountability* training course.

This paragraph's requirements are included in the *Supervisory, Leadership and Accountability* Lesson Plan. On July 6, 2009, the DPD commenced its second consecutive annual in-service supervisor and leadership training to its supervisory members."

³⁵ Many of the Command-Level Investigations contained multiple use of force forms, and three additional cases were subsequently assumed by force investigations.

³⁶ The terms Supervisory Investigative Report (SIR) and Command-Level Investigations are used interchangeably throughout this report.

conduct of the officer(s) in each case. In addition, no investigations were closed because the subject or complainant was unavailable, unwilling, or unable to cooperate. We noted the lack of detail or required specificity in cases completed during the two previous reporting periods; however, the cases we reviewed for this reporting period demonstrate that this issue is being addressed through supervision and training.

Internal Affairs Division Investigations: We reviewed 68 cases completed during the previous two reporting periods for consistency with the procedures contained in applicable DPD Directives and generally accepted law enforcement techniques – specifically relating to procedural fairness, timeliness, confidentiality, and the meticulous reporting of facts and results of an investigation. We noted that the facts contained in the investigations were generally complete. The investigations developed sufficient facts to support a determination that justified or did not justify the actions of the officer(s). However, many did not contain a clear and consistent pattern with regards to the conduct and reporting of investigative activity. The investigative process used by IAD did not prohibit the critical examination of an external complaint or an allegation of misconduct by its personnel.

We examined 34 cases during this reporting period. The date range for the cases from both IAD and OCI was 2007 to 2010. As noted in previous reports, we found the facts contained in the investigations generally complete. However, we did note in several cases that elements of the complaint were either overlooked or not reported on in the investigative summary; therefore, we recommend that case reviewers carefully examine complainants' statements, transcripts, and/or recordings to verify what was actually investigated in the case.

As noted in our previous report, with the exception of the Monthly Synopsis Reports, the IAD cases included complete data. During this review period, we found this to be accurate again; however, we found that the Monthly Synopsis Reports for all active cases were completed, placed in a binder, and submitted to the IAD Commander for review. Our review of completed cases determined that with the exception of two IAD investigations, there were sufficient facts developed to support a determination that justified or did not justify the actions of the officer(s).

Office of Chief Investigator: During the two previous reporting periods, we reviewed 641 completed reports for consistency with the procedures contained in applicable DPD Directives and generally accepted law enforcement techniques – specifically relating to procedural fairness, timeliness, confidentiality, and the meticulous reporting of facts and results of an investigation. Although there were problems with the submitted data – including duplicate, missing, and voided cases – our review of completed cases determined that the case files *generally* contained sufficient facts to support a determination that justified or did not justify the actions of the officer(s). However, there were several cases containing insufficient information to make a determination of CJ compliance, and instances where OCI investigators were inconsistent in determining the factual basis for conclusions and findings. In addition, several cases appeared to be missing clear and consistent direction on the conduct and reporting of investigative activity. We also noted a number of cases containing incorrect findings or that were administratively closed contrary to CJ and policy requirements.

To assess compliance with these requirements, we examined a random sample of 140 of the 568 cases closed during this period covered by this report. The date range for the cases was 2007 to 2010. As noted above, we found that facts contained in the investigations were generally

complete. However, perhaps due to efforts to clear overdue cases, there appeared to be no clear and consistent pattern with regards to the conduct and reporting of investigative activity. As noted above, OCI has been inconsistent in determining its factual basis for conclusions and findings. This inconsistency remains evident in the 2007 and 2008 cases we reviewed; however, we noted a marked improvement in the late 2009 and 2010 cases.

OCI's new cover form, directed to the Citizen Complaint Subcommittee, Board of Police Commissioners, allows for the capture of pertinent information relevant to the case. We found this form to be useful; however, we advise reviewers to look into the complainants' statements, transcripts, and/or recordings, to verify what was actually investigated in the case. In several cases, we found that elements of the complaint were either overlooked or not reported in the investigative summary.

Finally, our review determined that with the exception of 18 completed investigations, there were sufficient facts developed to support a determination that justified or did not justify the actions of the officer(s); of the 140 cases reviewed, 20 were administratively closed. Issues of administrative closures will be addressed in the next reporting period when we will examine all methods of case closures.

We continue to recognize the efforts of all command staff to eliminate the backlog of overdue cases; however, the problems inherent in dealing with the loss of complainants and witnesses, and separation of officers from the Department, are evident in the poor quality of many of the investigations. Based on this review, we find the Department not in Phase 2 compliance with these requirements.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U28³⁷

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

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

Comments:

Our assessment of compliance with the requirements of this paragraph included a review of applicable Directives, interviews with relevant staff, and a review of Command-level Investigation and closed FI cases.³⁸

³⁷ This requirement is not applicable to IAD/OCI.

Command-level Investigations: Our reviews of command-level investigations for our two previous reports noted full and complete documentation of the names and badge numbers of all involved officers, as well as documentation of medical care provided.³⁹ To assess compliance for this reporting period, we reviewed 86 command-level investigative reports (002a) and found the following:

- In three (3.5%) of the 86 investigations, the supervisor conducting the investigation authorized, witnessed, or participated in the incident. In one of the incidents, the supervisor was involved in a foot pursuit of the subject; in another instance, a supervisor was present during the arrest of individuals, and directed some of the officers to obtain identification from other subjects, as well. In the third case, the involved supervisor did not actually write the report, but was the supervisor who conducted the majority of the interviews.
- In 80 (93%) of the 86 cases, the names of all of the officers involved or on the scene during the incident are contained in the report. In 66 (77%) of the 86 cases, the investigating supervisor conducted a canvass to identify civilian witnesses or explained why a canvass was not conducted. Once again, this reflects a small improvement over our previous finding of 74%, but there is no reason why DPD should not be well above the 94% standard for this requirement.
- The thoroughness and completeness of interviews of all witnesses continues to be an issue for DPD. Thorough and complete interviews were conducted in only 46 (53%) of the 86 cases we reviewed. We acknowledge efforts to interview subjects are often met with hostility; however, this is a requirement of the Judgment and an effort must be made. There were at least three instances where supervisors made more than one attempt to interview the subject, though none was successful. The thoroughness of officer interviews is also a problem for DPD. The restatement of information from an officer's Crisnet or Use of Force Form does not constitute an interview; referring a reader to a Crisnet report or the circumstances section of a SIR report does not constitute an interview. All officers present at a use of force incident and who may have witnessed the incident are to be interviewed.
- There were only 11 cases (45%) in the 86 we reviewed that contained material inconsistencies and an effort to resolve the inconsistencies was made in five of these. There was one case where a subject claimed to have been kicked in the face; this was resolved by a supervisor who examined the subject's facial area and ruled this out. In another case, a subject claimed to have been struck in the nose, and the supervisor resolved the matter by examining the subject. There were others, however, where no effort was made to resolve the inconsistencies and no one at the chain of Command-level did either. In one case, a subject had chemical spray used on him to affect the arrest. The officer stated that the subject was taken to the District station and placed in a cell, and that the water source in the cell was used for decontamination. The detention area officer

³⁸ See U27 for all Directives applicable to the requirements of this paragraph.

³⁹ Reports of the Independent Monitor issued January 15, and April 15, 2010.

was interviewed, and stated that the cell that was used to detain the prisoner had no water available; this issue was left unresolved. In another case, the investigative report notes that a subject had a bruised hand; the medical documentation noted a laceration requiring several stitches; this one, too, remained unresolved. We are disturbed that all of these cases are subject to a command-level review, and yet none of the cases described above were flagged at that level.

- There were 34 cases of the 86 we reviewed which could have had photos taken of officer or subject injuries. The reports noted that photos were taken in 14 (41%) of them.
- There were 44 cases in the 86 reviewed that should have had documentation of medical care in the file. We found documentation for 34 (77%) of these 44 cases.

Force Investigations: Our previous reviews of Force Investigations found appropriate documentation of the name and badge number of all officers involved in or on the scene of the various incidents. The cases also contained witness interviews (recorded and written), and documentation of canvasses for civilian witnesses. However, we found that the majority of the investigations contained no photographs of officer or suspect injuries.

To assess compliance for this report, we reviewed 17 Force Investigations and found complete documentation of the name and badge number of all officers involved in or on the scene of the various incidents, of witness interviews (recorded and written), and documentation of any medical care provided. These investigations continue to demonstrate improved and consistent canvassing for witnesses. Interviews with witnesses (recorded and written) were generally thorough, but there were instances where the interviews appeared to be relatively short or could be more in-depth, given the seriousness of the event. We suggest that this may be due to the need for additional training on interviewing techniques, especially for officers; we are working with FI staff to address this issue. The case files we reviewed either included photographs or documented the taking of photographs, except in two cases where neither the documentation nor the photographs were present.

We recognize the positive accomplishments by DPD in some of the areas described above, but the absence or lack of completeness of command reviews is problematic. Until the issue of reviews is resolved, these areas will continue to present problems for DPD.

DPD is not in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U29

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

- a. *officers who witness or are involved in an incident to provide a timely statement regarding the incident (subject to paragraph 31 below);*
- b. *whenever practicable and appropriate, interviews of complainants and witnesses be conducted at sites and times convenient for them, including at their residences or places of business; and*

- c. *that all IAD, OCI and Critical Firearm Discharge Investigations shall also include in-person video or audio tape-recorded interviews of all complainants, witnesses, and involved DPD officers and prohibit group interviews. In cases where complainants/witnesses refuse in-person video or audio tape recorded interviews, written statements shall be taken and signed by the complainant/witness along with a signed refusal statement by the complainant/witness.*

Comments:

Our assessment of compliance with the requirements of this paragraph included a review of applicable Directives; interviews with relevant DPD staff; and a review of closed Command-Level, FI, IAD, and OCI cases.⁴⁰

Command-level Investigations: Our reviews of command-level investigations for the two previous reporting periods found that more than 80% of the interviews of officers involved in or witnessing use of force events were timely. However, we also noted an inclination by investigating supervisors in some cases to simply refer to the related Crisnet reports, rather than conducting separate interviews.

We found that interviews of complainants and witnesses were, for the most part, conducted at the scene or at the cell block. We also noted that several cases were not submitted for review in a timely manner. For example, the oldest case languished in the system for nearly five months before being submitted for review. We acknowledge the efforts of the DPD to reduce the number of cases not previously completed; however, we also encouraged the timely submission of required documents.

Our previous reports also noted that the investigations documented that approximately 75% of complainant interviews were conducted at sites and times convenient for the complainants. We also discussed the fact that in most instances, efforts to interview a subject at the scene or in the cell block were met with hostility, but that the effort must be made nonetheless. We cited cases where supervisors attempted to interview subjects some days after the incident, but found that a subject's listed residence was vacant or no one responded to the door. We continue to recommend the institution of a formalized procedure requiring follow-up contact with these individuals. Even though such a requirement may not result in improvement with the level of cooperation by the individual, it would demonstrate DPD efforts to complete a thorough investigation.

Our interviews and review of documents to assess compliance for this reporting period found that timely statements were taken in only 47 (55%) of the 86 cases we reviewed, a significant reduction from our previous findings. We can only attribute this dramatic drop to the large number of older cases included in our sample. There were 20 older cases – the oldest dating back to May 2009 – included in this review, most of which were found as a result of recent audits of the MAS. As we mentioned in a previous report, DPD is to be commended for its efforts to clean up backlogged cases, but it must make a more concerted effort to ensure cases are submitted in a timely fashion.

The interviews of complainants and witnesses were conducted at sites and times convenient for them in 68 (79%) of the 86 cases reviewed, a small improvement over last quarter's 75%, but

⁴⁰ See the U27 section for all Directives applicable to the requirements of this paragraph.

one which is noteworthy given the fact that 20 of the cases were delayed investigations. There were instances where supervisors made several attempts to locate witnesses for interviews, and there were instances where the obvious seems to be overlooked. There were two cases where supervisors attempted to make phone contact and when they were unable to get a response to their calls, they discontinued the effort. One case involved a witness who was a resident of an assisted living facility; it appears that a visit to the facility would probably have located the witness. The other case involved a victim who was employed at a CVS pharmacy; the report stated that phone efforts had been made to contact her, but there was no mention of going to the CVS to interview her.

Specialized units (including include IAD, OCI, FI and Homicide) were notified in 58 (67%) of the 86 cases, a significant improvement over last quarter's 48%.

Force Investigations: In our two previous reports, we noted that statements were generally taken at sites and times convenient for the person being interviewed. Statements of non-police witnesses were generally taken in a timely manner; however, we expressed concern that statements from witness officers were sometimes unnecessarily delayed or that investigators instead relied on the officer's Crisnet report. We expressed particular concern regarding our finding that there were significant delays when taking Garrity statements due to the practice of awaiting prosecution declinations from the District Attorney. We also noted our concerns with regards to variance in practice between FI and Homicide members of the Joint Incident Shooting Team (JIST), specifically noting our concern with the adopted practice by Homicide members to take written, rather than video, statements.

To assess compliance with requirements for this report, we reviewed 17 closed FI cases, four of which involved critical firearm discharges, and found much the same as described above. Statements were generally taken at sites and times convenient for the person being interviewed. Statements of non-police witnesses were taken in a timely manner; however, several statements from involved officers taken under the provisions of Garrity were unnecessarily delayed.

Delays with interviews of the involved officers in the four critical firearm discharge cases ranged from 106 to 205 days from the date of the event. These delays have been, and continue to be, attributable primarily to the practice of awaiting the receipt of prosecution declinations from the District Attorney. The receipt of the declinations ranged from approximately 40 to 204 days from the date of the event. Investigators conducted the required Garrity interviews in a timeframe of one to 81 days from receipt of the DA declination. When reviewing the two critical firearm discharge cases involving witness officers, we noted the interviews were conducted approximately 105 days following the event. While acknowledging our discussions with DPD staff concerning this process and their efforts to improve it, we repeat our concern: Delays with interviews of involved (and witness) officers raise serious credibility and accuracy issues. Officers' recollections of the facts weeks and months after an event, particularly one involving the use of deadly force, are externally and perhaps significantly affected by news accounts and their interactions with friends, family, and colleagues.

Delays with interviews of involved officers in the remaining 11 cases – which include the use of force, complaints of excessive force, and one pursuit – ranged from approximately 120 days to one year (one case). The involved officers could not be identified in the remaining two cases, which included allegations of excessive force. Interviews of witness officers in five cases were

conducted within a few days of the event and clearly timely, within a 45- to 180-day timeframe in four cases. Six included no identified witness officers.

FI investigators take officers' statements consistent with the provisions of Garrity (U-31). In each of the cases we reviewed, these statements were recorded as required, as were statements of witness officers and non-police witnesses interviewed as part of the critical firearm discharge investigations.

Internal Affairs Division Investigations: For our first two reports, we reviewed 68 external complaints and misconduct investigations conducted by IAD. These reviews found an inconsistent application of the DPD Directive requiring timely statements from officers during these investigations. Interviews of officers were often delayed with little justification other than unavailability. There were notable exceptions involving pending criminal proceeding against officers in two cases. The investigations reflected that when complainants or witnesses were interviewed, investigators interviewed them at a time and place selected by the individuals. All interviews were conducted individually and appropriately recorded.

To assess compliance with requirements for this report, we reviewed 34 IAD investigations. Each case contained the proper documentation, including information relating to locations and recording of complainant and witness interviews. There was one case in which the officer was interviewed four months after the complaint was received.

Office of Chief Investigator: We reviewed 653 external complaints and misconduct investigations conducted and OCI for our previous two reports. These reviews also found an inconsistent application of the DPD Directive requiring timely statements from officers during these investigations. While OCI investigators made timely requests to conduct interviews with involved officers, rarely did the interviews occur within the 90-day time limit established for investigation completion. Interviews of officers were often delayed with little justification other than unavailability.

Several cases indicated that complainants or witnesses were interviewed at a time and place selected by them, but contained no documentation regarding interviews. All interviews were conducted individually and appropriately recorded, and in instances where the complainant refused to provide a recorded statement, investigators obtained appropriate written and signed statements as required. The cases we reviewed also included documentation relating to locations of complainant and witness interviews.

We randomly selected 140 OCI investigations to review for this report. As in our previous review, this review found an inconsistent application of the DPD Directive requiring timely statements from officers during these investigations. Again, in the one 2007 case and the 2008 and early 2009 cases, OCI investigators made timely requests to conduct interviews with involved officers, but rarely did the interviews occur within the 90-day time limit established for investigation completion. Interviews of officers were often delayed with little justification other than unavailability. The investigations reflected that when complainants or witnesses were interviewed, investigators interviewed them at a time and place selected by the individual. All interviews were conducted individually and appropriately recorded. There were two instances involving written and signed statements where the complainant's refusal to record an interview was documented.

While we find continued progress with FI and IAD investigations, we again emphasize the need to address the problematic issues relating to Command-level and OCI investigations. DPD is not in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U30

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

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

Comments:

Our assessment of compliance with the requirements of this paragraph included a review of applicable Directives; interviews with relevant staff; and a review of closed Command-level, FI, IAD, and OCI cases.⁴¹

Command-level Investigations: Our reviews of command-level investigations for our two previous reports found no documentation of recorded interviews, written statements, records of questions asked during interviews, or other evidence indicating that the investigating officers conducted thorough interviews where applicable. We were therefore unable to assess whether leading questions were asked during the command-level investigations.

We reviewed applicable closed command-level investigations for this reporting period and found one case in which written questions were provided to officers during the SIR investigation of an incident in a cell block. There were no leading questions, nor were the interviews via these written questions contrary to appropriate law enforcement techniques.

FI Investigations: We reviewed 21 FI cases as part of our compliance assessment for our two previous reports. Our review of written statements, including the questions asked, found no instances of leading questions. However, when listening to randomly selected video-recorded statements, we noted the asking of leading questions in approximately 50% of the interviews.

To assess compliance with these requirements for this report, we listened to 12 randomly selected interviews conducted by six different investigators. We noted that the interviews varied in thoroughness and lasted from four to 30 minutes, with the average being 14 minutes long. We found seven of the interviews free of leading questions.

Internal Affairs Division Investigations: Our review of closed IAD investigations for our first report noted the asking of leading questions during 16% of the randomly selected interviews we reviewed. However, in our second report, we noted that our review of 17 random selected taped

⁴¹ See the U27 section for all Directives applicable to the requirements of this paragraph.

Garrity interviews of police officers disclosed that no leading questions were asked during these interviews to support previous information or facts that were discovered.

To assess compliance with requirements for this report, we reviewed three audio-taped Garrity interviews of police officers, and determined that no leading questions were submitted during these interviews to support previous information or facts that were discovered.

Office of Chief Investigator: Our review of closed OCI cases for our first report noted the asking of leading questions in 15% of the selected interviews we reviewed, but we also noted that a large number of cases contained no documentation regarding interviews. We reviewed no OCI case statements or recordings for compliance with this paragraph for our second or for this report.

DPD is not in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U31

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

Comments:

Our first two reports noted Phase 1 compliance with this paragraph.⁴² We also noted that our reviews of Command-level, FI, IAD, and OCI investigations found supervisors and investigators consistently and meticulously compliant with applicable Garrity requirements. Our reviews of the above investigations for this report disclosed similar adherence to Garrity requirements.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U32

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

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

⁴² DPD Training Directive 04-4, Garrity Protocol, dated February 9, 2006 and revised October 24, 2009 is compliant with the requirements of this paragraph. The Directive provides Criminal and Administrative Guidelines for investigators and supervisors regarding when statements should and should not be compelled from officers during internal investigations. The protocol requires that all officers sign a Certificate of Notification of Constitutional Rights - Departmental Investigations prior to any interview.

- c. *that the fact that a subject or complainant pled guilty or was found guilty of an offense shall not be considered as evidence of whether a DPD officer engaged in misconduct, nor shall it justify discontinuing the investigation;*
- d. *reasonable credibility determinations, with no automatic preference given to an officer's statement over a non-officer's statement or discounting of a witness's statement merely because the witness has some connection to the subject or complainant*
- e. *an evaluation of whether an officer complied with DPD policy;*
- f. *an evaluation of all uses of force, including the officer's tactics, and any allegations or evidence of misconduct uncovered during the course of the investigation;*
- g. *all administrative investigations to be evaluated based on a preponderance of the evidence standard;*
- h. *written documentation of the basis for extending the deadline of a report and evaluation and provide that the circumstances justifying an extension do not include an investigator's vacation or furlough and that problems with investigator vacations or workload should result in the matter being reassigned; and*
- i. *any recommended non-disciplinary corrective action or disciplinary action be documented in writing.*

Comments:

Our assessment of compliance with the requirements of this paragraph included a review of applicable Directives; interviews with relevant staff; and a review of closed Command-Level, FI, IAD, and OCI cases.⁴³

Command-level Investigations: In our two previous reports, we noted the Command-level investigations included precise descriptions of the facts and circumstances of the incidents with respect to the actions of the officers, complainants, and subjects, but that they lacked the requisite evaluations of many of the initial stops. We also noted the lack of supervisory evaluations of the officer's initial contact to determine whether other decisions or tactics could have negated the need for a use of force. While we found evidence of compliance that all relevant evidence, including circumstantial, direct, and physical evidence be reviewed, often it was not. Few of the cases we reviewed contained photographs of injuries, either to the officers or the subjects.

We found no indications that the fact that a subject or complainant pled guilty or was found guilty of an offense was considered as evidence of whether a DPD officer engaged in misconduct, nor that this information was used to justify discontinuing the investigation. We noted cases wherein credibility determinations were made and found no evidence of the discounting of a witnesses statement merely because the witness had some connection to the subject or complainants.

We also noted evaluations of whether or not an officer or officers complied with DPD policy in some, but not all, cases and recommended that in this context, the Judgment requires compliance

⁴³ See the U27 section for all Directives applicable to the requirements of this paragraph.

with all applicable DPD policy. When evaluating the uses of force, there was considerable variance in thoroughness between investigators. In fewer than half of the applicable cases, investigating supervisors made an effort to evaluate the officer's tactics. Finally, we found that considerably fewer than half of the cases we reviewed met the deadline for submission of the report.

To assess compliance with these requirements for this report, we examined the 86 SIR investigations and found that 54 (63%) of the investigations contained the level of descriptions required by U32a with respect to precise descriptions of the facts and circumstances of the incidents and the actions of the officers, complainants and subjects. In only 12 of the investigations, however, was there an attempt to evaluate the initial stop or seizure. Given that DPD has been in this Judgment for over seven years and that it seems that this requirement (among others) will remain problematic for DPD in future reviews, we recommend that the Parties convene a session in which they can review all of the requirements. This meeting should include a discussion of exactly what the expectations are that will allow DPD to not only achieve compliance with the Judgment, but that will allow the Department to institute processes and procedures that will improve the delivery of service to the citizens of Detroit and memorialize the level of professional delivery of police services initially envisioned when the judgment was signed. We found that in 46 (53%) of the cases we reviewed there was evidence of compliance with the requirement that all relevant evidence, including circumstantial, direct, and physical evidence be reviewed.

None of the 86 cases we reviewed disclosed any evidence that the fact that a subject or complainant pled guilty or was found guilty of an offense was considered as evidence of whether a DPD officer engaged in misconduct. There was also no evidence that this information was used to justify discontinuing the investigation. In 58 (67%) of the investigations we reviewed there was evidence that reasonable credibility determinations, with no automatic preference given to an officer's statement over a non-officer's statement, were made to reach conclusions regarding the investigations. There was no evidence of the discounting of a witnesses statement merely because the witness had some connection to the subject or complainants. In only 21 (24%) of the 86 cases we evaluated was there some evidence of an evaluation of whether or not an officer(s) complied with DPD policy. As we mentioned in our previous reports, we do not believe that compliance with DPD policy is limited to compliance with DPD use of force policy. We believe that in this context, the Judgment requires compliance with all applicable DPD policy. This is another requirement that we believe could use further review and clarification by the Parties.

Force was evaluated in 82 (95%) of the 86 SIRs we examined; again, we note that some of the evaluations are better than others, with some supervisors continuing to rely on a Supreme Court statement as the basis for justification of the use of force, and other supervisors detailing the progression in force levels to the point where the force that was used allowed for the arrest of the subject.

In reviewing the SIRs, we came across two incidents that highlight issues that need to be addressed. In the first case, a lieutenant conducted an investigation of the stop of a vehicle suspected of being occupied by armed individuals. There were six officers involved, and all of them drew their weapons, and all reported that while they kept the weapons in a ready position, none acquired a target. The interview with the subjects in the vehicle confirmed that none of the

officers pointed their guns at the subjects. The lieutenant, in an abundance of caution, prepared a SIR investigation. We reviewed the case and found that no targets were acquired, nor was any other type of force used during the stop and the subsequent interaction with the subjects. This was not a use of force, and consequently, it was not included in the 86 SIRs we evaluated.

In the second case, another lieutenant (also the supervisor) conducted an investigation of an incident that occurred in November but was not reported until February. Throughout the investigation, the supervisor expresses her opinion that the arrest did not involve a use of force, and therefore, that the report should not be required. The supervisor explains the requirements of the DPD policy and the Judgment, as the supervisor believe they apply to force and handcuffing. In the investigation, however, she reports that the subject became “actively resistant” and began pulling away from the arresting officer. In the Crisnet report, the arresting officer states the officer was “unable to double lock the handcuffs due to the actions of the offender.” Double-locking is a requirement detailed in Training Directive 08-02. In reading the reports, it is obvious that this was not an un-resisted handcuffing. We highlight these two cases to reinforce our position that, after seven years, there remains some significant inconsistencies in the interpretation of DPD policies and procedures.

There were 24 (28%) instances in which the investigating supervisor made an effort to evaluate the officer’s tactics. As we have previously noted, the evaluation of an officer’s tactics should not be a regurgitation of the evaluations regarding his/her use of force; instead, it should be a critical evaluation of the tactics employed when the officers were confronted by the particular situation. These evaluations should address strengths and/or weaknesses in the officer’s initial approach, including his/her use of verbal tactics often referred to as verbal judo or de-escalation, and further address the viability of other options such as including disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements, or calling out special units. An evaluation of officer tactics is an important way for the DPD leadership to distinguish among practices that are safe and effective, from those fraught with danger, irrespective of their effectiveness.

There was one allegation of misconduct uncovered during the investigations we reviewed. The file indicated appropriate corrective disciplinary action. Fifty-two (60%) of the cases we reviewed reflected a reliance on the preponderance of evidence standard to reach a determination. In 22 of the cases, we found written documentation of the basis for extending the deadline of a report, to include problems with inputting information into MAS, to reports lost in MAS, to witnesses being on furlough. There were three cases where extensions were as a result of an investigator’s vacation or furlough. We found non-disciplinary/disciplinary corrective actions documented in 13 of the investigations we reviewed, ranging from re-instruction in the preparation of reports, to distribution of training materials to entire units, to actual disciplinary action.

Force Investigations: Our review of completed FI cases for our two previous reports found them in large part compliant with the investigative requirements of this paragraph. There were instances where investigators uncovered misconduct in the course of investigations, which were investigated and addressed. The uses of force and tactics were also evaluated. The case files also contained requests and approvals for extending the deadlines for completion of the investigations – none of which included vacation or furlough as reasons for the extension – but the extension requests were generally not made in a timely manner, nor were new deadlines

established for case completion. We noted, however, that cases completed during the latter part of the more recent reporting period contained timely requests for extensions and established new deadlines for case completion.

To assess compliance for this report, we examined 17 completed case files and noted the continued inclusion of a precise account of the facts of the event. Excepting one instance where there was no evaluation or finding made relative to apparent issues arising from a frisk and a search, the investigations were thorough and contained witness and officer interviews, a review of relevant evidence, and evaluations of uses of force and tactics. They also identified cases of misconduct uncovered in the course of the investigation, and these were adequately investigated and addressed. Findings were based upon the preponderance of evidence standard, and recommended disciplinary action was documented.

Excepting two instances where extension requests were not made within 90 days of the event or within 30 days following the DA declination, the case files contained appropriate requests and approvals for extending the deadline for completion of the investigations, none of which included vacation or furlough as reasons for the extension. Extensions were, appropriately, approved for a specified period of time.

Internal Affairs Investigations: Our two previous reports noted the investigator's review of relevant evidence, canvas of the incident location for witnesses, prosecutorial opinion, Garrity interviews, and the investigative findings. All investigations were based on evidence of misconduct, regardless of charges filed against the complaining individual. The investigators objectively evaluated all officer and witness statements. The integrity of the investigations was maintained through a complete, fair, and analytical examination of the preponderance of evidence to either refute or substantiate the allegation. However, we noted several investigations were not completed within the prescribed 90 days. The primary reasons asserted were the unavailability of witnesses, complainants, and officers for interviews and/or a delay in receiving an opinion from the DA. Extensions for the completion of the investigations were often reviewed at the time of the submission of the final report, and therefore granted after the fact and/or not reasonably supported by investigative necessity.

To assess compliance with these requirements for this report, we reviewed 34 IAD investigations. They contained documentation of the investigator's review of relevant evidence, canvas of the incident location for witnesses, prosecutorial opinion, Garrity interviews, and the investigative findings. All of the investigations were based on evidence of misconduct, regardless of charges filed against the complaining individual. The investigators objectively evaluated all officer and witness statements. The integrity of the investigations was maintained through a complete, fair, and analytical examination of the preponderance of evidence to either refute or substantiate the allegation. However, our review found that only 17 investigations were completed within the prescribed 90 days. Of the remaining 17 cases, one was held for prosecutorial review and one for criminal adjudication of the complainant's case. The primary reason asserted for the delays was the unavailability of witnesses, complainants, and officers for interviews. As noted in our previous review, the IAD investigators' extended deadline requests were often reviewed at the time of the submission of the final report and therefore granted after the fact and/or not reasonably supported by investigative necessity. In the most recent cases, there appears to be an effort by the supervisor to review, document, and direct cases more

frequently. There was evidence that the IAD supervisor has been issuing corrective notices to investigators who are unnecessarily delaying cases.

Office of Chief Investigator: Our two previous reports noted that a significant number of OCI cases were not completed within the prescribed 90-day timeframe. Again, the reason asserted for the delays was the unavailability of witnesses, complainants, and officers for interviews. However, we noted that requests for the extensions of deadlines, documented and approved by supervisory staff were, for the most part, subsequent to the 90-day time limit and were not based on investigative necessity. However, the reports were judged to be factual and complete. All investigations were based on evidence of misconduct, regardless of charges filed against the complaining individual after an evaluation of officer and witness statements and evidence using the preponderance of evidence standard.

To assess compliance with these requirements, we reviewed 140 random selected OCI cases and found only 19 were completed within the prescribed 90-day timeframe. Again, the common reason asserted for the delays in the remainder of the cases was the unavailability of witnesses, complainants, and officers for interviews. However, the requests for the extensions, documented and approved by supervisory staff, were, for the most part, subsequent to the 90-day time limit and were not based on investigative necessity. In many of these cases, most, if not all, of the interviews had been completed, evidence was secured, and the cases needed to be finalized and submitted for review. In some of the cases, complainants and witness needed to be interviewed; subsequently, many of these persons were not found due to the passage of time.

In summary, although appropriate Directives are in place, our analysis of command review investigations and those of FI, IAD, and OCI do not support a Phase 2 compliant finding.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U33

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

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

Comments:

Our assessment of compliance with the requirements of this paragraph included a review of applicable Directives, interviews with staff and a review of closed Command-level, FI, IAD, and OCI cases.⁴⁴

Command-level Investigations: In our previous reports, we noted the lack of sufficient review of the SIR by the chain of command above the investigator. We also noted that supervisors rarely identified and took corrective action regarding investigative deficiencies, and found no reports regarding any issues that may have been identified, with training, policy, or procedural implications.

Our assessment of compliance for this report found that in 67 of the SIR investigations there was a chain of command review above the investigator. Forty of the cases had signatures. The command review identified deficiencies in nine of the cases, and in seven the deficiencies were corrected within seven days. There were no instances of a referral of any reports regarding any issues that may have been identified with training, policy, or procedural implications. The final reviewing authority did not make any referrals to an appropriate DPD unit. There were two instances of corrective action and/or disciplinary action recommended when an investigator failed to conduct the investigation appropriately.

We identified no cases in which the investigation was not evaluated appropriately by the reviewing supervisor; consequently there were no recommendations for non-disciplinary or disciplinary actions. There were no disagreements with a finding or a departure from a recommended non-disciplinary corrective action or disciplinary action.

Force Investigations: Our previous reviews of FI cases for compliance with these requirements noted the case files included chain of command reviews and recommended referrals to training. The investigations also included references to supervisors' requests for additional information or investigative work. However, we noted that these references were generally found within the investigators notes or reports. Based on discussions with FI staff, we were sufficiently satisfied that there is a detailed supervisory review of each investigation; however, we recommended that these reviews be more completely documented.

We reviewed 17 completed FI cases for this report, and found chain of command reviews and referrals to training. The case files also included supervisors' requests for additional information, though these were not always specific nor corrected within seven days. Our continued discussions with FI staff assure us that this process will be strengthened through ongoing training that has and will be afforded staff. We are also satisfied that there were no cases requiring disciplinary action during this reporting period.

Internal Affairs Division: Our previous reviews of IAD for compliance with the requirements of this paragraph indicated that IAD supervisors infrequently used the case supervision sheets for the intended purpose of documenting case supervision and managing the investigative efforts of subordinate personnel. Supervisors typically reviewed and commented on these sheets late in the

⁴⁴ See the U27 section for all Directives applicable to the requirements of this paragraph.

investigative process. Our review for this reporting period found no cases where the IAD commander made referrals for training, policy, or procedural issues.

To assess compliance with these requirements for this report, we reviewed 34 closed IAD cases. Because the cases we reviewed covered 2007 to 2009 cases as well as 2010 cases, we continued to find instances where IAD supervisors did not comply with the requirements of this paragraph and DPD Directives with regards to the maintenance of case supervision sheets. These sheets chronicle each investigative action taken to further the case by date. In the late 2009 and 2010 cases, there is more evidence of supervisory oversight and documentation in the Case Supervision Sheets.

Office of Chief Investigator: Our previous reviews of OCI to determine compliance with the requirements of this paragraph noted that supervisors were not conducting or documenting reviews of completed cases for deficiencies and/or requiring corrective action within seven days. Further, there was no documentation demonstrating the final reviewing authority taking appropriate non-disciplinary corrective action, or disciplinary action when an investigator failed to conduct an appropriate investigation. We noted in particular that the great majority of cases submitted for closure did not comply with the timeline requirement, yet there were no indications in the case files indicating supervisory intervention to improve investigative quality or timeliness.

To assess compliance with these requirements for this report, we reviewed 140 randomly selected closed OCI investigations. The cases covered 2007 to 2009 cases as well as 2010 cases; our review revealed that supervisors did not comply with the requirements of this paragraph and Directives.

OCI Policy requires that supervisors review completed cases for any deficiencies, and require the investigator to correct any deficiencies noted within seven days of evaluating the report. We continue to find no evidence that the supervisors are complying with this policy. Supervisors were not routinely documenting investigations returned for correction or identifying and recording recommendations to the final reviewing authority regarding appropriate non-disciplinary corrective action or disciplinary action when an investigator failed to conduct an appropriate investigation. Several of the cases we reviewed were returned to OCI from the reviewing member of the Board of Police Commissioners with directions to the investigators or requests for clarity. The great majority of cases submitted for closure this quarter, as in the last quarter, did not comply with the timeline requirement. In this review, there was some indication in the case folders that would indicate recent timely supervisory intervention to improve investigative quality, but since the majority of the cases that were reviewed are grossly overdue, the issue of timeliness is moot. In order to process cases efficiently and in a timely fashion, we recommend that the OCI develop and use a reliable Case Tracking System. The Chief Investigator and final reviewing authority did not document when, or if, supervisors failed to properly or timely evaluate an investigation or monitor the performance of assigned supervisors or investigators.

DPD is not in compliance with this requirement.

(See U67 and U68 regarding OCI.)

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

B. Use of Force and Prisoner Injury Investigations

CJ Requirement U34

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

Comments:

In our two previous reports, we reviewed and found the applicable DPD Directive compliant with the requirements of this paragraph.⁴⁵ The DPD remains in Phase 1 Compliance. We also discussed the findings of our review of Auditable Forms (UF002), and in the more recent of our reports, our review of Crisnet reports detailing arrests for assault on a police officer, disorderly conduct, and interfering with a city employee. These reviews found that the required Auditable Forms were not consistently prepared as required. We also noted the completion of the forms where targets were acquired and the appropriate referral of firearm discharge events to FI for investigation. Our review of FI cases found that the forms were rarely completed as required.

To assess compliance with these requirements for this report, we reviewed 194 Auditable Forms (UF002) as well as the DPD 26th Quarter Status Report, dated March 31, 2010, which outlines steps the DPD has taken to address compliance issues.⁴⁶ This review found that 155 (80%) of the 194 forms were prepared correctly, documenting the 002 prisoner injuries, uses of force, and allegations of uses of force. The forms included four firearm discharges, all of which were appropriately referred to FI. There were also two uses of force in which the officer's actions were questionable; these forms were also assumed by FI. In five instances, targets were acquired and all were properly documented.

As an additional control, we reviewed 323 Crisnet reports detailing arrests for assault on a police officer, disorderly conduct, and interfering with a city employee. We determined that the required use of force reports were not prepared for 27 (8.4%) of the cases, an improvement from the previous quarter in which we found 36 cases that lacked use of force reports.

Our review of 16 FI investigations requiring the preparation of an Auditable Form determined that eight were included.

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

⁴⁵ DPD Directive 304.2, Use of Force, effective June 27, 2005.

⁴⁶ The DPD 26th Quarter Status Report, dated March 31, 2010, states, "During the previous quarter, the DPD implemented a revised method for the electronic routing of the Use of Force/Detainee Injury/Allegation of Force Form (UF002). The form routing will now require the inputting member to select the specific supervisor that was notified regarding the use of force incident. Prior to this change, the form routed to either the supervisor who responded to the scene or to a supervisor that was working on the date of the incident. The implementation of this feature creates more accountability for the supervisor that was notified regarding the use of force incident to process the report within MAS."

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U35

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

- a. officers to notify their supervisors following any use of force or prisoner injury;*
- b. that upon such notice, a supervisor shall respond to the scene of all uses of force that involve a firearm discharge, a visible injury or a complaint of injury. A supervisor shall respond to all other uses of force on a priority basis. Upon arrival at the scene, the supervisor shall interview the subject(s), examine the subject(s) for injury, and ensure that the subject(s) receive needed medical attention;*
- c. the supervisor responding to the scene to notify IAD of all serious uses of force, uses of force that result in visible injury, uses of force that a reasonable officer should have known were likely to result in injury, uses of force where there is prisoner injury; and*
- d. IAD to respond to the scene of, and investigate, all incidents where a prisoner dies, suffers serious bodily injury or requires hospital admission, or involves a serious use of force, and to permit IAD to delegate all other use of force or prisoner injury investigations to the supervisor for a command investigation⁴⁷*

Comments:

In our two previous reports, we reviewed and found the applicable DPD Directive compliant with this paragraph.⁴⁸ We also assessed whether subjects were interviewed at the scene, in the cell block, or at the station; the provision of needed medical attention; the notification and response of supervisors; the proper completion of required forms and reports; and appropriate referrals to FI. We determined that, taken together, the majority of these reports did not meet the required standards.

Our assessment for this report was based on our review of the 86 SIR investigations. We found that in 75 (87%) of the 86 cases we reviewed, a supervisor was notified following a use of force or prisoner injury. Supervisors responded to a total of 73 incidents, including 21 incidents in which a firearm was discharged, there was a visible injury, or there was a complaint of injury; and an additional 52 incidents on a priority basis.

In 48 of the reports, we found evidence that a subject was interviewed at the scene, in the cell block, or at the station. In the instances where the supervisor interviewed the subject, whether at the scene or at the station, supervisors ensured that subjects needing or requesting medical attention were provided that service in 40 of the cases. We determined that responding

⁴⁷ Consent Judgment amendment, September 15, 2008.

⁴⁸ DPD Directive 304.2, Use of Force, effective June 27, 2005.

supervisors notified IAD in 39 of the 86 cases, an improvement over the last report, when we were only able to determine that 29 notifications were made. Overall, investigators are doing a better job of documenting information regarding notifications in the narrative of the report, and we encourage DPD to continue to emphasize to them the importance of doing so in the future. Force Investigations assumed responsibility for six cases, four shooting incidents, and two other cases involving questionable actions on the part of officer(s).

Our review of cases relevant to this requirement shows that, taken together, the majority of these reports did not meet these requirements. DPD is not in compliance with these requirements.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U36

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

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

Comments:

In our two previous reports, we found the applicable DPD Directive compliant with this paragraph.⁴⁹ This continues to be the case.

Command-level Investigations:

Previously, we reviewed completed UF002a and found the majority did not meet the 10-day time limit for completion of the preliminary investigation, and none included photographs of injuries to subjects or officers. Most, but not >94%, contained the required synopsis of the event.⁵⁰ Although a majority of Reports included documentation of a canvass of the area and witness statements, those that did not provided no explanation of the reason for the failure to do so. The profiles of the officer's prior uses of force and allegations of misconduct were generally not included.

To assess compliance for this report, we reviewed the 86 completed UF002a's, Command level Investigations and found 22(25%) preliminary investigations completed within ten days of the

⁴⁹ DPD Directive 304.2, effective June 27, 2005.

⁵⁰ DPD supervisors use the term "circumstance" in place of "synopsis."

event. Eighty three of the 86 cases (96%) contained the required synopsis of the event.⁵¹ One of the cases included photographs of injuries to subjects or officers. There were several other investigations which reflected that evidence technician injury photos had been taken, but they were not available in the files.

Forty seven of the cases documented a canvass of the area and witness statements (55%). One investigative supervisor noted that a canvass was unnecessary as there had been no injuries, which is not a criteria for determining when to conduct a canvass. Fifty-two of the cases included the profile of the officer's prior uses of force and allegations of misconduct (60%). Thirty of the 86 cases (35%) were submitted within the 30-day time frame, basically the same percentage reported last quarter.

Force Investigations: We also previously reviewed completed FI cases for compliance with these requirements. The investigations included synopses of the events and witness statements. We expressed concern regarding the lack of sufficient prior use of force, complaint, and misconduct history that could assist investigators when conducting interviews, making credibility determinations, or developing recommendations regarding training or supervisory intervention. We also noted the lack of photographs of injuries. Finally, in our more recent report, we noted a marked improvement in the thoroughness and documentation of canvasses for civilian witnesses.

To assess compliance for this report, we reviewed 17 completed FI cases. Each included a synopsis of the event and applicable witness statements. We noted the apparent efforts of investigators to obtain and include the officers' profiles as part of the case report, but it was also apparent that such efforts were made to satisfy the requirements of this paragraph, rather than as an investigative objective. Our discussions with FI staff suggest the need to address some internal logistical/administrative issues and training.

Four of these investigations involved critical firearm discharges and were completed within a timeframe of seven to 12 months.⁵² The delays were due in part to the policy regarding Garrity interviews discussed earlier in this report. (Refer to U29-31.) The remaining cases were completed within a timeframe of two to 13 months, with the average taking 7.5 months.

Reports submitted to IAD: Commanders are required to forward copies of command level investigations to IAD within seven days of completion. Our previous review of the IAD log and process for receiving these reports found over 50% included no case closure dates or were turned back to command for signature or further investigation. However, the data was not sufficiently detailed for us to determine whether the reports were sent and received within the required seven days; therefore we approached our assessment of compliance for this reporting period from two perspectives.

First, using the IAD due date as the controlling date for compliance purposes, we found 21 of the cases reviewed were transmitted to IAD within the established time line. In addition, we reviewed the applicable dates on 161 reports completed by the various commands and found that IAD received 116 (72%) within the required seven days.

⁵¹ DPD supervisors use the term Circumstance in place of Synopsis.

⁵² CJ paragraph U-38 requires the completion of critical firearm investigations within 30 days of the event, except where a Garrity interview is required. In those cases, the completion may be deferred until 30 days following the declination or completion of the criminal prosecution.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

C. Review of Critical Firearm Discharges and In-Custody Deaths

CJ Requirement U37

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

Comments:

We previously reviewed the applicable DPD Directives and found them compliant with the requirements of this paragraph.⁵³ We also reviewed completed FI critical firearm discharge investigations and found the DPD compliant with these requirements, as well.

To assess compliance for this report, we reviewed four non-fatal critical firearm discharge investigations that were completed during this reporting period. JIST was notified and responded as required in three of the four cases. In the fourth case, the FI investigators responded; however, the homicide investigators were not notified to respond. While this appears to be a deviation from policy and this CJ paragraph, we noted that the case was appropriately investigated by the assigned FI investigators.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U38

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

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

⁵³ DPD Standard Operating Procedures and DPD Training Directive 04-07 provide guidelines for the Joint Shooting Team (JIST) and Force Investigations (FI) and compliance with requirements of this and subsequent paragraphs.

Comments:

For our previous two reports, we reviewed completed critical firearm investigations for the applicable periods, and found that although investigators appropriately inventoried the officers ammunition to assist with determining the number of shots fired, and collected shell casings at the scene, there were instances where the number of shots believed to have been fired did not match with the inventory of officer's ammunition and/or the number of retrieved shell casings. The DPD advised us of an ongoing problem with the ammunition magazines that sometimes did not allow officers to fully load them and its intention to correct the problem with the issue of replacement equipment. We emphasized the need for, and importance of, accounting for all rounds that are fired, and where there appears to be a discrepancy due to the described magazine problems, to document it in the case report.

We also expressed concern regarding the absence of gunshot residue collection and analysis and DNA collection, and have been advised that gunshot residue is no longer collected since residue analysis is no longer available, and that DNA analysis is limited. We learned of delays in ballistics analyses by the State Crime Lab. These are all issues mitigating the ability of FI to conduct complete critical firearm discharge investigations. We also expressed concern with the failure to complete these investigations within the 30-day time limit.

To assess compliance with requirements for this report, we reviewed four completed non-fatal critical firearm discharge cases. Two of the cases involved the discharge of firearms at animals, but resulted in injuries to an officer in one case and a citizen in another. The third discharge occurred when an off-duty officer facing an agitated crowd fired his weapon into the ground. The fourth discharge occurred when officers were confronted by an armed subject. We found discrepancies among the number of shots believed to have been fired, the number of shell casings recovered, and ammunition count in two of the four cases. There were no indications of equipment malfunctions. In each case, the locations of the officers were fully described, but the location was diagramed in only one. Where required, ballistic and other laboratory analyses (fingerprints) were requested and conducted. The cases were closed in a timeframe of seven to 12 months, clearly outside of the 30-day requirement; however, all cases involved Garrity interviews, two of which were concluded within 30 days of the declination.

We acknowledge the attention FI staff has devoted to strengthening its investigative process, which has included revisions to forms and policies and additional training. This focused effort on operational effectiveness should result in improved compliance with these requirements in the near future.

DPD is not in compliance with the requirements of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U39

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

Comments:

We previously found that DPD Special Order #09-13, issued March 2, 2009, established the Command-level Force Review Team (CLFRT) to evaluate all critical firearm discharges and in-custody deaths, but did not establish selection criteria for team members and was therefore not in compliance with CJ requirements. This Special Order expired on December 31, 2009.

The DPD issued a replacement Directive, Special Order #10-11, effective January 1, 2010, to comply with these requirements. The new General Order specifies the members of the team by rank and position who are determined by the Chief of Police to “have the qualifications to perform the executive level evaluation of the investigations of critical firearm discharges and in-custody deaths.” The team is chaired by the Commander, Internal Affairs/Force Investigations and includes Deputy Chiefs, the Training Commander, and a specified Chief of Police designee. The DPD is in compliance with this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U40

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

- a. complete its review of critical firearm discharges that result in injury and in-custody deaths within 90 days of the resolution of any criminal review and/or proceedings and all other critical firearm discharges within 60 days and require the Chief of Police to complete his or her review of the team’s report within 14 days;*
- b. comply with the revised review of investigations policies and procedures;*
- c. interview the principal investigators; and*
- d. prepare a report to the Chief of Police in compliance with the revised investigatory report and evaluation protocol.*

Comments:

The DPD continues to be in compliance with the Phase 1 requirements of this paragraph.⁵⁴ However, our previous reviews indicated the need for the DPD to include interviews of principal investigators as part of the CLFRT process.

To assess compliance for this report, we examined the CLFRT Reports on the four non-fatal critical firearm cases they reviewed during this reporting period, which were completed within 60 or 90 days as required. The CLFRT appropriately assessed officers’ compliance with DPD Directives, and three included specific recommendations to the Chief of Police regarding discipline or training. The Chief signed off with his review of the reports within 14 days on two of the four reports. The reports indicated that the principal investigating officers were present

⁵⁴ DPD Special Order #09-13 issued March 2, 2009 expired on December 31, 2009 and was replaced with DPD Special Order #10-11, effective January 1, 2010.

during the CLFRT meetings. While there was no documentation regarding their active participation in the meetings, we find that the department is moving towards compliance. but provide no information regarding their active participation in the meetings. DPD is in pending compliance with the requirements of this paragraph. The Department has advised that the appropriate information will be included in future reports.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending Compliance

CJ Requirement U41

The Chair of the Command Level Force Review Team shall annually review critical firearm discharges and in-custody deaths in aggregate to detect patterns and/or problems and report his or her findings and recommendations, including additional investigative protocols and standards for all critical firearm discharge and in-custody death investigations, to the Chief of Police.

Comments:

In accordance with previous practice, the CLFRT Chair will prepare the annual review and critique of critical firearm discharges and in-custody deaths for the year 2009 in early 2010.⁵⁵ Accordingly, the DPD is in continued compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

Critical Issues:

Our review of the investigations continues to reflect an absence of understanding of the Consent Judgment requirements by many of the DPD Command Staff, which in turn translates to an inability on the part of many of the supervisors to conduct the investigations as required and envisioned when the Judgment was signed. While there are several Commanders who have made concerted efforts to inform themselves of the Judgment requirements and the expectations of the Monitoring Team, they are unfortunately in the minority. It has become patently obvious that after seven years of operating under the Judgment, DPD remains unable to document properly the items as required, more than likely due to a lack of comprehension of the Judgment terminology. These shortcomings, however, reflect poorly not simply on DPD, but on all of the Parties charged with enforcing the Judgment. As stated above, we recommend that the Parties convene a working conference to review each requirement in both Judgments, and discuss all of the included elements and their components. This would be an opportunity for the Parties to make clear what is expected from all involved.

⁵⁵ On January 28, 2009, the Court amended this paragraph to require the DPD provide the Monitor with a copy of the annual review and critique of critical firearm discharges within five months after the end of the year reported on.

Next Steps:

We will continue to review compliance with particular attention to meeting the specific detailed elements prescribed in these requirements. Of particular concern is the thoroughness and completeness of investigations and their review by supervisors.

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

V. ARREST AND DETENTION POLICIES AND PRACTICES

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

The DPD revised its investigatory stop and frisk policies to appropriately define investigatory stops and reasonable suspicion. DPD also revised its witness identification policies to comply with the revised arrest and investigatory policies. Policy also establishes that a material witness can only be taken into custody by obtaining a court order prior to such taking.

The revised policies and procedures in this area require significant documentation and reviews by supervisors. Command notification is required in all instances where there exists a reported violation of DPD arrest, investigatory stop and frisk, witness identification and questioning policies, and all reports in which an arraignment warrant is not sought. Compliance review in this area thus draws heavily on the detailed records required in this section. (From Report #2-Needs revision)

A. Arrest Policies

CJ Requirement U42

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

Comments:

We previously reviewed the applicable DPD Directives and found them in compliance with the requirements of this paragraph.⁵⁶ Phase 2 compliance is linked to and dependent upon the implementation of U43.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U43

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

Comments:

We reviewed the *Arrest Audit Reports* for the previous quarter that were conducted at the Northeastern, Northwestern, Eastern, and Southwestern Districts during this reporting period. The audit results are consistent with our review of these activities during this and our previous site visit. We also noted that the Commanders from the Districts responded to the audits with a plan of action to remedy the deficiencies identified in the audit. DPD has been compliant with this paragraph for the previous two quarters of our review.

To assess compliance with requirements for this reporting period, we reviewed a random sample of 97 case files. We reviewed Crisnet reports, Detainee Input Sheets, DPD warrant verification logs, officers' Daily Activity Logs, Arraignment Verification Logs, Detainee File Folders, and Detained Persons Details Page. In every case we reviewed, the sufficient probable cause for the arrest was present, and supervisory approval occurred within 12 hours of the arrest.

When an officer is not seeking a warrant, he/she is required to complete auditable form U004. There were 14 auditable forms completed in our sample. Eleven of these forms were completed in a timely fashion and submitted for supervisory review. In two cases, although the auditable form was completed, the officer who completed the form did not indicate the date or time the arraignment was not sought. (DPD policy requires an auditable form to be completed within 12 hours of the event.) In one case, the auditable form (U004) was completed two days after the decision was made not to seek an arraignment warrant. In several cases, we had to revert to the

⁵⁶ DPD Directive 202.1, Arrests, effective July 1, 2008.

Detained Persons Detail Page to retrieve this information. The DPD's compliance rate is 97.3% for the three separate and distinct requirements of this Judgment.

On form U004, the person submitting the form (usually the OIC) must place the date and time on the form by his/her signature and, in the box provided a description of why the warrant was not sought and the date and time the form was generated. This verifies the reason the arraignment warrant was not sought and that the form was completed in a timely fashion.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

B. Investigatory Stop Policies

CJ Requirement U44

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

Comments:

We previously reviewed the applicable DPD Directives and found them in compliance with the requirements of this paragraph. The DPD reinforced existing policies during this reporting period with roll call training,⁵⁷ however phase 2 compliance is linked to and contingent upon implementation of U45.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not In Compliance

CJ Requirement U45

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

Comments:

In our two previous reports, we determined that DPD was not in compliance with the provisions of this paragraph. Our reviews showed that officers did not articulate reasonable suspicion with frisks, and that supervisors did not properly check the officers' Daily Activity Log entries.

⁵⁷ DPD Directive 202.1, Arrests, effective July 1, 2008. The DPD issued an Administrative Message, titled Roll Call Training Stop and Frisk, on March 19, 2010, with instructions that it be read at roll calls from March 20, 2010 through March 26, 2010. The Message emphasized the following actions: (1) recording the investigatory stop and frisk, (2) documentation of supervisory review, (3) supervisory documentation of all investigatory stops and/or frisks within 24 hours and (4) identification of stops/frisks unsupported by reasonable suspicion.

We reviewed 324 Officer's Daily Activity Logs completed on three randomly selected dates in January, February, and March 2010 (January 4, February 2, and March 6), to assess compliance for investigatory stops. We received the logs for all of the Districts from whom we requested them. The Logs included traffic stops and other situations where officers made investigatory stops of individuals who were not in vehicles. This review yielded 19 investigatory stops, of which 12 indicated a lawful purpose and the remainder failed to describe the reasons for the investigation; this represents a 63% compliance rate.

The Logs included 98 traffic stops, and our review indicated that 11 did not contain sufficient information to justify the stop. For example, there were situations where the officer would issue a summons for driving without a license without providing any additional information describing why the initial stop occurred. Supervisors reviewed four of the 98 traffic stops two or more days late. DPD has made significant progress this quarter in officers' ability to articulate reasonable suspicion for traffic stops. However, we continue to find the entries on the Officer's Daily Activity Logs difficult to read or understand. DPD's compliance rate for traffic stops is 84.7 %.

The Logs also included 82 frisks under *Recap of Activity* on the face sheet of the Logs. However, we located 67 frisks in the narratives. Officers are required to fill in the *Recap of Activity* portion of the Log to indicate their total daily activities and to complete the narrative portion of the form to indicate each individual activity. In 15 cases, the officers marked a frisk in the summary but did not mark the appropriate "frisk" box in the narrative. In each of the 15, we scrutinized every entry and could not locate a frisk.

Fifty-four of the frisks contained sufficient information to articulate reasonable suspicion. Thirteen frisks did not contain the required information, and 15 could not be located. For example, in one incident where frisks were conducted, the officers listed the reason for the frisk as subjects "walking in street" without any other descriptive phrase to indicate reasonable suspicion. In two incidents, frisks were conducted after routine stops for minor traffic violations. All frisks were documented by the end of the officer's shift. In two of the supervisory reviews, there was no date or time indicating that the frisks were conducted within policy; and in another, a supervisor did not indicate approval by signature or date and time. There were no *Investigatory Stop and Frisk Exception Forms* (auditable form UF003) included in the case report packets. We inquired with DPD to learn if there were any auditable forms completed for this quarter relating to this paragraph. Although there is evidence of some progress with articulating reasonable suspicion by DPD officers, their compliance rate for frisks this quarter is 63.5%. The DPD remains not in compliance with these requirements.

We reviewed the DPD's internal audit submitted on October 4, 2009 for the Eastern District, and the Department's findings concur with our conclusions. We met with personnel from the Audit Team to discuss the Team's findings and methodology. We reviewed with the Team several Officers' Daily Activity Logs completed during the current quarter that contained frisks, and we were in agreement with those in or not in compliance. The Audit Team has recommended a number of steps to ensure compliance with the Department's stop and frisk policies that include retraining officers and reviewing all stop and frisk situations by supervisors and command personnel in a timely fashion.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

Witness Identification and Questioning Policies

CJ Requirement U46

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

Comments:

We previously reviewed the applicable DPD Directives and found them in compliance with the requirements of this paragraph.⁵⁸ Phase 2 compliance for this CJ paragraphs is dependent on the implementation of U48.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U47

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

Comments:

We previously reviewed the applicable DPD Directives and found them in compliance with the requirements of this paragraph.⁵⁹ Phase 2 compliance is dependent on the implementation of U48.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

⁵⁸ DPD Directive 203.9, Custodial Questioning, effective July 1, 2008.

⁵⁹ DPD Directive 203.9, Custodial Questioning, effective July 1, 2008

CJ Requirement U48

The DPD shall document the content and circumstances of all interviews, interrogations and conveyances during the shift in which the police action occurred. The DPD shall review in writing all interviews, interrogations and conveyances and document on an auditable form those in violation of DPD policy within 12 hours of the interview, interrogation or conveyance.

Comments:

We previously reviewed the applicable DPD Directives and found them in compliance with the requirements of this paragraph.⁶⁰

For our previous reporting periods, we reviewed interviews, interrogations, and conveyances from the Homicide Command and found that Command adhered to established policy and followed the guidelines effectively. To assess compliance with these requirements for this reporting period, we expanded our review to also include Sex Crimes Command and Narcotics.

To assess this requirement, we reviewed 33 Homicide Command case files, which contained 51 witness/interrogation interviews and one conveyance. All of the witness interviews and interrogations were conducted within reasonable timeframes and followed prescribed policy. All of the supervisory report reviews were completed, dated, and signed, all within the prescribed twelve hours. In one witness statement, the witness signed the form but did not include the date and time. In the one conveyance in our dataset, the conveying officer did not sign the form indicating a conveyance, nor did the witness sign the form. The Homicide Command's compliance rate for this requirement is 94.1%.

We reviewed 74 Sex Crimes Command case files, which contained 52 witness/interrogation interviews. Seventeen of the cases did not contain supervisory approval or interview ending times. In one case, a supervisor conducted four interviews involving the same case and failed to have another supervisor conduct a review. The Sexual Crimes Command's compliance rate for this requirement is 59.6%.

We reviewed 24 Narcotics Unit case files, and found four cases involving interrogations. Personnel in Narcotics did not use the correct form for the interviews, and none of the interrogations were overseen by supervisors. All the interrogations were conducted on the interrogation sheet and not on the approved *Statement Form* (DPD 103, Revised February 9, 2009). The Narcotics Unit is not in compliance with this requirement.

As indicated above, we found the DPD in compliance in the previous reporting period based on our review of Homicide Command cases. For this report, we added two Commands to our review that we found to be out of compliance. However, consistent with our methodology, we are not taking the DPD out of compliance at this time on the basis of this one review. However, we will again review both of these functions in the next reporting period, and if compliance is not met, DPD will not be in compliance with this requirement.

⁶⁰ DPD Directives 203.3, Notifications, effective July 1, 2008 and 203.9, Custodial Questioning, effective July 1, 2008.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

D. Prompt Judicial Review Policies

CJ Requirement U49

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

Comments:

We previously reviewed the applicable DPD Directives and found them in compliance with the requirements of this paragraph.⁶¹ Phase 2 compliance is dependent on the implementation of U50.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U50

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

Comments:

To assess compliance with these requirements, we reviewed DPD's Custodial Detention Audits of the Southwestern District, the Eastern District, and the Northeastern District during this reporting period. The scope of the audits covered U49 through U58 and U60. The results of DPD's conclusions mirror our findings in our previous and this report. There were four main issues identified in the audits that were addressed by the Audit Team, and we concur with their recommendations. The issues are: (1) the time it takes to identify and clear holds/warrants; (2) auditable forms not being prepared for failing to provide prompt judicial review; (3) all pertinent information not being entered into Livescan; and (4) auditable forms not being prepared for violation of holds/warrants policies. We have also found that, on occasion when Warrant Tracking Forms are prepared, the OIC fails to place the date and time the form was completed and/or fails to mark the appropriate box on the form.

Due to a few case reports involving traffic, probation violations, and warrant arrests that are handled by other means, we reviewed 75 case reports that eventually were submitted to the prosecutor's office for arraignment. The documentation supporting this review included Crisnet Reports, Warrant Verification Logs, Arraignment Sheets, Detainee Input Sheets, and Warrant Tracking Hold Forms, and in some cases, Officer's Daily Activity Logs. Of the 75 cases we reviewed, there were two that did not meet the 48-hour requirement, resulting in a 94.6% compliance rate.

⁶¹ DPD Directive 202.1, Arrests, effective July 1, 2008.

In 14 cases, the arraignment was not completed within the 48-hour timeframe. However, the warrants were submitted to the prosecutor prior to the 48-hour requirement in all but two instances.

DPD is in compliance with these requirements.

On January 11, 2010, the Chief Judge of the 36th District Court of the State of Michigan announced the discontinuance of evening felony arraignments. This has, in effect, burdened DPD's ability to have detainees arraigned timely.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U51

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

Comments:

We previously found the DPD in compliance with this paragraph. To assess compliance with these requirements for this reporting period, we reviewed the same documents referenced in U50.

Of the 97 total arrest case reports we reviewed, there were 63 that began at the initial arrest and concluded in arraignment. Cases that were excluded include warrant arrests, juvenile arrests, some traffic cases, and situations where the offender was able to post bond. There were 14 cases where the arraignment occurred after 48 hours had elapsed. In 12 cases, an auditable form was completed; and in two cases, we could not locate an auditable form in the case packets. One case involved extraordinary circumstances, and in all but two, the arraignment warrant was submitted in a timely fashion but the arraignment did not occur within 48 hours. DPD's compliance rate with this requirement is 96.8%.

The elimination of evening arraignments by the 36th District Court of the State of Michigan will continue to be problematic for DPD in its ability to arraign detainees in a timely fashion.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

E. Hold Policies

CJ Requirement U52

The DPD shall revise its hold policies to define a hold as that term is defined in this Agreement and require that all holds be documented. This policy shall establish a timely and systematic process for persons in DPD custody who have holds issued by a City of Detroit court to have those holds cleared by presenting the arrestee to the court from which the warrant was issued or the setting and posting of bond where applicable. The fact that an arrestee has not been arraigned or charged on the current arrest shall not delay this process.

Comments:

We previously reviewed the applicable DPD Directives and found them in compliance with the requirements of this paragraph.⁶² Phase 2 compliance is dependent on the implementation of U53.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U53

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

Comments:

In our two previous reporting periods, DPD was in compliance with this paragraph.

To assess compliance with these requirements for this reporting period, we reviewed 97 Detainee Input Sheets and found a total of 44 holds/warrants listed on the forms. In seven cases, the hold exceeded 48 hours prior to being cleared. One included the required auditable form in the packet, and the remaining six did not contain the necessary form. DPD is required to complete an auditable form when a hold/warrant is not cleared within 48 hours of the time it is identified. With few exceptions, the majority of the Detainee Input Sheets did not indicate a “time cleared or date cleared” in the appropriate location (box) although the actual time of release (hold/warrant cleared is indicated in Section (3), Final Charging, and Disposition and Release portion of the form which indicates when the detainee is released from custody. As mentioned in our previous reports, the lack of DPD personnel properly indicating the date and time holds/warrants are identified and cleared continues to be a problem for the Department. DPD’s compliance rate for this requirement is 70.4%.

⁶² DPD Directive 305.2, Detainee Registration, effective September 12, 2005.

We found that supervisors are not ensuring these forms are completed in a timely fashion and that the required auditable forms are submitted for a Commander's review. These deficiencies are the basis for DPD's poor performance in this area during this quarter. Should the DPD fail to correct these deficiencies during the next reporting period, the Department will be removed from compliant status.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

F. RESTRICTION POLICIES

CJ Requirement U54

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

Comments:

We previously reviewed the applicable DPD Directives and found them in compliance with the requirements of this paragraph.⁶³ Phase 2 compliance is dependent upon the implementation of U55.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U55

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

Comments:

We previously determined the DPD to be in compliance with this paragraph.

To assess compliance with these requirements for this reporting period, we reviewed 97 cases and found two restrictions. The proper form was completed in both cases, and each was documented as an investigative necessity. DPD personnel advise that restricting a detainee's access to visitors, attorneys, and the use of telephone privileges rarely occurs. A telephone restriction may arise when a detainee makes threatening or harassing calls to individuals outside the facility. There are payphones in each holding facility for the detainee's use. There were no

⁶³ DPD Directive 305.2, Detainee Registration, effective September 12, 2005.

auditable forms or complaints presented to the Monitor that would indicate non-compliance with the restriction policies.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

G. Material Witness Policies

CJ Requirement U56

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

Comments:

We previously reviewed the applicable DPD Directives and found them in compliance with the requirements of this paragraph.⁶⁴ Phase 2 compliance is dependent on the implementation of U57.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U57

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

Comments:

We previously found the DPD compliant with the requirements of this paragraph.

To assess compliance with these requirements for this reporting period, we reviewed all of DPD’s requests to the Court for taking a material witness into custody for the period January 1, through March 31, 2010. The auditable form, approved by a supervisor, was attached to the Court Order in each of the six cases. The Court Orders were all issued by a Judge in the 36th District Court of the State of Michigan prior to the witness’ detention. DPD is in full (100%) compliance with these requirements.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

⁶⁴ DPD Directive 202.1, Arrests, effective July 1, 2008.

H. Documentation of Custodial Detention

CJ Requirement U58

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

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

Comments:

We previously reviewed the applicable DPD Directives and found them in compliance with the requirements of this paragraph.⁶⁵

To assess compliance with these requirements for this reporting period, we reviewed a random sample of 68 case files that contained information from the initial arrest through the submittal of an arraignment warrant. The contained documents included Detainee Input Sheets, Warrant Verification Logs, Arraignment Logs, and Livescan Forms. In all instances, the: (a) individual's personal information; (b) crime(s) charged; (c) date and time of arrest and release; (d) time and date the arraignment was submitted; (f) time and date of arraignment, if applicable; (g) time and date each warrant was lodged and cleared; and (h) individual's custodial status were listed on one of the applicable forms.

In the review of U58e, the Judgment requires that "the name and badge number of the officer who submitted the arraignment warrant" be documented; we found that in 32 of 68 cases, although the officer's name was listed, the officer failed to include his/her badge number on the warrant verification log. Of the 32 cases where an officer failed to place his/her badge number on the form, two officers accounted for 50% of the violations. In another case, there was no name or badge number on the form indicating which officer submitted the warrant.

We found that supervisors typically signed their name in the lower left-hand corner of the Log, yet failed to note the submitting officer's badge number that was not listed in the space provided. We tested the 68 cases for compliance with eight individual requirements, and found an overall compliance rate of 94.1%, including the issue noted above. DPD is in compliance with these requirements.

⁶⁵ DPD Directive 305.2, Detainee Registration, effective September 12, 2005

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

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

Comments:

We previously reviewed the applicable DPD Directives and found them in compliance with the requirements of this paragraph.⁶⁶ However, in our previous reports, we did not find the DPD in compliance with the implementation requirements, noting the lack of auditable forms, the lack of documented reasonable suspicion for frisks, and an inadequate supervisory review of Officer's Daily Activity Logs.

To assess compliance with these requirements for this reporting period, we reviewed Officer's Daily Activity Logs, traffic stops, and checked for the presence of auditable forms. We found no completed auditable forms for the 28 of the 82 frisks that lacked documented reasonable suspicion. We also found an inadequate supervisory review of Officer's Daily Activity Logs to ensure that reasonable suspicion existed prior to the frisks.

Our review of traffic stops determined that officers' abilities to accurately describe the actions that led to the stop vastly improved over the previous quarter; however, there were no auditable forms generated for the 11 traffic stops in which a form was required to be completed. Commanders are not receiving the forms, due to supervisors not completing them.

In order to be lawful, the stop must be supported by reasonable suspicion and narrowly tailored in scope and duration to the reasons supporting the seizure. During a limited seizure, the officer may conduct a frisk if s/he has reasonable suspicion to believe that the suspect may have the means to do harm. Although officers articulated reasonable suspicion for many of the stops, the vast majority documented no basis for the frisk. While supervisors do review the Officer's Daily Logs, they are not challenging officers to document the stops/frisks. The officers, in most cases, are only noting the stops. There were no completed DPD forms (DPD UF003, Investigatory Stop and/or Frisk Exception Form) included in the case report packets we reviewed.

There were 14 cases where documentation was completed that indicated an arraignment warrant was not sought. In two of the cases, there was no date or time listed on the form indicating when the form was completed; in another case, the form was submitted two days late. In all of the

⁶⁶ DPD Directive 202.1, Arrests, effective July 1, 2008.

cases we reviewed, the commanding officer reviewed the auditable forms for warrants not sought, and in one case recommended training for the officer.

There were no violations of witness identification and questioning policies that would have required an auditable form to be completed. Due to the large number of frisks and investigatory stops that did not articulate reasonable suspicion nor contained an auditable form, DPD is not in compliance with the requirements of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U60

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

Comments:

We previously reviewed the applicable DPD directives and found them in compliance with the requirements of this paragraph.⁶⁷

To assess compliance with these requirements for this reporting period, we reviewed 97 arrest case reports, of which 75 were submitted to the prosecutor's office and 63 went to arraignment. There were 14 cases where the arraignment occurred more than 48 hours after the arrest. In all cases but two, the request for the warrant was submitted in a timely fashion. In one case, the late arraignment was due to extraordinary circumstances, and in the second, the officer failed to submit the warrant request to the prosecutor within 48 hours. In all cases, an auditable form was generated. In six cases, there was no Commander's review. DPD's compliance rate for this portion of the requirement is 60%.

Of the 44 hold/warrants we identified, there were seven holds that were not cleared within the required 48 hours, and it was not possible to determine the time the hold was identified, as the person responsible for completing the Detainee Input Sheet failed to complete that section of the form. An auditable form was completed for one of the holds. DPD's compliance rate for this portion of the requirement is 14.2%.

There were no violations of detainee restrictions or material witness policies during this reporting period.

DPD is not in compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

⁶⁷ DPD Directives 202.1, Arrests, effective July 1, 2008 and 305.4, Holding Cell Areas, effective May 9, 2005.

Critical Issues:

On January 11, 2010, the Chief Judge of the 36th District Court of the State of Michigan announced the discontinuance of evening felony arraignments conducted at the 36th District Court. This will, in effect, further burden DPD's ability to have detainees arraigned and to meet the requirement that arraignment occur within 48 hours of arrest. In addition to this edict from the District Court, the cutoff time for submitting prisoner information to the Court has been moved back to 10:30 a.m., restricting DPD's ability to provide prompt judicial review.

Additionally, we are concerned that officers do not always follow the detailed requirements needed for compliance and, perhaps more importantly, that supervisors do not always exhibit the willingness and ability to exercise the roles required of them. For instance, as noted above, we found that officers often failed to record complete information (badge numbers, times, and dates) concerning arrests and detentions; and that supervisory review of their reports was often deficient. Likewise, DPD policy requires written documentation of all investigatory stops and frisks, but our review indicated that the officers often fail to articulate "reasonable suspicion." Supervisory monitoring of stops and frisks has also been an ongoing issue since the beginning of the Consent Judgments.

Next Steps:

During our next site visit, we will meet with DPD's Audit Team to discuss probable cause reviews and our stop and frisk concerns. Completeness, accuracy, and timeliness of all reports and auditable forms continue to affect field units and the quality of administrative review. We will review all other investigative units in order to determine their compliance with interrogations, interviews, conveyances, and material witness policies. We will again observe the personnel who are responsible for the detainee booking process and interview them regarding their process and procedures for detailing detainee information, including the Livescan Form and how they can assist in the probable cause review as a backup for the probable cause verification normally completed on the Crisnet Report.

¶	Requirements	Phase 1 – Policy	Phase 2 - Implementation
42	Define & prohibit arrest w/o probable cause	In Compliance	In Compliance
43	Review all arrests for probable cause	In Compliance	In Compliance
44	Revise investigatory stop and frisk policy	In Compliance	Not in Compliance
45	Written account of stops and frisks	In Compliance	Not in Compliance
46	Revise witness policies	In Compliance	In Compliance
47	Revise above in three months	In Compliance	In Compliance
48	Document content, etc. of interviews, etc.	In Compliance	In Compliance
49	Arrests receive prompt judicial review	In Compliance	In Compliance
50	Charges to prosecutor within 48 hours	In Compliance	In Compliance
51	Document of late warrant requests	In Compliance	In Compliance
52	Revise hold policies	In Compliance	In Compliance
53	Documentation of all holds	In Compliance	In Compliance
54	Policy for restricting phone access	In Compliance	In Compliance

55	Document and review such restrictions	In Compliance	In Compliance
56	Define material witness	In Compliance	In Compliance
57	Custody of material witnesses-court order	In Compliance	In Compliance
58	Arrests and detention record requirements	In Compliance	In Compliance
59	Required written review of violations	In Compliance	Not in Compliance
60	Required written review of violations	In Compliance	Not in Compliance

VI. EXTERNAL COMPLAINTS

The Internal Affairs Division (IAD) states that its mission is to ensure the public's trust and confidence in the Detroit Police Department (DPD) by conducting thorough and impartial investigations into allegations of criminality and serious misconduct lodged against members of the Department, as well as other City of Detroit employees. Consistent with this obligation, the Internal Affairs Division accepts information from any source; and requires that all officers and employees document all complaints filed in writing, verbally, in person, by mail, by telephone, by facsimile, or by electronic mail.

During our most recent site visit, we examined the investigative procedures employed by IAD for consistency in the application of procedural fairness, timeliness, confidentiality, and the meticulous reporting of facts and results of an investigation. We noted that the reports were generally well-written, clear, concise, factual, and complete. The investigations were conducted in accordance with DPD policy and IAD Standard Operating Procedures (SOP).

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

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

During our most recent site visit, we examined the investigative procedures employed by the OCI for thoroughness of investigative effort, inclusion of information from all sources, and the development of pertinent facts of the incident. Consistent with our last review, we most found closed and completed investigations well-written, clear, concise, factual, and complete. With the exception of incorrect case closure, and some issues regarding timely supervisory/management oversight and case investigation noted below, all investigations were conducted in accordance with the OCI Policy established by the Board of Police Commissions.

CJ Requirement U61

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

Comments:

We previously reviewed the applicable DPD Directives and found them in compliance with the requirements of this paragraph.⁶⁸ IAD is charged with the prevention, discovery, and investigation of criminal allegations and allegations of serious misconduct against Department members and City employees who are assigned within the DPD. The DPD IAD is responsible for all external complaints alleging possible criminal misconduct. The OCI investigates non-criminal allegations of misconduct against DPD personnel in the following categories: Arrest; Demeanor; Entry; Harassment; Force, as it relates to threats; Property; Search; and Service.

The established policies and procedures also provide guidance for receiving, recording, tracking, referring, and investigating complaints. The IAD and OCI track each open, pending, and closed case by the unique case identifier that is placed on all relevant documentation regarding the specific external complaint and provided to each citizen upon lodging a complaint. Each entity uses a computerized database to record data that is developed concerning external citizen complaints. The OCI is required to compile a summary of its investigations annually. These summaries are distributed throughout the DPD, to the Board of Police Commissioners, and to the public. In addition, the City displays informational posters in the public areas of all police facilities and public libraries. The City sponsors community meetings and has run public service announcements concerning how to file a citizen's complaints against the police. Through the OCI, the Board of Police Commissioners maintains a Community Outreach Coordinator, who attends meetings and makes presentations at the request of community organizations or public forums. The Board of Police Commissioners' website provides access to an OCI fact sheet on external police complaints. The BPC website also allows the public to file complaints online.

The DPD and the City are in compliance with these requirements.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

⁶⁸ DPD Directive, 102.6, Citizen Complaints, effective July 1, 2008, IAD Standard Operating Procedures, Section 1 and 3, and OCI Standard Operating Procedure, effective July 24, 2003 (revised April 29, 2004) establish the jurisdictional responsibility of the DPD (Internal Affairs Division) and OCI.

CJ Requirement U62

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

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

Comments:

During our previous site visit, we inspected Police Headquarters; the Northeastern, Eastern, Southwestern, and Central Districts; the Tenth and Twelfth Precincts; and the Office of the Chief Investigator for compliance with the requirements of this paragraph. All locations displayed in a prominent location in the lobby of the district stations permanent placards that described the complaint process. All desk personnel were able to produce Citizen Complaint Brochures immediately, and were aware that they should not discourage citizen from filing a complaint.

To assess compliance for this reporting period, we inspected the Northeastern and Eastern Districts, and the Office of the Chief Investigator, for compliance with the requirements of this paragraph. The District Stations displayed in a prominent location in the lobby permanent placards describing the complaint process. However, we noted the absence of a placard in the lobby of the building where OCI is located and advised OCI staff that the posting a placard in the lobby would be beneficial to persons who went there to file complaints, even though there is a placard on another floor where their offices are located. All desk personnel were able to produce Citizen Complaint Brochures immediately, and were aware that they should not discourage citizens from filing a complaint. We also inspected four City library branches: Bowen; Neighborhood City Hall; Campbell Brown; and Conely. All locations had visible Citizen Complain Procedure posters, Fact Sheets, Report Forms, and Brochures. The library staff was conversant in all areas and knew how to replenish supplies when necessary.

Both DPD and OCI perform community outreach programs designed to inform citizens of the complaint process and the procedures for filing complaints. The Board of Police Commissioners' website allows the public to file complaints against the police online. The City of Detroit broadcasts public service announcements that describe the complaint process. (See U61 for additional information.)

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U63

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

Comments:

During our previous site visit, we reviewed the audit conducted by the DPD Office of Civil Rights, dated November 20, 2009, regarding Citizen Complaint Informational Brochures and Contact Forms carried in police vehicles. We also randomly selected officers from the Northeastern, Eastern, Southwestern, and Central Police Districts and asked them to provide the brochures and forms for review. Each officer who we contacted provided the documents for review and was aware of the requirements of the DPD policy concerning citizen complaints. Additionally, we selected at random several patrol officers from the Tenth and Twelfth Precincts; these officers were also able to produce the required materials from their patrol vehicles during our visit.

To assess compliance with these requirements for this reporting period, we inspected the Northeastern and Eastern Districts. We selected at random individual officers to produce Citizen Complaint Brochures and they all complied, including a plain-clothes detective.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

A. Intake and Tracking

CJ Requirement U64

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

Comments:

We previously reviewed the applicable DPD Directives and found them in compliance with the requirements of this paragraph.⁶⁹ In addition, our past reviews of IAD and OCI external

⁶⁹ DPD Directive, 102.6, Citizen Complaints, effective July 1, 2008, IAD Standard Operating Procedures, Section 1 and 3, and OCI Standard Operating Procedure, effective July 24, 2003 (revised April 29, 2004) establish the jurisdictional responsibility of the DPD (Internal Affairs Division) and OCI. DPD Directive 102.6, Citizen Complaints, effective July 1, 2008, IAD Standard Operating Procedures, Section 3 and OCI Policy Section 8 describe the intake and tracking policy as defined by the Consent Judgment.

complaint investigations determined that the complaints were filed using all of the communication facilities identified in this paragraph.

To assess compliance for this report, we reviewed 34 IAD and 140 OCI investigations and noted again that the complaints were filed using all of the communication facilities identified in this paragraph. Most external complaints involved non-criminal police actions and were referred to the OCI for investigation.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U65

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

Comments:

In the two previous reviews, we found no instances where personnel accepting complaints reported any opinions regarding the mental capacity or veracity of the complainant.

Our review of 34 IAD and 140 OCI external complaint investigations for this report found no instances where personnel accepting complaints reported any opinions regarding the mental capacity or veracity of the complainant.

DPD and the City are in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U66

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

Comments:

During the previous quarter, we reviewed 37 IAD and 409 OCI closed external complaint investigations. Each investigative file contained a City of Detroit Citizen Complaint Report (CCR) and a letter acknowledging the receipt of the complaint with the name of the assigned investigator and the office contact number.

To assess compliance with this requirement for this reporting period, we reviewed 34 IAD and 140 OCI external complaint investigations that were closed during this reporting period. Each investigative file contained a City of Detroit Citizen Complaint Report (CCR) and a letter acknowledging the receipt of the complaint with the name of the assigned investigator and the office contact number.

The letters also provided a case specific identifier for the complainant to reference when contacting either IAD or OCI. DPD and the City are in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

B. External Complaint Investigations

CJ Requirement U67

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

- a. provide that all complaints shall be referred for investigation and resolution by OCI or, if the complaint alleges potentially criminal conduct by an officer, by IAD;*
- b. permit the informal resolution of complaints alleging only inadequate service or the complainant's innocence of a charge and require the investigation and formal resolution of all other complaints;*
- c. refer all complaints to the appropriate agency within five business days of their receipt;*
- d. require that the complainant shall be periodically kept informed regarding the status of the investigation;*
- e. develop written criteria for IAD and OCI investigator applicants, including the applicant's complaint and disciplinary history and investigative experience;*
- f. implement mandatory pre-service and in-service training for all IAD and OCI investigators, including intake, investigations, interviews and resolutions of external complaints;*
- g. require IAD and OCI to complete all investigations within 90 days of receiving the complaint and*
- h. require that: (1) upon completion of the investigation by a command other than OCI, the complainant shall be notified of its outcome and, if the complaint is sustained, whether disciplinary or non-disciplinary corrective action has been recommended; and (2) upon completion of an investigation by OCI the complainant shall be notified of its outcome and, if the complaint is sustained, its referral to the Chief of Police for appropriate disciplinary or non-disciplinary corrective action.⁷⁰*

Comments:

We previously found DPD and the City in Phase 1 compliance with these requirements; however, we found them out of Phase 2 compliance with these requirements. Although we found many of the investigative processes to be in compliance, both OCI and IAD exceeded the 90-day time limit for completing investigations in several instances. In addition, we noted OCI administratively closed several cases contrary to DPD policy.

⁷⁰ Consent Judgment amendment, September 15, 2008.

To assess compliance for this reporting period, we reviewed 34 IAD and 140 OCI investigations that were closed during this reporting period. These cases were investigated within the jurisdictional authority of each entity and in accordance with the requirements of this paragraph. IAD Standard Operating Procedures do not specifically permit or encourage informal resolution due the nature of their investigative jurisdiction of alleged criminality and/or serious misconduct lodged against Department personnel. Accordingly, IAD investigates and makes findings in each case.

The OCI Policy (Section 8.1) permits the informal resolution of complaints alleging inadequate service or the complainant's innocence of criminal charges. Policy does not permit OCI to pursue informal resolution if not agreed to by the complainant; however, we identified only one of 20 administratively closed cases that had the acknowledgement of the complaining party. This is inconsistent with the requirements of OCI Policy.

IAD Standard Operating Procedures and OCI Policy require that all complaints be referred to the appropriate agency within five business days of their receipt. All cases reviewed were appropriately referred as required. Our review of 140 OCI cases found the majority of these cases were referred within five days or filed directly at OCI; however, a significant number of these cases either did not meet the filing time requirement or indicate the time received at OCI. We conclude they were not filed in a timely fashion.

In cases of prolonged investigations, IAD must provide an updated case status to complainants, and upon closure, notify them of the closure, finding(s), and action(s) taken, where appropriate. Our review determined IAD to be in compliance with these requirements. Although OCI sends letters of notification to complainants as required, we noted in cases requiring prolonged investigative activity, OCI provided appropriate but not timely advisement.

Finally, we found the appropriate notification correspondence in each of the 34 IAD and 140 OCI completed and closed investigations. (See Paragraph 67d.)

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U68

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

- a. the Chief Investigator or his/ her designee to complete review of OCI investigations within 7 days of completion of the supervisor's review;*
- b. the Board of Police Commissioners to complete review of OCI investigations within 45 days of completion of the Chief Investigator's review;⁷¹ and*
- c. the Chief of Police or his or her designee to complete his or her review of external complaints within 7 days of completion of the BPC's review.*

⁷¹ Consent Judgment amendment July 18, 2003.

Comments:

During this review, the external complaint review process was completed within the appropriate timeframes.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U69

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

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

Comments:

During our previous assessment of compliance with these requirements, we found that 36 of 37 IAD cases that were resolved with the stated dispositions based on the findings of the investigator. At the same time, 155 of 409 OCI cases included inappropriate dispositions.

To assess compliance for this report, we reviewed 34 closed IAD cases, including internal and external complaints, and determined that all cases contained the required policy disposition noted above; however, one determination was considered inappropriate. We also reviewed 140 complaints investigated by the OCI and determined that 15 included inappropriate findings, resulting in 91% compliance. Overall, we found 159 (92%) of the completed cases compliant with these requirements. DPD and the City are not in compliance with these requirements.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

Critical Issues:

The monitoring team examined 34 closed and completed cases for the period of January 1, through March 31, 2010. The review disclosed the following issues that require immediate attention.

Inadequate IAD Case Management

Each IAD investigator is required to maintain a Case Supervision Sheet (CSS) where they chronicle by date each investigative action taken during the investigation of each case. Our

examination of the Case Supervision Sheets disclosed that IAD supervisors infrequently used the log for its intended purpose of documenting case supervision and managing the investigative efforts of subordinate personnel.

During our review of 34 IAD investigations, we determined that 17 of the cases were not completed within the prescribed 90-day timeframe. Two were delayed for prosecutorial review and/or prosecution and one was delayed due to the subject being on extended medical leave. This represents a 59% compliance rate. IAD requires investigators to complete a Monthly Synopsis Report(MSR) for each of their current cases, including those closed for the month. Our review revealed that these reports were not included in the investigatory file, but are placed in a binder and presented to the IAD Commander each month.

Inadequate OCI Case Management

We examined 140 completed cases for this reporting period. This, as in the previous review, revealed the OCI does not use efficient and effective case management for the monitoring of investigative activity by assigned personnel. OCI Policy requires that investigators maintain an Investigator Activity Log where they record all investigative action taken related to the particular case.⁷² The failure to maintain this log subjects the investigator to disciplinary action. There is, however, no requirement by policy or practice for the supervisor to review the investigative activity documented on the log. There is no formalized process of determining investigative accomplishments with greater frequency.

Next Steps:

We will review documentation regarding the supervision of the investigative process. Our review will examine: 1) compliance with IAD SOP Section 5-26, entitled Supervisory Review and Monthly Reviews, which requires supervisors to review each case with the assigned investigating member; 2) case assignment procedures to reduce assignment delays; and 3) revised OCI SOP if approved to ensure its compliance with CJ; 4) the OCI process to reduce backlog cases if formulated; 5) closed cases for January 1 through March 31, 2010; and 6) steps to improve supervision of the investigative process.

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
61	Revise external complaint policies	In Compliance	In Compliance
62	Information campaign re complaints	In Compliance	In Compliance
63	Officers carry information/contact forms	In Compliance	In Compliance
64	Policy to define complaint intake/track	In Compliance	In Compliance
65	Permit factual account, no opinion	In Compliance	In Compliance
66	Unique identifier for complaints	In Compliance	In Compliance
67	Revision of complaint investigations	In Compliance	Not in Compliance

⁷² Section 9.7

68	Time limits for review of inv/complaints	In Compliance	In Compliance
69	Required finding categories specified	In Compliance	Not in Compliance

VII. GENERAL POLICIES

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

In all instances, DPD has developed the appropriate policies and is taking steps to achieve implementation.

CJ Requirement U70

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

Comments:

We previously reviewed the applicable DPD Directives and found them in compliance with the requirements of this paragraph.⁷³ In addition, we noted that the DPD formed a Policy Focus Committee (PFC) to concentrate on policy issues. During our more recent site visit, we found there were no changes to these policies. The DPD advised us that there have been no meetings of the PFC since its May 12, 2009 meeting. DPD remains in Phase 1 and Phase 2 compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

⁷³ DPD Directive 101.1, Directive System, effective July 1, 2008, establishes the process to be used by the Department to manage its written directive system. It clearly defines the following terms: Directives; Legal Advisor Updates; Personnel Orders; Policy; Special Orders; Standard Operating Procedures; Teletypes (Investigative Info); Teletypes (Administrative); and Training Bulletins. DPD Directive 404.1, Definitions, effective July 1, 2008, includes a comprehensive list of terms frequently used within the Department, from “Actively Resisting” and ending with “Writ of Restitution.”

CJ Requirement U71

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

Comments:

The DPD has developed three documents that govern the process to be followed to ensure compliance with this requirement.⁷⁴ In our previous reports, we noted our concern with the issuance of Special Orders that do not require the prescribed review and approval process, but may be issued by the Chief of Police for a period not to exceed one year.

To assess compliance with this requirement for this reporting period, we again examined the process for the implementation of policies and reviewed comments contained in the DPD 26th Quarter Status Report, dated March 31, 2010.⁷⁵ The comments contained in the Status Report indicate the DPD's continued effort to make proposed policy changes available to the community, but also note that no citizen comments have been received.

As in our last quarterly review, during this quarter's site visit, we inquired regarding any changes to these policies since our last site visit and learned of none.

We want to again caution DPD to ensure that Special Orders are not used in a way that infringes on the community's ability to provide input. In those instances where a Special Order is used for a substantial matter, the DPD should ensure that the appropriate documents are simultaneously submitted to the BPOC and placed on the DPD website for appropriate vetting.

DPD remains in compliance with this requirement.

⁷⁴ The DPD established a Protocol for Proposed Policy Revisions; an SOP outlining procedures for posting proposed policies to the web site; and a flow chart (Visio-DPD Policy Flow Chart) that tracks the movements of proposed policy revisions through the Department and through the public review. In addition, DPD Directive 101.1, Directive System, effective July 1, 2008, provides a process for the issuance of Special Orders and guidance on their use.

⁷⁵ "The DPD shall continue to make available proposed policy revisions to the community, for their review, comment, and education. Such policy revisions shall also be published on the DPD's website to allow comments to

be provided directly to the DPD. The DPD has had a dedicated email address since July 2004 on the City of Detroit's website that allows for citizen comments to be provided directly to the DPD. To date, no comments have been received regarding any of the DPD's policies. The DPD requires that all proposed policy revisions are posted for a period of 30 days on the City of Detroit's website. The OCI is currently operating under the Procedure for Reviewing Comments on Policies Posted to the DPD Website Protocol. Every policy that is developed or that is substantively or procedurally revised is presented to the BOPC. Meetings of the BOPC are open to the public and are often held as community forums. The DPD not only presents and explains new policies and directives, but encourages comments and input from the community. During this quarter, there were no proposed policy revisions submitted to the BOPC."

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U72

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

Comments:

We previously reviewed the applicable DPD Directives and found them in compliance with the requirements of this paragraph.⁷⁶

To assess compliance with these requirements for this reporting period, we reviewed the DPD 26th Quarter Status Report, dated March 31, 2010, and training data, and noted that the DPD commenced its annual in-service training on taking police action to its members, which is inclusive to the *Use of Force Lesson Plan*. Training data covering the first three quarters of this fiscal year determined that 1,927 (75.44%) officers received use of force training, which incorporates Code of Conduct material. This shows improvement from where the Department was at the same time last fiscal year, when only 1,642 officers had been trained. Based on this progress, we have determined that the DPD maintains its Phase 2 pending compliance. We will determine during our next quarterly review if, in fact, DPD achieves Phase 2 compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending Compliance

CJ Requirement U73

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

Comments:

An agreed-upon 1:10 ratio of supervisors to officers in patrol and specialized units is memorialized in electronic mail dated November 6, 2007.⁷⁷ The DPD immediately communicated the agreed-upon ratio requirements to the applicable commanding officers. In November 2009, the DPD issued roll call training requirements in an Administrative Message.

In our First Quarterly Report, we expressed concern relating to the group assignment practice wherein sergeants were not assigned responsibility for the conduct or performance of specific officers, nor were officers accountable to a specific sergeant. This practice did not provide appropriate accountability mechanisms, especially in the areas of reporting and documentation of the use of force and other policing activities, conducting of complete and meaningful annual

⁷⁶ DPD Directive 102.3, Code of Conduct, is compliant with the requirements of this paragraph.

⁷⁷ Section I, Paragraph of the UOF CJ defines a supervisor as a sworn DPD employee at the rank of sergeant or above and non-sworn employees with oversight responsibility for DPD employees.

performance evaluations, and appropriate supervisory intervention in matters of general conduct and discipline. The DPD addressed our concerns with the issuance of Special Order 10-03, which will be incorporated into a policy directive at a later time. This Special Order sets forth the ratio requirements and specifically requires the assignment of each officer to a specific sergeant. The sergeants are accountable for the conduct and performance officers assigned to them and for preparing the required performance evaluations. The DPD reinforced the provisions of the Special Order through a Roll Call Training Bulletin.⁷⁸

We also reviewed DPD Compliance Inspection Reports/Evaluations regarding staffing ratios and found some lacking sufficient information to determine compliance with the requirements of this CJ paragraph.⁷⁹ However, we found that of the 15 commands reviewed, between 11 and 12 (separate days) met the required staffing ratio, which compares to five and 11 that met the required staffing ratio during the previous reporting period; however, the DPD has not yet met the >94% compliance requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U74

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

Comments:

We previously reviewed the applicable DPD Directives and found them in compliance with the requirements of this paragraph.⁸⁰ In addition, our review of training data found that during the first half of this fiscal year, 44.6% of the officers received use of force training, which incorporates Code of Conduct material.

To assess compliance with these requirements for this reporting period, we reviewed training data covering the first three quarters of this fiscal year. This data indicates that 1,927 (75.44%) officers received use of force training, which incorporates Code of Conduct material. We therefore determined that the DPD continues to be in pending Phase 2 compliance. We will determine during our next quarterly review if, in fact, DPD achieves Phase 2 compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending Compliance

⁷⁸ The DPD issued Teletype #10-00617 containing Roll Call Training #10-05 – Span of Control – Supervision: To Be Read at All Roll Calls From Platoon One, Saturday, February 13, 2010 through Platoon Three, Friday, February 19, 2010.

⁷⁹The Inspections referenced herein were conducted on January 15, February 3, and March 22, 2010.

⁸⁰ DPD Directive 102.3, Code of Conduct.

CJ Requirement U75

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

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

Comments:

DPD Directive 102.3, Code of Conduct, is in compliance with the requirements of this paragraph. DPD's 26th Quarter Status Report, dated March 31, 2010, reflects that on July 6, 2009, the DPD commenced its second consecutive annual in-service training on taking police action to its members, which is inclusive to the *Use of Force Lesson Plan*.

During our last quarterly review, we examined FI cases that were closed during that reporting period, and found one FI case wherein an off-duty officer was involved in a critical firearm discharge event. FI investigated this event and found the officer's action justified. We also examined FI cases that were closed during this reporting period, and found one case wherein an off-duty officer was involved in a critical firearm discharge event. FI investigated this event and found the officer's action was a violation of policy and recommended appropriate action.

We previously reported on our review of a joint communication issued by the Parties wherein they agreed that the DPD had complied with the policy creation, dissemination, and training requirements of this paragraph. The Parties further agreed that the Monitor should assess the implementation of the requirements of this paragraph by reviewing investigative files and responses to the Chief's letter to the Michigan Association of Chiefs of Police requesting any member agencies report any off-duty action by DPD officers to the DPD IAD.⁸¹

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U76

The DPD shall revise its policies regarding prisoners to:

- a. require officers to summon emergency medical services to transport prisoners when the restraints employed indicate the need for medical monitoring;*

⁸¹ The Chief of Police sent the required letter to the MACP on April 21, 2010.

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

Comments:

We previously reviewed the applicable DPD Directives and found them in compliance with the requirements of this paragraph.⁸²

DPD's 26th Quarter Status Report, dated March 31, 2010, reflects that on July 6, 2009, the DPD commenced its second consecutive annual in-service training, which includes the requirements of this paragraph.

As in the previous quarterly report, our review of UF002 and UF002A Reports detailed in U15 through U36 continue to cite examples of aid being rendered to subjects who are injured in the course of their arrest. Medical treatment is provided for incidents ranging from shootings to flushing the eyes of subjects who have been sprayed with chemical spray carried by officers. Officers routinely request assistance when dealing with subjects who offer resistance, including summoning a supervisor.

Our review of training data for this fiscal year indicates the DPD has provided applicable training to 44.6% of its officers thus far. Given the progress in providing the requisite training, we find DPD in pending compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending Compliance

CJ Requirement U77

The DPD shall develop a foot pursuit policy to:

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

⁸² DPD Directive 304.2, Use of Force, effective June 27, 2005; Training Directive 04-7, effective November 21, 2005; and Directive 305-1, Detainee Intake/Assessment, effective May 9, 2005, are in compliance with the requirements of this paragraph.

Comments:

We previously reviewed the applicable DPD Directives and found them in compliance with the requirements of this paragraph.⁸³ The preparation of a Foot Pursuit Evaluation Form (DPD 699), previously required by DPD Directives, is no longer a requirement. Effective, August 15, 2009, the DPD requires that members document foot pursuits resulting in a use of force or detainee injury on a Use of Force Auditable Form (UF-002). DPD's 26th Quarter Status Report, dated March 31, 2010, reflects that on July 6, 2009, the DPD commenced its second consecutive annual in-service training, which includes the requirements of this paragraph.

In our previous report, we encouraged DPD to initiate the necessary revisions to DPD Directive 202.7, Foot Pursuits, effective July 1, 2008, adhering to the requirements of U71 by posting the changes at the DPD website and submitting the change to the BPOC. DPD advised us that the policy Directive has been revised and is pending internal reviews prior to submission to the Board of Police Commissioners. DPD further advised us that the revision will be presented to the BOPC in May 2010. We will monitor progress with this revision during our next site visit.

The Department's foot pursuit policy is discussed during the use of force training. As previously mentioned, DPD has provided use of force in-service training to 1,927 of its officers (75.44%) during the first three quarters of the fiscal year. Given this progress in providing the requisite training, we find DPD in pending Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending Compliance

Critical Issues:

DPD is making progress toward full compliance. We see no major issues that suggest concerns about continued progress in this area. DPD must, of course, continue to make progress in assuring that all staff members received the necessary training related to the requirements.

Next Steps:

We will continue to monitor relevant policy changes including efforts to address the public's interest in policy. Likewise, we will continue to pay attention to the training requirements inherent in policy development in this area. Finally, we will review correspondence with the Michigan Chiefs and check on the revision to the foot pursuit policy.

¶	Requirements	Phase 1 - Policy	Phase 2 – Implementation
70	Clear definitions in policies	In Compliance	In Compliance
71	Proposed policy changes open to comm.	In Compliance	In Compliance
72	Advise officers policy violations disciplined	In Compliance	Pending Compliance
73	Adequate officer/supervisor ratio	In Compliance	Not in Compliance

⁸³ DPD Directive 202.7, Foot Pursuits, effective July 1, 2008.

74	Enforce misconduct reporting requirements	In Compliance	Pending Compliance
75	Revise policies regarding off-duty officers	In Compliance	In Compliance
76	Revise prisoner related policies	In Compliance	Pending Compliance
77	Develop foot pursuit policy	In Compliance	Pending Compliance

VIII. MANAGEMENT AND SUPERVISION

A. Risk Management Database

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

We have devoted considerable attention to the development of the risk management system, as is evident in our two previous quarterly reports. These reports show that DPD has made substantial progress with regard to the policy requirements in this area, but that it has also encountered implementation problems that have hampered compliance.

The Management Awareness System (MAS) was developed by DPD in an effort to meet the requirements of the Consent Judgment. Our test of that system, as reported in our second quarterly report, supported earlier findings by a DOJ subject matter expert. The system, at that time, was found to be unreliable and difficult to use. Both we and the DOJ expert concluded that the system needed substantial reworking and that DPD should consider a complete “scrapping” of the system in favor of an “off the shelf” model.

In the face of harsh reviews, the DPD under leadership with strong technological skills and knowledge has been working to improve MAS while simultaneously exploring options including adopting an entirely new system, or combining systems with MAS. Among the improvements to the system made since our last report are:

- *Improvements in the MAS documents query tool;*
- *Improved data validation techniques to reduce errors;*
- *Continuous data cleaning of information from other databases;*
- *Improvements in the interfaces with other databases;*
- *Monitoring and management of dashboards;*
- *Management of daily work details by command and platoon;*
- *Reviewing Crisnet narratives as a check on uses of force;*

- *Additions of key personnel to work on MAS;*
- *Revised methods of tracking documents; and*
- *Elimination of key document backlogs for entry into the system.*

In addition to making these improvements in MAS, DPD has explored the potential for adopting other systems. DPD has consulted several vendors and has worked closely with one in reviewing its data systems and considering the potential contributions of that vendor to the DPD risk assessment effort. The commercial program known as AIM (Internal Affairs Management and Early Intervention) from ON TARGET Performance Systems was also demonstrated for the Parties to the Judgment and the Monitor in the end of March. DPD had worked with the AIM staff to make data available through SQL servers. Demonstration participants were particularly impressed with the flexibility of AIM and the ability for a local operator to add, delete, or change data fields without requiring extensive reprogramming.

DPD indicated that use of a system like AIM would allow the Department to retain much of the structure of MAS while adding the efficiencies of the external vendor. In particular, the data entry features of MAS, with which DPD officers and staff were now familiar, could be kept in place, thus avoiding confusing changes for frontline users.

Our test of MAS, during the second quarterly visit, and subsequent developments, have all pointed to the need for further development including the possibility of supplementing MAS or adopting an entirely new system.

In light of that, we recommended in our last report that the Parties to this Judgment reconsider continuing to move forward with deployment of MAS, and explore alternative courses of action that will assure the implementation of a state-of-the-art risk management system that can meet the requirements of the Judgment. We noted that the Monitoring Team would be available to assist the Parties in this matter if that was desirable.

Below we will provide compliance assessments with each of the relevant requirements of the Consent Judgment. It should be noted that given the status of the risk management system as discussed above, it is unlikely that full compliance can be achieved until a substantial reworking of the system and possible adoption of a new system occurs. Phase 1 or policy compliance, in fact, may be recognized now, but may also require reworking when major system changes occur. None of this, however, should be regarded as disappointing or a setback of any kind. Quite the contrary is true. The improvements that the DPD is continuing with MAS, and the explorations which will lead to supplementing or replacing that system, should be seen as progress in developing and implementing a system that will not simply meet the requirements of the Judgment, but will provide significant contributions to the management of the Department well into the future. Although significant time has passed since this process first began, the Monitor recognizes the importance of the progress being made in this area at the present time.

CJ Requirement U78

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

- a. a risk management database (discussed in paragraphs 79-90);*
- b. a performance evaluation system (discussed in paragraph 91);*

- c. *an auditing protocol (discussed in paragraphs 92-99);*
- d. *regular and periodic review of all DPD policies; and*
- e. *regular meetings of DPD management to share information and evaluate patterns of conduct by DPD that potentially increase the DPD's liability.*

Comments:

The compliance status with regard to this requirement remains as it has been in our first two reports. This paragraph provides a summary of requirements detailed in paragraphs 79-99. Each of its components is evaluated separately in the material that follows. Policy requirements in the area are incorporated into the documents that are mandated as part of the risk management plan. The data entry plan, report protocol, and review protocol have been judged sufficient since they were developed under the previous monitor. Implementation of these requirements is moving forward with the work on MAS and the exploration of how other systems may be combined with it.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U79

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

Comments:

Compliance with this requirement remains as it has been in our previous reports. DPD's development of its own risk management system has proceeded with some notable successes and some problems that have been discussed in prior reports. As its development continues, DPD has been ordered to examine how other systems may be incorporated to address problem areas. DPD is exploring systems that may augment the current work. Appropriate documentation and policy will be necessary to the extent DPD incorporates material from other sources into its risk management system design.

As described in current documentation, when fully operational, the planned system is consistent with the requirements of this paragraph. Implementation problems, however, have supported a search for alternative and supplementary system development. Although these issues remain unresolved, we still recognize the attainment of Phase 1 compliance in this area, but we will need to revisit this in the future if major revisions of the system occur. Phase 2 compliance requires full implementation, which has not yet been achieved.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U80

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

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

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

Comments:

Compliance with this paragraph has not changed since our earlier reports. As indicated above, the requirements addressing risk management have largely satisfied Phase 1 standards, but are unlikely to meet Phase 2 standards until the system is completely functional. The information requirements noted in this paragraph are included in the documentation developed for the Management Awareness System (MAS), and are part of the computerized system in its present form. This is sufficient for meeting policy-related requirements. In fact, with regard to moving toward Phase 2 compliance, there may be some value in reexamining some of these information requirements to verify their value in a powerful but parsimonious system. A simple system is likely to be most effective and useful. Additional information can always be added as needed once a serviceable program is in place.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U81

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

Comments:

Compliance with this requirement also remains unchanged. The mandated identifying information is included in the documentation developed for the Management Awareness System (MAS) and is part of the computerized system in its present form. Based on our test of MAS, the system does not currently appear to link effectively with the Department's human resources data, and therefore, key data elements are not easily reportable. These problems indicate that DPD has not yet achieved Phase 2 compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U82

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

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

Comments:

With the prior acceptance of the Data Input Plan by DOJ, requirements regarding policy development have been met for this paragraph. It should also be noted, however, that Phase 1 compliance should be considered tentative until a final decision about whether an alternative or addition to MAS will be considered. A significant change in the risk management system would necessitate renewal of the Data Input Plan. As noted above, there may also be value in reopening the review of information to be collected. Each item should be examined for its value in contributing to the assessment of risk. Implementation issues forestall consideration of Phase 2 compliance at this time. The compliance status of this requirement is unchanged from our first two reports.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U83

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

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

Comments:

As is true of many of the risk management-related requirements, the level of compliance in this report is the same as in our previous reports. On this requirement, DPD compliance continues to be similar to that in paragraph 82, which addresses the Data Input Plan. Under the previous monitor, the Report Protocol received acceptance from DOJ. The document meets the policy related requirements of the Consent Judgment. It should also be noted that Phase 1 compliance must be considered tentative until a final decision about whether an alternative or addition to MAS is considered. That may necessitate the revision of relevant policies. Issues raised in the test of MAS which was discussed in our last report, remain unresolved thus implementation problems preclude Phase 2 compliance at this time. It is, however, worth noting, that as described above, DPD continues to address system problems and is making progress even as it examines other system options.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U84

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

- a. *that when an officer or group of officers pass a threshold established in the Report Protocol the officer's(s') supervisor shall review all information in the risk management database regarding the officer(s), together with other relevant information;*
- b. *the reviewing supervisor to document whether he or she took non-disciplinary corrective action or recommended disciplinary action, the basis for this decision, and what corrective action was taken, if any;*
- c. *supervisors to review, on a regular basis but not less than quarterly, database reports, together with other relevant information, to evaluate individual officer and unit activity for at-risk behavior;*
- d. *precinct and unit commanders to review, on a regular basis but not less than quarterly, database reports, together with other relevant information, to evaluate individual supervisor's assessment and analysis of information in the risk management database and the corrective action taken by supervisors;*
- e. *appropriate DPD supervisors to review and evaluate, on a regular basis but not less than quarterly, police performance citywide, using all relevant information from the risk management database and other relevant information and to evaluate and make appropriate comparisons regarding the performance of all DPD units in order to identify any significant patterns or series of incidents;*
- f. *commanders and supervisors conducting such periodic reviews to take non-disciplinary corrective action when appropriate for individual officers, supervisors or units and document any such action in writing;*

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

Comments:

As the third major risk assessment-related document required by the Consent Judgment, the status of the Review Protocol remains similar to that of the Data Input Plan and Report Protocol and similar to that reported following our previous visits. The Report Protocol has been approved by DOJ as meeting policy requirements for this paragraph, but will need to be revisited should major revisions occur to the system. Even though the entire system is not yet fully functional, it should be noted that key components of the review protocol are functioning well. That is, the system does identify officers who surpass established thresholds and does prompt intervention and documentation of intervention by supervisors. The overall limitations of the system, however, indicate that data report requirements have not been fully implemented.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U85

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

Comments:

As noted above, DPD has moved forward on each of the three required policy documents. The Department has also taken critical steps toward implementation. In doing so, the Parties to this Judgment have recognized problems and DPD has actively begun to address them by reviewing alternative and supplemental systems while also working to strengthen MAS. In its current condition, we recognize the efforts made as consistent with the policy requirements for Phase 1 compliance. Since this requirement lays out an essential problem solving process, and since

DPD is now taking significant steps to address key problems, we also recognize Phase 2 compliance. This is changed from our finding in the previous reports.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U86

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

Comments:

The compliance status of this requirement remains unchanged. The Management Awareness System, which has been developed as the risk management database by DPD, does not use a common control number for linking reports associated with a common incident. Instead, the system links reports by using multiple data points including dates and times. The sufficiency of this method was not conclusively established during the test of MAS. However, in its exploration of alternative and supplemental systems, DPD is considering systems, such as AIMS, which do incorporate a common control number. Such a system would have advantages over the current method of triangulation. The use of a common control number or conclusive evidence supporting an alternative would allow findings of Phase 1 and Phase 2 compliance.

Compliance Status:

Phase 1: Not in Compliance

Phase 2: Not in Compliance

CJ Requirement U87

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

Comments:

There is no change in compliance status with this requirement. The information requirements noted in this paragraph are included in the documentation developed for the Management Awareness System (MAS) including the Data Input Plan. This was accepted by the previous monitor as sufficient for meeting policy-related requirements. DPD is thus continued in that status. Our test of MAS, however, revealed that links to the personnel database are not completely functional. In particular, queries over dates and lengths of employment were unsuccessful. Implementation issues thus currently prohibit achievement of Phase 2 compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U88

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

- a. *By January 24, 2008, the City shall have ready for testing a beta version of the risk management database consisting of: 1) server hardware and operating systems installed, configured and integrated with the City and DPD's existing automated systems; ii) necessary database software installed and configured; iii) data structures created, including interfaces to source data; and iv) the information system completed, including historic data. The DOJ and the Monitor shall have the opportunity to participate in testing the beta version using new and historical data and test data created specifically for the purposes of checking the risk management database.*
- b. *The risk management database shall be operational and fully implemented by July 24, 2008.*
- c. *The parties and the independent monitor shall meet on a monthly basis to discuss what actions have been taken during the previous month toward development of the new risk management database.*
- d. *The defendant shall present to the plaintiff and the independent monitor, on a monthly basis, evidence of satisfactory progress sufficient to justify a conclusion that completion of the new risk management database by August 11, 2008 remains feasible. If at any time the plaintiff concludes that successful completion of the project within the time frames described in this paragraph is unlikely, the plaintiff shall so notify the Court and the defendant. Within sixty days after receipt of such notice, the defendant shall issue an RFP to develop or complete development of the new risk management database as was required by 88c. of this Consent Judgment before it was amended. In that event, the requirements of paragraphs 88.d., 88.e., 88.f., and 88.g. of this Consent Judgment before it was amended shall be enforced, with dates adjusted as follows: the Review Protocol (paragraph 88.d.) shall be issued within five months after issuance of the RFP; the defendant shall select the contractor (paragraph 88.e) within seven months after issuance of the RFP; the beta version (paragraph 88.f) shall be ready for testing within fifteen months after issuance of the RFP; and the risk management database shall be operational (paragraph 88.g) within twenty-six months after issuance of the RFP.⁸⁴*
- e. *By May 31, 2004, the DPD shall select the contractor to create the risk management database.*
- f. *By June 30, 2005, the City shall have ready for testing a beta version of the risk management database consisting of: i) server hardware and operating systems installed, configured and integrated with the City and DPD's existing automated systems; ii) necessary database software installed and configured; iii) data structures created, including interfaces to source data; and iv) the information system completed, including historic data. The DOJ and the Monitor shall have the opportunity to participate in*

⁸⁴ Consent Judgment amendments, November 9, 2007, and July 22, 2008.

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

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

Comments:

All of the timeframes and dates specified in the original Consent Agreement and extended by the Court have expired and new deadlines have not been established. In one effort to support progress, the US District Court, in an order issued July 22, 2008, included requirements related to: 1) adequate staffing; 2) required planning documents; 3) provision of a sampling of necessary reports of data entered; and 4) a listing of scheduled training. In response, DPD added administrative staff to oversee MAS, made technical advances on the storage and retrieval of data, and trained supervisors on the system. DPD also made significant efforts to both improve its system and to examine other systems that might augment or possibly supplant the current system.

Since all established deadlines have expired and despite recent DPD efforts to address significant problems with MAS, and finally since new deadlines are not operational, DPD is regarded as not in Phase 1 or Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: Not in Compliance

Phase 2: Not in Compliance

CJ Requirement U89

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

Comments:

The Management Awareness System (MAS) was originally developed to serve as an interim system that would be in compliance with this requirement. Although our review of the system has identified significant concerns, the system continues to function in a manner consistent with the originally envisioned interim system. That is, needed documentation exists, data are being entered and stored in the system, and reports are being generated and provided to supervisors and administrators, as required. Despite identified problems then, the system can be said to be meeting the expectations of the interim system established in this paragraph. DPD is thus continued in Phase 1 and Phase 2 compliance with this requirement, as was reported following our previous site visit.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U90

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

Comments:

As with other MAS-related requirements, compliance with this paragraph is unchanged. This paragraph describes the requirement for revision of the risk management system following its initial implementation. Documentation of the system in the Review Protocol includes descriptions of the process of using the system and its updating and revision, thus meeting the requirements of Phase 1 compliance. Since initial implementation is underway but not complete, we do not find DPD in Phase 2 compliance at this time.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

B. Performance Evaluation System

CJ Requirement U91

DPD shall ensure that performance evaluations for all DPD employees below the rank of Deputy Chief occur at least annually and include, but are not limited to, consideration of the following:⁸⁵

- a. *civil rights integrity;*
- b. *adherence to law, including performing duties in a manner consistent with the requirements of the Fourth and Fifth Amendments to the Constitution and the Civil Rights laws of the United States; and*
- c. *supervisor's performance in identifying and addressing at-risk behavior in subordinates, including their supervision and review of use of force, arrests, care of prisoners, prisoner processing, and performance bearing upon honesty and integrity.⁸⁶*

Comments:

With a current finding of "in compliance," the status of this requirement is changed from our previous reports. For the prior quarter, we reviewed DPD Directive 401.1, Performance

⁸⁵ Consent Judgment amendment, October 4, 2004.

The Court issued an order on October 4, 2004 adopting a proposed modification by the parties making these requirements applicable to DPD employees below the rank of Deputy Chief.

Evaluation Ratings, effective July 1, 2008. The document is compliant with the requirements of this paragraph. The Directive requires yearly ratings for those holding the rank of Inspector and Commander, and twice each year for other ranks. The rating periods are established as May 1, through October 31; and November 1, through April 30. It also establishes completion dates of November and May, respectively.

To consider Phase 2 compliance, we requested random samples totaling 200 employee evaluations drawn equally from the duty rosters of the Central District, and a combination of assignments not associated with any particular district such as the tactical unit, traffic and the Chief's office. In all, five evaluations were not available due to retirements or extended leave. A total of three additional evaluations could not be located leaving 192 (98%) out of the 195 potentially available forms. Our examination of all available performance reviews showed that all were individually completed with original narratives, references to "no change in status," or references to material in MAS. All were signed off by the person being reviewed, the reviewer, and Commanders, when appropriate. Based on the policy documents and our review of the sample of performance evaluations, DPD is in full compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

C. Oversight

CJ Requirement U92

The DPD shall develop a protocol for conducting annual audits to be used by each officer or supervisor charged with conducting audits. The protocol shall establish a regular and fixed schedule to ensure that such audits occur with sufficient frequency and cover all DPD units and commands. The annual audit period for conducting the audits required by paragraphs 93 to 97 for the first year shall end on August 31, 2004. The subsequent annual periods shall end on July 17, 2005, and every year thereafter.⁸⁷

Comments:

In our previous reports, we found DPD in compliance with this requirement. That status is continued for this reporting period. During this site visit, we found that a new Audit Protocol was completed, reviewed, and approved by the Commander of CRIB. The Audit Protocol will govern all audits through the current audit period, which includes audits that are scheduled to be completed during this coming summer. We reviewed the new protocol dated February 5, 2010, and found it to fully address requirement U92. It establishes a schedule, describes the audit teams, specifies the roles and responsibilities of the various team members, and describes the various audits that are to be conducted and the reports that will be produced. A schedule of the assigned audits including auditors and completion dates was also reviewed and found to be complete. That schedule reflects the previously noted change in the schedule from quarterly to annual completion of audits.

⁸⁷ Consent Judgment amendment, October 4, 2004.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U93

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

Comments:

The status regarding this requirement remains unchanged. DPD has been found to be in compliance after not meeting that standard in our first report. Our original concern was whether the results of audits were reaching the Chief of Police for review. New audits are scheduled for completion in July and August of this year. Audit procedures and existing current audits completed in October 2009 make it clear that the results of the audits do reach the Chief of Police and each Precinct or Specialized Unit Commander as required here. During our more recent site visit, we received Corrective Action Reports for the required audits. These reports from precinct supervisors or Commanders to the Commander of the Civil Rights Integrity Bureau (CRIB) provide specific responses to concerns raised in the audits. Those responses are organized with reference to individual audit report paragraphs and include information related to disciplinary or non-disciplinary action taken in connection with the audits. This information satisfies the requirements for Phase 2 compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U94

The DPD shall conduct regularly scheduled annual audits, covering all DPD units and commands that investigate uses of force, prisoner injuries, and allegations of misconduct. The audits shall include reviewing a statistically valid sample of command, IAD, and Homicide Section investigations; evaluating whether the actions of the officer and the subject were captured correctly in the investigative report; and evaluating the preservation and analysis of the evidence and the appropriateness of the investigator's conclusions.⁸⁸

Comments:

Consistent with findings from the previous two visits, DPD remains in compliance with this paragraph. The DPD revised the audit protocol and it will be applicable to our next visit. Annual audits are required and appropriate reporting dates are set. The required audits are being conducted according to the set schedule, and the relevant Corrective Action Reports provide evidence that the audit findings and recommendations have been acted upon.

⁸⁸ Consent Judgment amendment, October 4, 2004.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U95

*The DPD shall conduct regularly scheduled annual audits covering all precincts and specialized units that review a statistically valid sample of findings of probable cause, stop and frisk reports and witness identification and questioning documentation. The audits shall include evaluating the scope, duration, content, and voluntariness, if appropriate, of the police interaction. The audits shall include a comparison of the number of arrests to requests for warrants and a comparison of the number of arrests for which warrants were sought to judicial findings of probable cause.*⁸⁹

Comments:

During our first site visit, we found that the audit protocol addressed much of U95 but failed to specifically direct a comparison of arrests to requests for warrants and a comparison of the number of arrests for which warrants were sought to judicial findings of probable cause. This problem has been rectified in the revision of the audit protocol that will govern audits from this point forward. The audit reviewed for our second visit illustrated the corrections and resulted in a finding of compliance. Additional audits consistent with this requirement are expected to meet the July 2010 due date. There will be reviewed for compliance status at the appropriate time.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U96

*The DPD shall conduct regularly scheduled annual audits covering all precincts and specialized units that examine custodial detention practices. The audits shall include reviewing the length of detention between arrest and arraignment and the time to adjudicate holds.*⁹⁰

Comments:

Full compliance with this requirement was achieved in each of our two previous reports. That remains unchanged for this reporting period. In the last review period, we examined five new audits of custodial detention practices. New custodial detention audits are due for completion on August 31, 2010. We will review them at the appropriate time.

Audits in this area require complex analyses including proper definitions of the “time between arrest and arraignment” and the time to “adjudicate holds.” Past audits identified circumstances of compliance, partial compliance, and lack of compliance. The reports that were provided detailed information on cases and noted the need for “corrective action” where appropriate. We will continue to expect such high quality analyses in upcoming audits.

⁸⁹ Ibid.

⁹⁰ Consent Judgment amendment, October 4, 2004.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U97

The Chief Investigator of OCI shall designate an individual or entity to conduct regularly scheduled annual audits that examine external complaints and complaint investigations. The audit shall include reviewing a statistically valid sample of complaints that were resolved informally, reviewing a sample of OCI investigations of complaints, and contacting the complainants to evaluate whether the actions and views of the complainant were captured correctly in the complaint report and/or investigation. The Chief Investigator shall review all audit reports regarding officers under OCI command and, if appropriate, shall take non-disciplinary corrective action or disciplinary action.⁹¹

Comments:

DPD has been found to be not in compliance in both of our previous reports. A reexamination of the last audit, conducted in August 2009, shows that it does address the requirement's call for reviewing a sample of OCI investigations and contacting complainants to evaluate accuracy of information. Those requirements are also reflected in the new audit protocol. Compliance with this requirement will be reviewed again following completion of the required audits scheduled for August 31, 2010.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U98

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

Comments:

Consistent with findings from our previous two site visits, DPD remains in Phase 1 compliance with this paragraph.⁹² DPD Directives require that DPD supervisors perform periodic random reviews of in-car videos and related equipment to ensure that proper procedures are being followed and that the equipment is in working order.

DPD recently overcame the severe technical difficulties it encountered, and the Department has made dramatic progress in MVS implementation. The DPD has equipped six precincts with workable MVS systems. As it extends service to a new precinct, the Deputy Chief for Information Technology has implemented a plan in which he visits the precinct when it is 75% operational and meets with the Precinct Commander and the Sergeant in charge of Consent

⁹¹ Consent Judgment amendment, October 4, 2004.

⁹² DPD Directive 303.3, In Car Video, effective June 21, 2004, revised February 22, 2010.

Decree issues. He explains the capabilities of the new systems and the responsibilities of supervisors and Commanders to ensure that it remains in working order and is used.

The DPD currently has six precincts equipped with operational MVS systems. Until MVS operational equipment is extended throughout the Department, we will not be able to measure full compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U99

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

Comments:

Members of the DPD and the Wayne County Prosecutor's Office meet on a quarterly basis, as required, as well as when needed to address case related issues. We reviewed the minutes of two meetings for our prior quarterly reports, and during this reporting period, we reviewed the minutes of the February 3, 2010 meeting. These minutes collectively reflect discussions related to the performance of DPD, including the dismissal of cases due to officers failing to appear for court, photo line-ups, investigative operations, the in-car video system, and other applicable issues.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

D. Use of Video Cameras

CJ Requirement U100

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

Comments:

The DPD modified applicable Directives during this reporting period to comply with the requirements of this CJ paragraph.⁹³ DPD officers in precincts where operational MVS Systems have been placed are now required to ensure that the audio/video equipment is working properly at the beginning of their shift, to check the equipment, and record the results of their inspection on the Officer's Activity Log. The order directs that any vehicles with non-functioning MVS equipment be transported to the Lyndon Garage facility where the equipment is to be repaired or replaced. The Department is in Phase 1 compliance with this requirement.

The DPD has continued to make progress in making its non-functioning MVS equipment work properly. During our last site visit, the Tenth and Twelfth Precincts were functioning with

⁹³ Directive 303.3, In Car Video, effective June 21, 2004, revised February 22, 2010.

operational MVS systems. During the past quarter, service was extended to the Second, Third, Sixth, and Eighth Precincts.

Compliance Status:

Phase 1: In Compliance

Phase 2: Pending Compliance

CJ Requirement U101

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

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

Comments:

Consistent with our findings from our previous two site visits, DPD remains in Phase 1 compliance with this paragraph.⁹⁴ The Directive requires officers to activate video cameras at all times on patrol, supervisors to conduct reviews prescribed in U101, and the preservation of tapes.

Video is activated at all times in each car equipped with MVS. Systems are set to record one frame per second during routine operations, and to accelerate to full video when traffic stops or other events to be recorded occur. Six precincts have been equipped with video, with precincts 10 and 12 being operational since early February.

While the DPD cannot actually achieve compliance with this requirement until MVS is implemented throughout the Department, we conducted a brief survey to assess the state of compliance in Precincts 10 and 12. Crisnet reports that involved traffic events were produced for the months of February, and March, 2010, and checked to determine if video was produced. The survey indicated a growing level of compliance with video collection.

<u>Date Range</u>	<u>Videos Produced</u>	<u>No Video</u>	<u>Percentage</u>
2/1-2/14/2010	17	10	63%
2/15 - 2/28/2010	24	10	71%
3/1 - 3/14/2010	9	3	75%
3/15 - 3/31/2010	22	6	76%

The DPD IT staff understands that training, supervisory review, and follow-up are essential to gaining compliance with MVS policies. The TSB Deputy Chief visits each precinct that is equipped with operational MVS and meets with the Commander and Consent Decree Sergeant to

⁹⁴ Directive 303.3, In Car Video, effective June 21, 2004, revised February 22, 2010

ensure that they understand their roles and responsibilities. Supervisors are required to conduct random reviews of one incident per shift for each day a car is deployed. The Department has created a form to record these reviews. The DPD has already noted a lack of audio being collected even where the video is produced. This is attributable to a variety of issues such as broken audio equipment and the fact that with the current system, officers are required to remember to clip the microphones on as they exit the car. The new MVS system to be purchased will be much more amenable to both video and audio recording.

Further, the TSB has determined that MVS equipment does not operate if the mobile computer in the car is not turned on. The operation of car computers is to be monitored by the Dispatchers, and this is expected to further enhance the level of recording produced.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U102

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

Comments:

Consistent with findings from the previous two visits, DPD remains in Phase 1 compliance with this CJ paragraph.⁹⁵ Directives require that DPD officers activate video cameras at all times on patrol and to specifically record all motor vehicle stops, consent searches of vehicles, and deployments of drug detection canines.

Inasmuch as only six precincts are operating systems, the DPD is not yet in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

E. Discipline

CJ Requirement U103

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

Comments:

Following a deferral in our first report, we found DPD in full compliance with this requirement in our second quarterly report. Our interviews with Command staff in the Disciplinary Administration show that staffing increases noted in our last report remain in place. The DPD had provided documentation of an increase in staffing of Disciplinary Administration (DA) from a total of seven to a total of eight personnel. The staff includes one lieutenant, three sergeants, three police officers, and one non-sworn employee. Improvements in physical space have also

⁹⁵ DPD Directive 303.3, In Car Video, effective June 21, 2004, revised February 22, 2020

been maintained. The Disciplinary Unit can hold multiple hearings simultaneously, as well as accommodate administrative requirements. The functionality of the hearing rooms was clear in our observation of an arbitration hearing in the facility

Summary statistics show that the Disciplinary Unit closed more cases than it opened during the first quarter of this year. In all, the Unit opened 126 cases in first quarter while also closing a total of 144 cases.

As part of this review, we also sought and received additional information on the backlog of disciplinary cases. To assist in our review, Disciplinary Administration (DA) staff queried their database and conducted a manual search for open cases. The results showed that one case remained open from 2007. That case was listed as awaiting an appeal to the Board of Police Commissioners. For 2008, 30 cases remained open. Of those, the most common status (10 cases) involved cases caught in the arbitration process. In the next most common category, six cases are listed as awaiting review by the Police Trial Board. For 2009, 193 cases remain open including 50 awaiting PTB, 20 awaiting PTB findings, and 48 awaiting CDA action (includes sick and suspended). Twenty-six of the cases had an outstanding plea agreement and 14 were awaiting Chief's action.

Overall, the data indicate continued progress on reducing the backlog of disciplinary cases. Furthermore, the existing backlog is heavily influenced by cases in a small number of categories including awaiting PTB action and outstanding CDA actions. Additional analysis would be needed to determine if cases in these categories could be expedited to closure.

Thus, we find DPD in Phase 1 compliance based on the expansion of available resources noted above. We find DPD in Phase 2 compliance based on the continued progress on case closures.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U104

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

Comments:

After deferral in our first report, this requirement was reported as in compliance in our second report and continues in that status for this reporting period. DPD manages disciplinary cases with reference to its Disciplinary Process Timelines, revised August 29, 2006, for review. These guidelines comply with the intent of this paragraph. As noted above, DPD opened 126 new disciplinary cases and closed 144 during the quarter covered in this report.

Disciplinary Administration staff note that timelines are sometimes compromised by regulations regarding allowable postponements and by defense practices. This is consistent with our review of cases remaining open from 2009 and 2008. We also examined all cases closed for the quarter under review and found 12 cases that exceeded the timeline described in the DPD Disciplinary Process Timelines document. In those cases, the Commanders' Disciplinary Action Hearing was

delayed in seven cases, signed plea agreements were received late in three cases, and officers placed on disability accounted for two of the late closings. All of these cases were opened in 2008 and appear to reflect appropriate efforts to clear the backlog of cases. In all cases, the delays were not within the Disciplinary Administration. The DA must continue to take care to document the reasons for late closures and address any potential problems. Given the successful efforts to reduce case backlogs, the delays noted above do not alter the current compliance status with this requirement. Based on existing policy and our review of cases, DPD is in both Phase 1 and Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U105

The DPD shall create a disciplinary matrix that:

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

Comments:

Although insufficient data led to a deferred finding in our first report, our analysis for our second report found DPD in compliance on this requirement. That status is retained for this quarter. DPD Directives are compliant with the requirements of this paragraph.⁹⁶ These documents set forth complete, understandable procedures that include a presumptive range of discipline based upon both an officer's prior violations of the same rule as well as other violations. We examined all cases closed for the quarter, and found that all discipline decisions fell within guidelines described in sub-paragraph a, c, and d. Furthermore, we found no inconsistencies with sub-paragraphs b and c. We recognize that these conclusions depend somewhat on the assumption that appropriate documentation would be available in the file, but we find no evidence inconsistent with the finding of compliance.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

⁹⁶ DPD Directive 102.4 Discipline, effective July 1, 2008, and the DPD Discipline Matrix (DPD22a).

Critical Issues:

Risk Management and the status of MAS: There is a need to make progress on determining how best to proceed with the development of the risk management system. The fundamental question raised by the DOJ expert about whether to continue with MAS or take a different direction has not been addressed. The result of our test of MAS should be factored into a discussion of these options. A process specifically designed to address this basic issue should be undertaken.

There are three key dimensions critical to the Consent Judgment in this area. First, what is the quality of the data being entered into the system; that is, does it capture and record the events intended in the Judgment? Second, does it produce the output data needed by supervisors to assist them in managing the Department? And third, do officers and supervisors utilize the system as it is intended? The test of MAS indicated problems in each of these areas.

The risk management system is central to the Consent Judgment, and if clear progress is not made on MAS soon, DPD will not only continue to fall significantly behind in this area but progress will be slowed on other data-related elements of the Judgment. DPD needs to make a clear decision regarding a course of action in this area.

In-car video success: The DPD has built on its success noted in our last report. During our last site visit, we found that the Department equipped two precincts with MVS equipment that worked and transmitted the results successfully to the DPD server. It has now equipped six precincts with operational MVS systems.

During the past quarter, the DPD narrowed its focus to a few competitive bidders under its RFP for a new MVS system. It is currently field-testing equipment that is being bid. The new system will correct many of the deficiencies in the old equipment.

Training for in-car video: During our first site visit, we made an unannounced visit to one of the two precincts equipped with an operational MVS system, and found that senior officers and supervisors were unfamiliar with the capabilities of the newly revised system. The personnel we interviewed – including management ranks, senior officers, and supervisors – were unaware that video could be accessed through the Department's Intranet. During our more recent site visit, we visited the same Precinct and found a completely different situation. The Commander and sergeants we interviewed were knowledgeable about the system and understood its capabilities and their responsibilities. All were capable of accessing video from their computers. Supervisors were conducting random checks of the system.

Uneven progress in performance evaluations: With regard to performance evaluations, the DPD appears to be making progress with its performance evaluations reviews. There should be a concerted effort from all levels of Command down to the first line of supervision to ensure that employee evaluations comply with the three issues detailed in CJ U91. There remain serious problems with the lack of content and accountability in the current manner in which supervisors complete the evaluation form. Of particular concern are the limited comments included in evaluations as supplements to numerical ratings. Such comments are clearly required but included only sporadically. Likewise, DPD must increase its success rate in locating completed evaluations that are currently not being found in adequate numbers.

Progress is being made on the backlog of disciplinary: In the area focusing on discipline, the backlog of disciplinary cases raises many issues ranging directly from the time of investigation

through the entire process. Cases closed in the period covered in this reporting period reveal high levels of compliance with policy requirements. We will conduct future reviews to determine the rate at which the backlog may be declining.

Next Steps:

Risk management: In our third site visit, we will continue to assess compliance on all requirements relating to the risk management system. A key task will also involve review of the test of MAS from this visit and discussions with the Parties on the implications of this test for moving forward. The team will seek to assist the parties in determining how to move forward toward meeting the risk management related requirements of the Consent Judgment.

Performance evaluation: In order to address the question of supervisors accurately describing the performance of the personnel under their supervision, we will examine the training program specific to paragraph U91 and attempt to determine if the training is inadequate or the supervisor's chain of command is failing to assess the role of the first line supervisor. We will also examine the use of comments as required in the evaluations.

In-car video: Each month, the DPD TSB will produce a spreadsheet identifying traffic stops, pursuits, canine deployments, injuries to officers, and injuries to prisoners, uses of force, and searches that occurred in the previous month. The spreadsheet will be sent to the Monitoring Team electronically, and we will select a sample to be audited during the next review period.

Discipline: We will continue to monitor the disciplinary process with consideration of the timeframes involved, and the process of reducing the backload of cases; and finally, we will examine consistency of disciplinary as it relates to presumptive disciplinary steps. We will meet with OCI personnel and review the current process for efficiencies.

¶	Requirements	Phase 1 - Policy	Phase 2 - Implementation
78	Comprehensive Risk Management Plan	In Compliance	Not in Compliance
79	Improve risk management system	In Compliance	Not in Compliance
80	Database requirements (a-z)	In Compliance	Not in Compliance
81	Database to include officer information	In Compliance	Not in Compliance
82	Data Input Plan (a-d)	In Compliance	Not in Compliance
83	Report Protocol for database (a-c)	In Compliance	Not in Compliance
84	Review Protocol for database (a-l)	In Compliance	Not in Compliance
85	Use modules to assure work progress	In Compliance	In Compliance
86	Common control number required	Not in Compliance	Not in Compliance
87	Data retention	In Compliance	Not in Compliance
88	Database schedule (expired)	Not in Compliance	Not in Compliance
89	Interim database (rescinded)	In Compliance	In Compliance
90	Change process needs DOJ approval	In Compliance	Not in Compliance
91	Annual Officer Review Criteria specified	In Compliance	In Compliance
92	Protocol for conducting audits	In Compliance	In Compliance

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

IX. TRAINING

During our third quarterly on-site we visited the Detroit Police Training Center and interviewed the Deputy Chief recently appointed to oversee Risk Management including departmental training, the current Commander of Training and a lieutenant assigned to Training. We also reviewed a variety of memoranda and policy material and the seven lesson plans used in recruit and in-service training.

DPD Training was reorganized following our first quarterly visit. In November, 2009, two divisions that previously had separate responsibility for recruit and restoration⁹⁷ training and in-service training were merged and placed under the command of a single officer with the rank of Commander. It is our view that this was a very constructive change and has propelled DPD training to a new and improved level.

Our interviews with the current Deputy Chief and Commander reveal their understanding of training as fundamental to the Chief's effort for Departmental reform. From our initial reviews to now the instructional process has made continuing progress in the development of training policy, the association of DPD training needs to what is taught and the methodology of instruction. In our discussions with field personnel we are beginning to see the effects of instruction based on sound policy. We have seen improvement in the manner and content of training in general and in record keeping in support of training. (JW/MH)

⁹⁷ Restoration training is the refresher training afforded to an officer returning to service who was previously trained but had a lapse in service.

A. OVERSIGHT AND DEVELOPMENT

CJ Requirement U106

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

Comments: To assess compliance for this report we reviewed DPD policies and met with the D/C of Risk Management and the Commander and staff of the Training Center. DPD policies require the training of all members “by qualified instructors in any authorized lethal or less lethal weapon they carry...and that all sworn members attend mandatory annual training on use of force, laws of arrest, search and seizure, the PR-24 Baton and bi-annual firearms use.”⁹⁸ The responsibility for all use of force, arrest and detention training rests with the Commander of Training. Directives also require the conducting of semi-annual evaluations of training.

The DPD audited use of force instructional classes by training managers and produced a report entitled, Training Oversight and Development Report, December 2009, which addresses Requirement U106. This report is the second such report issued in the past year and contains the evaluation of use of force, arrest and detention training and covers all elements of the requirement. The DPD is in Phase 2 compliance. (JW/MH)

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U107

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

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

Comments: The DPD is Phase 1 compliance with the requirements of this paragraph.⁹⁹

⁹⁸ DPD Directive 304.2 – Section 6.1 and Special Order No. 20-02, Training, dated December 30, 2009.

⁹⁹ DPD Special Order No. 20-02, issued January 16, 2010

To assess compliance for this report, we met with the training director and staff at the Training Center and reviewed training records. We found the DPD to be in conformity with the Michigan Law Enforcement Council's standards and Michigan law. With regard to subparagraphs a-f, we found as follows:

- a. In our previous visit we found that the DPD lesson plans (Use of Force, 7/3/2009; Arrest and Search and Seizure, May 14 2007; Detention Officer Training, May 30 2007) addressed this requirement. A review of those plans during our most recent visit show they remain consistent with the Consent Judgments. We were advised by the DPD Training executives that the Michigan Commission on Law Enforcement Standards (MCOLES) does not require in-service training for police officers in Michigan. As noted in earlier reports we confirmed this through contact with the Commission following our initial visit. The in-service training standard has not changed. The in-service training program that has been implemented fully covers the requirements of the Consent Judgments.
- b. The DPD has developed use of force and arrest and detention training curricula that outlines the subjects taught in use of force and arrest and detention training.
- c. The existing process of selection of new training personnel operates in conformity with established bargaining contracts; sergeants and lieutenants, however, who desire to be trainers are selected based on seniority¹⁰⁰ and screened in or out due to select disciplinary issues, not based on expertise or demonstrated competencies. The non-ranking member candidates for trainer positions have a more defined process. As a matter of fact, however, no personnel were added to Training during the past quarter.
- d/e. DPD policy curricula and lesson plans address these provisions. A second evaluation report of the Department's training was produced by the Training Committee chaired by the Commander of training. Members of the Training Committee are identified in f below.
- f. DPD has not yet conducted a needs assessment but it has developed a plan to do so. It will use the Training Committee which includes the Deputy Chief who oversees Internal Affairs, the Commander of the Criminal Investigation Bureau, the Commander of Risk Management, the Commander of Police Medicine, the Police Legal Advisor and three members from the Patrol Operations Bureau (rank unspecified). The Committee will be chaired by the Commander of Training. The Committee will review audits, cases from Internal Affairs, police legal issues, contemporary national best police practices, and internal training needs surveys. It will identify the Department's needs for training. A meeting of the Training Committee specifically to discuss and continue the assessment of the Department's training needs is scheduled for April 15, 2010. It will set the schedule for training during the next year.

¹⁰⁰ Section 23, A 2 of the Police Lieutenants and Sergeants union contract states, "Whenever openings occur in precincts, sections or units, the most senior employee on the list shall be transferred. Seniority is defined by Article 18 of this Agreement."

Compliance Status

Phase 1: In Compliance

Phase 2: Not in compliance

CJ Requirement U108

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

Comments: During our previous first visit we found the DPD had no policy or order requiring compliance with the requirements of this paragraph; however the DPD subsequently issued Special Order #10-02, effective January 16, 2010, to correct this deficiency. This Special Order places responsibility for creating and maintaining training records on the Training Command. It was disseminated as an important high level distribution which requires that it be conveyed to every member of the DPD and that every member signs to signify he/she has received it.

During our initial review we found no real progress to fully implement a contemporary training record system. On this as with our last visit we found that the Department has committed to recording training data in the MITN System which is a part of the Michigan Commission on Law Enforcement Standards (MCOLES) data system. We were advised that since December 1, 2009, DPD has entered data about all of its training into the MITN System. Historically, the Department has begun retroactively entering training records for all of its members, in an effort to electronically store records dating to the beginning of the CJ. The training records for all members have been archived except for years 2003, 2004 and 2008. This shows considerable progress though not yet compliance.

The DPD has also captured data relating to its in-service training and recorded it on a spreadsheet. Since the spreadsheet is used by the Department to determine if all of its officers have attended the required in-service training sessions, we conducted an audit of its accuracy. We made a random selection of 100 officers who were listed on the spreadsheet as having received in-service training. There are five sessions recorded on the sheet (PR-24, Firearms, Use of Force, Report and Legal). Of the 500 records recorded the DPD was able to locate sign-in sheets reflecting sign-ins for 492 (98%) of the 500 records.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in compliance

CJ Requirement U109

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

Comments: During our previous first visit we found the DPD had no policy or order requiring compliance with the requirements of this paragraph; however the DPD subsequently issued

Special Order #10-02, effective January 16, 2010, to correct this deficiency. Our current review shows the SO remains in effect and consistent with the requirements of this provision. The DPD continues in Phase 1 compliance.

During our review for our first report we found that the DPD training directive and lesson plans¹⁰¹ properly direct and instruct on the relevant provisions of the CJ. Our review of the lesson plans and curricula documents showed that they were sufficiently crafted to meet the requirements of the CJ. Local scenarios required by U109 had not been developed. In our second review we found that the DPD had developed scenarios utilizing Internal Affairs incidents. Five such scenarios had been accepted for incorporation into use of force training and another 12 scenarios had been developed and awaited incorporation into training. DPD advised during the current visit that an additional five scenarios for a total of 10 scenarios had been incorporated into mandated training. Our review of training curricula, lesson plans and scenarios show they properly instruct and convey the requirements of the Consent Judgment and DPD policy. The Department is now in Phase 2 compliance.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement U110

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

Comments: The DPD met with the City Law Department pursuant to this requirement in February, 2010. Meetings are held quarterly. The DPD remains in compliance with U110.

Compliance Status

Phase 1: In compliance

Phase 2: In compliance

CJ Requirement U111

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

Comments: Recruits receive this training after they take their state certification exam and before they graduate from the academy. DPD Training estimates that they have sign-in sheets for over 4000 Department members who received the training in 2003. We were, however, unable to

¹⁰¹ See Training Oversight and Development Report, Summer, 2009

locate precise numbers showing how many DPD members, civilians and sworn and other relevant City employees were trained. In order to evaluate the comprehensiveness of the training, we must be able to determine how many employees in each category were eligible to be trained.

Based on our discussions with the D/C of Risk Management and the Commander of Training and their staff it is unlikely that the DPD will produce past employee training records to show training actually given to employees who were on board within 120 days of the CJ implementation. However, the DPD training records currently show that all present members of the Department and other relevant City employees have been trained and received materials regarding the Consent Judgment.

Compliance Status

Phase 1: Not in compliance

Phase 2: Not in compliance

B. Use of Force Training

CJ Requirement U112

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

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

- k. *Factors to consider in initiating or continuing a pursuit;*
- l. *The proper duration of a burst of chemical spray, the distance from which it should be applied, and emphasize that officers shall aim chemical spray only at the target's face and upper torso, and consideration of the safety of civilians in the vicinity before engaging in police action.*

Comments: During the review for our first visit we found no policy directive or order requiring compliance with Requirement U112. During our second review Special Order No. 10-02, had been adopted and effectively addressed the requirements of U112. It specifies that officers that do not attend in-service training shall be placed in an administrative "no gun" status and relieved of his/her police powers until they successfully complete the next training session. The DPD was found to be in Phase 1 Compliance. They remain in phase 1 compliance following our current review.

During our second visit we reviewed training policy directives, curricula, lesson plans, special orders and teletypes among other materials purported to address the requirements of U112.¹⁰²

Our review and analysis of the material showed the course content requirements of U112 and all of its subparagraphs were met for all recruits. Appropriate training and instruction for some tenured members had been presented at in-service training, however, compliance had not yet been fully met for career members since the department had not trained >94% of its members.

In our current review of data for January 1 through March 31, 2010 we found 1927 members (70%) of 2771 officers had attended UOF training during 2010 in-service as compared to 1642 members (59%) for the prior year to date. It is noticeably evident that the Department continues to increase the pace of training; however, it has not yet met the 94% or greater requirement and therefore the Department remains out of phase 2 compliance.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in compliance

C. Firearms Training

CJ Requirement U113

The DPD shall develop a protocol regarding firearms training that:

- a. *Ensures that all officers and supervisors complete the bi-annual firearms training and qualification;*

¹⁰² We reviewed lesson plan, instructor's guides, student guides, handouts, and other materials as follows: Firearms Lesson Plan and associated guides and materials, dated 1/24/2008; PR-24Basic Course Lesson Plan, dated 2-1-08 Supervisory Leadership and Accountability Lesson Plan and associated guides, dated 8/27/2007; Standard Operating Procedures Manual, FTO Program, Revised 2007; Internal Affairs Lesson Plan and associated guides and materials; dated 9/102/2008; Use of Force Lesson Plan Lesson Plan and associated guides and materials, dated 7/3/2009; Detention Officer's Training Lesson Plan and associated guides and materials, dated 5/30/2008; and Law of Arrest and Search and Seizure Lesson Plan and associated guides and materials, dated 5/14/2007.

- b. *Incorporates professional night training, stress training (i.e., training in using a firearm after undergoing physical exertion) and proper use of force decision making training in the bi-annual in-service training program, with the goal of adequately preparing officers for real life situations;*
- c. *Ensures that firearm instructors critically observe students and provide corrective instruction regarding deficient firearm techniques and failure to utilize safe gun handling procedures at all times; and*
- d. *Incorporates evaluation criteria to determine satisfactory completion of recruit and in-service firearms training, including:*
- e. *Maintains finger off trigger unless justified and ready to fire;*
- f. *Maintains proper hold of firearm and proper stance; and*
- g. *Uses proper use of force decision making.*

Comments: During our first quarterly visit to the Training Center we found the DPD in phase 1 compliance with U113. (See teletype 09-02385). On our next review, we determined that the training policy codified in the new Special Order No. 10-02 articulates a long standing DPD policy. This policy directs that officers who do not attend firearms training and qualify bi-annually will have their firearms removed and will be relieved of their police powers until they attend a firearms training session and qualify.

On our last review we found that during the previous six months (7/1/2009 through 12/31/2009), for the first time, the DPD *enforced* its policy of removing the firearms and police authority of officers who failed to qualify. With the enforcement of the policy against the officers who failed to qualify, the DPD was able to train all of its officers during that period. Of the current bi-annual firearms training covering the period January 1 through March 31, 2010 1071 (39%) of 2771 officers had attended training as compared to 632 (22%) for the prior year's same period. In view of the attaining of compliance with this provision during last quarter and showing continuing gains during this quarter, DPD remains in compliance.

Compliance Status

Phase 1: In Compliance

Phase 2: In Compliance

D. Arrest and Police-Citizen Interaction Training

CJ Requirement U114

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

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

- c. *Advising officers that the “possibility” that an individual committed a crime does not rise to the level of probable cause;*
- d. *Advising officers that the duration and scope of the police-citizen interaction determines whether an arrest occurred, not the officer’s subjective, intent or belief that he or she affected an arrest; and*
- e. *Advising officers that every detention is a seizure, every seizure requires reasonable suspicion or probable cause and there is no legally authorized seizure apart from a “Terry stop” and an arrest; and*
- f. *Examples of scenarios faced by DPD officers and interactive exercises that illustrate proper police-community interactions, including scenarios which distinguish an investigatory stop from an arrest by the scope and duration of the police interaction; between probable cause, reasonable suspicion and mere speculation; and voluntary consent from mere acquiescence to police authority.*

Comments: The DPD is Phase 1 compliant with the requirements of this paragraph.¹⁰³

The Department has split the use of force, search and detention training into an eight hour block on use of force and a four hour block on arrest, search and detention. Annual training is provided by DPD in its in-service training program for officers and supervisors. Through March 31 of FY2010 the Department had trained 1875 (68%) of 2771 members on arrest, search and detention policy and procedure as compared to 1637 (58%) of its members during the prior FY. Until it exceeds >94% of its members trained at the various in-service sessions DPD will not be in compliance with requirement U114.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in compliance

E. Custodial Detention Training

CJ Requirement U115

The DPD shall provide all DPD recruits, officers and supervisors with annual training on custodial detention. Such training shall include DPD policies regarding arrest, arraignment, holds, restrictions, material witness and detention records.

Comments: DPD policy directs sworn members of the DPD assigned to perform detention duties, including Senior Detention Facility Officers (SDFO), Detention Facility Officers (DFO) and Holding Cell Compliance Committee members to attend and successfully complete the Detention Officer course on an annual basis.¹⁰⁴ DPD is in phase 1 compliance.

We found in our previous review that the DPD had developed appropriate policies and lesson plans to comply with this provision and had developed a protocol to train all recruits,

¹⁰³ Special Order No. 10-02, effective January 16, 2010,

¹⁰⁴ DPD Special Order 10-02, effective January 16, 2010

confinement officers, investigators and supervisors.¹⁰⁵ Annual training in detention is to be provided to all employees who serve in the detention cell areas. Our review during this visit shows that 98 (82%) of 120 members listed as assigned to custodial detention duty had been trained through March 31, 2010. The Department expects to reach >94% of its detention personnel at the end of the Fiscal Year which runs from 7/1/2009 through 6/31/2010. Note that in our review of C73 we discovered that a substantial number of officers assigned to detention duties had not received detention training.

Compliance Status

Phase 1: In compliance

Phase 2: Not in compliance

CJ Requirement U116

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

Comments: DPD Special Order No 10-02 and lesson plans on arrest, search and seizure and detention previously referenced addresses this requirement. The Department continues in phase 1 compliance.

Our review found that the DPD is meeting its training obligation and may train greater than 94% of its members by the completion of the training year. During this review we observed records which indicate that 68% of the members have been trained through March 31 of this FY. While progress has been made in that the Department has developed training that meets the requirements of U116, it has not yet trained >94% of its members and, accordingly, phase 2 compliance has not yet been achieved.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in compliance

CJ Requirement U117

The DPD shall advise officers that whether an individual is a material witness and whether that material witness should be committed to custody is a judicial determination.

Comments: In our first and second visits we found the DPD to be in Phase 1 Compliance with U117. We continue to find them in compliance with phase 1 requirements during this review.¹⁰⁶

These policies provide guidelines and procedures for making lawful arrests, and detaining material witnesses, a supervisory review of arrests for probable cause, and requiring prompt

¹⁰⁵ Law of Arrest and Search and Seizure Lesson Plan and associated guides and materials, dated 5/14/2007, Detention Officer Training Lesson Plan, dated May 30, 2008.

¹⁰⁶ DPD Directive 202.1, effective July 1, 2008

judicial review of arrests are required. In addition, the policy clearly states that "only a court has the authority to decide whether an individual is a material witness, and whether that material witness should be committed to jail pending his or her testimony." It continues, "a material witness can only be taken into custody upon an order from the court where the criminal matter is pending" and required that a court order be obtained prior to a citizen being placed in custody as a material witness is among the topics included in use of force training.

The DPD has conducted in-service training and detention officer training that addresses the requirements of U117. As of March 31, 2010 the DPD had trained 70% of its regular officers. 82% of its officers listed as custodial detention officers had completed its Annual In-service training program. The Department made progress in delivering training but has not yet reached the >94% level required to be found in compliance.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

F. Supervisory Training

CJ Requirement U118

The DPD shall provide supervisors with training in the appropriate evaluation of written reports, including what constitutes a fact based description, the identification of conclusory language not supported by specific facts and catch phrases, or language that so regularly appears in reports that its inclusion requires further explanation by the reporting officer.

Comments: During our previous review we found that training policies specifies that in-service training will include "appropriate evaluation of written reports, including what constitutes a fact based description." The DPD was found in Phase 1 compliance with U118.¹⁰⁷

CJ Requirements U118 - U122 require that supervisors be trained. The DPD plans to fulfill these requirements through its annual in-service training for supervisors.

During the past fiscal year (FY 2009, July 1, 2008-6/31/2009), DPD trained 578 (84%) of its 689 available supervisors (lieutenants, investigators and sergeants). As of March 31, 2010, the DPD had trained 426 (65%) of its current complement of 655 supervisors. As of the same date in 2009, the DPD has trained 376 (52%) of its available complement of 718 supervisors.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U119

DPD supervisors shall receive leadership and command accountability training and learn techniques designed to promote proper police practices. This training shall be provided to all

¹⁰⁷ DPD Special Order No. 10-02

DPD supervisors within 30 days of assuming supervisory responsibilities and shall be made part of annual in-service training.

Comments: During our last quarterly review we found that there was no written policy directive which facilitates orders compliance with this requirement. However, the DPD has issued a revised policy directing that "members of the rank of investigator and above shall attend and successfully complete the following training course within thirty (30) days of assuming their rank and thereafter shall attend the course on an annual basis."¹⁰⁸ The Department is in Phase 1 compliance.

The DPD has not promoted to the supervisor rank during the past year. As noted in U118, during FY 2009, the DPD trained 82% of its supervisors at an annual in-service training course. While it has improved and is now on a path to train over 90% of its supervisors, DPD will not be in compliance with this requirement until it reaches >94%.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U120

The DPD shall provide training on risk assessment and risk management to all DPD supervisors, including the operation of the risk management database.

Comments: During our previous review we were unable to locate specific policy directives or orders that address this requirement. The DPD issued a revised policy to address this deficiency.¹⁰⁹ The DPD is in Phase 1 compliance.

The Department did not train >94% of its supervisors and in the past year and is currently in the middle of its training year. It is not yet in compliance with this requirement.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

G. Investigator Training

CJ Requirement U121

The DPD shall provide training on appropriate burdens of proof, interview techniques and the factors to consider when evaluating officer, complainant or witness credibility to all officers who conduct investigations to ensure that their recommendations regarding dispositions are unbiased, uniform and legally appropriate.

Comments: We previously determined the DPD policies compliant with Phase 1 requirements.¹¹⁰

¹⁰⁸ DPD Special Order No. 10-02

¹⁰⁹ Ibid.

The Department did not train >94% of its supervisors and in the past year and is currently in the middle of its training year. It is not yet in compliance with this requirement.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement U122

The DPD shall provide all supervisors charged with accepting external complaints with appropriate training on handling external complaints that emphasizes interpersonal skills. The DPD shall provide training on the DPD external complaint process, including the role of OCI and IAD in the process, to all new recruits and as part of annual in-service training.

Comments: Newly revised DPD policies direct that the in-service training include "...DPD's external complaint process, including the role of the Office of the Chief Investigator and Internal Affairs/Force Investigation in the process." The DPD is Phase 1 Compliance.¹¹¹

The Department did not train >94% of its supervisors in the past year and is currently in the middle of its training year. It is not in compliance with this requirement.

Compliance Status

Phase 1: In Compliance

Phase 2: Not in Compliance

H. Field Training

CJ Requirement U123

The DPD shall develop, subject to DOJ approval, a protocol to enhance the FTO program within 120 days of the effective date of this Agreement. The protocol shall address the criteria and method for selecting and removing the FTOs and for training and evaluating FTOs and trainees.

Comments: We found during our last quarterly review that the Department did develop and implement a protocol to enhance the FTO Program. The *Standard Operating Procedures Manual Field Training Program* (revised 2007) reflects the DPD FTO Program as it was approved by the DOJ. The procedures are designed to enhance the FTO Program and address the criteria and method for selecting, removing, training and evaluating FTOs. The DPD was determined to be in Phase 1 compliance.

The DPD has not selected or trained any additional FTOs. The Department has an adequate number trained and ready to assumed FTO responsibilities.

Compliance Status

¹¹⁰ DPD Special Order No. 10-02

¹¹¹ DPD Special Order 10-02, approved 1/16/2010

Phase 1: In Compliance

Phase 2: Not in Compliance

Critical Issues

In-service training is not comprehensive

Several of the requirements relating to training are to be provided through the delivery of in-service training. Until the Department reaches the >94% level of officers and supervisors trained at its in-service training sessions, these requirements will not be fulfilled.

As noted above, through March 31 of FY2010 the Department had trained substantially greater number and percentages of its officers in in-service training involving 1) Use of Force, 2) PR-24, 3) Laws of Search and Seizure, 4) Supervisory Leadership and 5) Firearms. While it is clearly making progress, it is essential that DPD push to ensure that the final quarter of in-service training is fully attended so that it meets the >94% standard that is necessary in order to be in compliance with several training requirements. DPD achieved compliance in the area of firearms training through willingness to enforce the policy the device of removing the officer's police powers if they failed to qualify.

Next Steps

When we next visit Detroit to conduct an on-site review we will continue to examine the policy directives that have been created for each of the CJ requirements relating to training.

We will review:

- The list of officers selected to serve as trainers and the documentation, re: their selection and training as trainers.
- Any training record system that exists and any needs assessment that has been conducted.
- A sample of officers who have attended in-service training to determine if the training is documented in training records.
- Documentation of development of scenarios derived from local incidents used in instruction.
- Documentation of meetings with the City Law Department.
- Documentation that the City and the DPD distributed explained and trained the CJs to all DPD and all relevant City employees.
- We will determine a count of officers and supervisors who have attended in-service for FY 2010 as of 6/30/2010 to determine if the DPD is in compliance (>94% attendance) with the several Consent Decree training requirements.
- We will select a number of officers, supervisors and, if appropriate, detention personnel who are required to be trained in several subjects (see requirements U114, U115, U116, U117, U118, U119, U120, U121, and U122) and we will review their training records to determine if they, in fact, received the training set forth in these requirements.

- We will obtain a list of all supervisors and a count of supervisors, who have completed supervisor training during FY 2010 as of 6/30/2010, which we will compare that number with the number that attended supervisory training during FY 2008 as of 6/30/2009.
- We will need a list of all supervisors promoted during the past quarter and the dates they received the training required by the CJ.
- We will need a list of all officers who conduct investigations. A sample will be selected and compared to the lists of officers who have actually received the training required by U121. >94% compliance will be sought.
- Finally, we will review the documentation of FTO selection and training and, if available, will monitor the training process.

¶	Requirements	Phase 1 - Policy	Phase 2 Implementation -
106	Coordination and review of training	In Compliance	In Compliance
107	DPD will meet state training standards	In Compliance	Not in Compliance
108	Maintain individual training records	In Compliance	Not in Compliance
109	Train from approved objectives and plans	In Compliance	In Compliance
110	Quarterly meetings with Law Department	In Compliance	In Compliance
111	Distribute and training on the agreement	Not in Compliance	Not in Compliance
112	Annual use of force training required	In Compliance	Not in Compliance
113	Develop firearms training protocol	In Compliance	In Compliance
114	Annual arrest, citizen interaction training	In Compliance	Not in Compliance
115	Annual training on custodial detention	In Compliance	Not in Compliance
116	Prohibition of arraignment delays	In Compliance	Not in Compliance
117	Material witness custody	In Compliance	Not in Compliance
118	Supervisory training-report evaluation	In Compliance	Not in Compliance
119	Supervisory training-leadership	In Compliance	Not in Compliance
120	Supervisory training-risk management	In Compliance	Not in Compliance
121	Investigator training-procedures	In Compliance	Not in Compliance
122	Supervisory training-external complaints	In Compliance	Not in Compliance
123	Enhance the FTO program	In Compliance	Not in Compliance

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

This Consent Judgment sets forth procedural and operational requirements relating to the confinement facilities maintained and operated by the Detroit Police Department. The Judgment requires the revision and implementation of policies and practices that are safe, respectful, and constitutional in the areas of fire safety, emergency preparedness, medical and mental health, prisoner safety, environmental health and safety, persons with disabilities, food service, and personal hygiene. In addition, the Judgment sets forth requirements relating to the use of force in detention facilities, as well as procedures for the investigation of the use of force and complaints relating to other events occurring in these facilities. The Judgment also establishes requirements for management and supervision, the auditing of internal practices, and the training of personnel who are assigned detention responsibilities.

We made our first site visit in November, 2009, and reviewed required Directives, supporting Logs, forms, and documentation relating to the operation of the detention facilities. Accompanied by key members of the DPD Office of Civil Rights personnel, we conducted our first tour of the Detroit Police Department's holding cells in the Northeastern, Eastern, and Southwestern Districts; Sixth and Twelfth Precincts; and Detroit Receiving Hospital. During our tour, we interacted with available command and key detention staff at each facility. However, due to time limitations, it was not possible for us to thoroughly inspect the operations and practices at each facility.

During our second and third site visits in January and April 2010, we met with key CRIB Command staff, Audit Team personnel, and the designated health care professional to conduct a thorough review of all requirements, DPD Directives, forms, Logs, and documentation relating to and required by this Judgment. During the January visit, we particularly noted the need to initiate revisions to the Infectious Disease Control, Detainee/Intake Assessment, and Detainee Health Care Directives, and to have them reviewed and approved by a health care professional. In addition, we met with DPD Training staff to discuss and ascertain the Department's progress with required training. As a result, CRIB initiated revisions to these Directives, which were reviewed and approved by a health care professional during this reporting period.

We also visited and inspected each of the five Districts/Precincts with holding cells.¹¹² We were accompanied by CRIB staff, and assisted by the Cell Block Supervisors and Compliance Officers on these inspections, which included our entering and examining every holding cell, interviewing detention staff, and reviewing forms and Logs.

Although we had concerns with the fire safety practices during our first visit, we found significant improvement in the implementation of these practices, including the conducting of required fire drills during the last two visits. For example, the fire drills were conducted with greater frequency than required. We also found that the DPD addressed concerns with regard to facility key control, but we note the need for the Department to revise the Directive to assure consistency with practice.

We also reviewed a number of detainee folders during and in between our visits for compliance with medical and health screening and other required procedures. We continue to note clerical errors and missing documentation relating to medical referrals, Medication Logs, staff signatures, and supervisory reviews. Of particular concern is the lack of an effective exchange of information relating to health and other significant issues among shifts. The lack of effective, consistent, and required observation checks also continue to be an issue of concern.

The cleanliness and sanitary condition of the holding cells and adjacent areas are concerns in every detention facility, and the DPD facilities are no exception. DPD Directives require these areas to be maintained in a clean and sanitary condition at all times. They also require appropriate inspections to assure that the required cleanliness and sanitary conditions are maintained. During our second site visit inspection noted a high degree of compliance with regard to the conducting and documentation of the required inspections, but the actual cleanliness and sanitary conditions of the facilities did not meet those standards. Our inspection found the condition of three facilities unsatisfactory, one marginal, and one (Western) satisfactory. Our third site visit inspection reflected a significant level of improvement in four out of five districts/precincts.

The DPD has made progress with regard to Directive and policy guidance; however the DPD must effectively implement and adhere to these Directives. This requires training and competent supervision. In addition, the DPD should insure that the Directives and policies, particularly those relating to health care, are reviewed annually and revised as required. The DPD must also provide detention personnel with ongoing in-service training to assure the maintenance of required standards of performance.

The details of our findings are included in the following sections.

¹¹² Facilities with holding cells are located in the Northeastern, Eastern, and Southwestern Districts; Sixth and Twelfth Precincts; and the Detroit Receiving Hospital.

III. FIRE SAFETY POLICIES

CJ Requirement C14

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

Comments:

In our First Quarterly Report, we found the DPD in compliance with regard to policy, but in pending compliance with regard to practice due to the lack of documentation. That matter was resolved, as was noted in our Second Quarterly Report. The DPD continues to be in full compliance during this reporting period (January 1, through March 31, 2010).

The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) includes a Fire Safety Plan (FSP), which requires compliance with the Life Safety Code and inspections. The FSP was developed in consultation with the Detroit Fire Marshal. DOJ approved the FSP on May 23, 2006. The Fire Marshal annually reviews the FSP; the most recent review was conducted on June 5, 2009. The Fire Marshal also conducts regular and periodic (annual) inspections of holding cells; the most recent review was conducted in October, and November, 2009. The inspecting Captain appropriately documented these inspections on the DPD audit form in each District/Precinct. Accordingly, we find the DPD in full Phase 2 compliance with this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C15

The DPD shall develop and implement a comprehensive fire detection, suppression and evacuation program for the holding cells, and buildings that contain them, in accordance with the requirements of the Life Safety Code and in consultation with the Detroit Fire Department.

Comments:

In our First Quarterly Report, we found the DPD in compliance with regard to policy (Phase 1), but not in compliance with regard to practice (Phase 2) because required fire drills and fire extinguisher inspections were not conducted at an acceptable level. This problem was resolved during the next quarter which resulted in full compliance. The DPD has maintained that record during the current reporting period.

The DPD developed the required Fire Safety Plan.¹¹³

¹¹³ The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was developed in consultation with the Detroit Fire Marshal. DOJ approved the FSP on May 23, 2006. The Fire Marshal annually reviews the FSP; the last review was conducted on June 5, 2009.

In order to assess implementation of the FSP, we examined the Fire Extinguisher Monthly Inspections Inventory Reports (DPD 716). They were completed at each District/Precinct for January, February, and March of 2010, resulting in a 100% compliance rate. It should be noted, however, that all extinguishers at one District were listed as “expired” in January. During our site inspection, we found no fire extinguishers expired.

If every District/Precinct followed the practice of the Sixth Precinct, there would be no question about the status of the extinguishers. The Sixth Precinct lists the expiration date of each instrument in the Remarks section of the DPD 716 form. The Fire Safety Plan also requires that each shift holds fire drills twice annually. In order to insure compliance, the Districts/Precincts have commenced holding drills on a monthly basis. This effort is reflected in the 100% compliance rate evident in our analysis of the DPD 703 documentation.

The DPD has achieved compliance with the requirements of this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C16

The fire safety program shall be developed in consultation with, and receive written approval by, the Detroit Fire Department. As part of developing the fire safety program, the Detroit Fire Department shall evaluate the need for and, if necessary, the DPD shall install: fire-rated separations, smoke detection systems, smoke control systems, sprinkler systems and/or emergency exits for the holding cells and building that contain them. The fire safety program shall be submitted for review and approval of the DOJ within three months of the effective date of the Agreement.

Comments:

We found the DPD in full Phase 1 compliance in both our First and Second Quarterly Reports. The Department maintains that status during this quarter.

The DPD developed the required Fire Safety Plan.¹¹⁴

Following the development of the FSP, the DPD made required structural changes to Districts/Precincts holding facilities, including the updating and/or installation of sprinkler systems, fire alarm systems, and fire-rated doors. During our inspection of the District/Precinct holding cells, we found the presence of all three. Our interviews with supervisory staff in each of the Districts/Precincts determined that they were appropriately familiar with the operations of each of the systems.

The DPD is in full compliance with the requirements of this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

¹¹⁴ The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was developed in consultation with the Detroit Fire Marshal. DOJ approved the FSP on May 23, 2006. The Fire Marshal annually reviews the FSP; the last review was conducted on June 5, 2009.

Phase 2: In Compliance

CJ Requirement C17

The DPD shall implement the fire safety program within one year of the effective date of this Agreement. Thereafter, the program shall be reviewed and approved in writing by the Detroit Fire Department at least every year, or prior to any revisions to the plan.

Comments:

We found the DPD in full Phase 1 compliance in both our First and Second Quarterly Reports.

The DPD has developed and implemented the required Fire Safety Plan and is in continued full Phase 2 compliance with this CJ paragraph.¹¹⁵

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C18

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

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

Comments:

We found the DPD in full Phase 2 compliance in both our First and Second Quarterly Reports.

As we previously noted, we visited each District/Precinct that maintains holding cells and determined that the DPD has made the required structural, electronic, and mechanical upgrades within the facilities. We also noted that the Fire Systems of Michigan and the Fire Marshal conducted and documented inspections of suppression systems in October, and November, 2009. We also acknowledge the DPD assignment of three staff members to the holding cells on each shift, which serves to ensure that detainees have a means of notification in the event of an

¹¹⁵ The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was developed in consultation with the Detroit Fire Marshal. DOJ approved the FSP on May 23, 2006. The Fire Marshal annually reviews the FSP; the last review was conducted on June 5, 2009.

emergency. The DPD is in continued full compliance with the requirements of this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C19

The DPD shall ensure that fire safety equipment is routinely tested, inspected and maintained, including the sprinkler systems, fire alarm systems, manual fire extinguishers, emergency lighting and exit signs, and self-contained breathing apparatuses.

Comments:

We found the DPD in Phase 1, but not Phase 2, compliance in our First Quarterly Report. In our Second Quarterly Report, we found the DPD in Phase 2 compliance following our review of supplemental documentation regarding routine testing of systems and equipment.

The Fire Safety Plan places responsibility for ensuring the required testing, inspections, and maintenance of the various systems, fire extinguishers, emergency lighting and signs, and equipment with the DPD Office of Facilities Management.

Fire Systems of Michigan and the Fire Marshal conduct the required inspections, which were last conducted in October and November of 2009. The weekly testing of emergency generator power supply systems is documented on Form 715 (Evaluation of the Operation of Holding Cells) which is supported by the printouts of weekly testing done and generated by DTE Energy.

The DPD is in continued full Phase 2 compliance with the requirements of this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C20

The DPD shall enforce immediately its no-smoking policy in the holding cells or provide ash trays and ensure that all holding cell areas are constructed and supplied with fire-rated materials.

Comments:

We found the DPD in Phase 1 compliance with this paragraph in our First and Second Quarterly Reports.

DPD Directive 305.4, Holding Cell Areas, Section 5-3, effective February 1, 2008, and the Fire Safety Plan (FSP)¹¹⁶ prohibit smoking in the District/Precinct holding cells. During our inspection of the holding cell areas, we found no trace of smoking in the facilities. A close

¹¹⁶ The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was developed in consultation with the Detroit Fire Marshal. DOJ approved the FSP on May 23, 2006. The Fire Marshal annually reviews the FSP; the last review was conducted on June 5, 2009.

examination of the cells revealed that they did not contain combustible materials. The DPD is in continued full compliance with the requirements of this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C21

The DPD shall insure immediately that all flammable and combustible liquids in holding cell areas and the attached and nearby DPD buildings are stored properly.

Comments:

We found the DPD in full Phase 1 compliance with this paragraph in both our First and Second Quarterly Reports.

The Fire Safety Plan sets forth guidelines for the storage of flammable materials.¹¹⁷ Our inspection of the holding facilities found that each District/Precinct was equipped with at least one yellow storage cabinet for flammable and combustible liquids, which were located in the garage area. We checked the cabinets and found flammable materials and gas storage containers. It should be noted that both flammables cabinets at one District were empty, while evidence dated 10-16-08 was found in another District's cabinet. The DPD is in continued full compliance with the requirements of this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C22

The DPD shall remove immediately all highly-combustible kane fiber ceiling tiles from buildings that contain holding cells.

Comments:

The DPD has been in continued compliance with this CJ paragraph since 2005 when it closed some of the facilities where kane fiber ceiling tiles were in place and it removed the files from the remaining facilities. We reviewed an invoice dated February 2, 2004, wherein the required modification to the holding cells is documented. The DPD is in continued full compliance with the requirements of this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¹¹⁷ The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP) includes a Fire Safety Plan (FSP) requiring compliance with the Life Safety Code and inspections. The FSP was developed in consultation with the Detroit Fire Marshal. DOJ approved the FSP May 23, 2006. The Fire Marshal annually reviews the FSP; the last review having been conducted on June 5, 2009.

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
14	Holding Cell Life Safety Code compliance	In Compliance	In Compliance
15	Fire detection, suppression & evacuation	In Compliance	In Compliance
16	Fire Department consultation and evaluation	In Compliance	In Compliance
17	Implementation of fire safety program	In Compliance	In Compliance
18	Immediate interim fire safety measures	In Compliance	In Compliance
19	Routine testing of fire safety equipment	In Compliance	In Compliance
20	Enforce no smoking in holding cells	In Compliance	In Compliance
21	Proper storage of flammable liquids	In Compliance	In Compliance
22	Remove combustible cane fiber tiles	In Compliance	In Compliance

IV. EMERGENCY PREPAREDNESS POLICIES

CJ Requirement C23

The DPD shall ensure a reasonable level of safety and security of all staff and prisoners in the event of a fire or other emergency.

Comments:

In our First Quarterly Report, we found the DPD in full Phase 1 compliance, and in pending Phase 2 compliance because documented fire drills were recorded at less than the required 94%. The DPD achieved full Phase 2 compliance during our second reporting period.

The DPD developed and published a Comprehensive Emergency Preparedness Program (CEPP) addressing safety and security, as required. The CEPP includes an emergency response plan for each District/Precinct (see C24) and a key control system requirement (see C25).

The DPD conducted and documented fire drills, as required. We reviewed the fire drills for each of the five Districts/Precincts during this reporting period, and found that they were conducted on a monthly basis, which exceeds the two per year for each shift in each District/Precinct requirement. We also noted that there are five sets of keys located in each District/Precinct – three for the cell block staff, one for the front desk/lobby, and one in the emergency key locker. Each ring has only one paracentric key for cells doors (all are keyed the same) and one builder’s hardware key for other doors¹¹⁸. The CEPP, the number of documented fire drills, and the changes in the key system, demonstrate continued full Phase 2 compliance with the requirements of this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¹¹⁸ A paracentric key is designed to open a paracentric lock. It is distinguishable by the contorted shape of its blade, which protrudes past the centre vertical line of the key barrel. Instead of the wards on the outer face of the lock simply protruding into the shape of the key along the spine, the wards protrude into the shape of the key along the entire width of the key, including along the length of the teeth. Patented by the Yale Lock Company in 1898, paracentric cylinders are not exceptionally difficult to pick, but this requires some skill and know-how.

CJ Requirement C24

The DPD shall develop a comprehensive emergency preparedness program that is approved in writing by the Detroit Fire Department. This program shall be submitted for review and approval of the DOJ within three months of the effective date of this Agreement. The DPD shall implement the programs within three months of DOJ's review and approval. Thereafter, the program shall be reviewed and approved in writing by the Detroit Fire Department at least every year, or prior to any revisions to the plan. At a minimum, the emergency preparedness program shall:

- a. include an emergency response plan for each building that contains holding cells identifying staff responsibilities in the event of fire-related emergencies and other emergencies, including notification responsibilities, evacuation procedures and key control procedures (discussed below); and*
- b. require performance and documentation of fire drills for all buildings containing holding cells on all shifts every six months (documentation shall include the start and stop times of each drill, the staff members who participated in the drill, a summary of the drill, and an evaluation of the success of the drill).*

Comments:

We found the DPD in policy (Phase 1) but not practice (Phase 2) compliance in our First Quarterly Report because fire drills were not conducted at a level greater than 94%. The DPD achieved full compliance in our Second Quarterly Report because the frequency of fire drill increased to the 100% level.

The DPD developed the required Comprehensive Emergency Preparedness Plan (CEPP).¹¹⁹ The CEPP identifies staff responsibilities in the event of a fire emergency to include notifications, evacuation, and key control procedures. Fire drills have been conducted and documented as required (see C15). Accordingly, the DPD is in continued full Phase 2 compliance with this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C25

The DPD shall develop and implement key control policies and procedures that will ensure that all staff is able to manually unlock all holding cell doors in the event of a fire or other emergency. At a minimum, the key control policies and procedures shall:

- a. provide for emergency identification of keys by touch;*
- b. and require routine inventory, testing and maintenance of keys and locks.*

¹¹⁹ The Detroit Police Department Comprehensive Emergency Preparedness Plan (CEPP), developed in consultation with the Detroit Fire Marshal, was approved by DOJ on May 23, 2006. The Fire Marshal annually reviews the FSP; the last review was conducted on June 5, 2009.

Comments:

In our First Quarterly Report, we found the DPD in full policy (Phase 1) but not practice (Phase 2) compliance. The DPD achieved full compliance in our Second Quarterly Report because of the changes the Department made to key control practice.

DPD Directive 305.4, Holding Cell Areas, Section 6-7, effective May 9, 2005, specifies the key control policy. We reviewed the Department's 715 forms, and found documentation of the required monthly testing and maintenance of locks and keys, and also noted completion of all required key inventories. Key sets are easily identified by staff (see C23). Our interviews of personnel found that they were familiar with related operations. We note, however, for the second time, that the Department needs to update both the Directive and the DPD 715 form to appropriately reference the assignment of five (no longer three) sets of keys to each District/Precinct to assure continued Phase 1 compliance. At this time, we find that the DPD has achieved continued compliance with the requirements of this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 – Implementation
23	Ensure reasonable safety in emergency	In Compliance	In Compliance
24	Develop comp emergency prep program	In Compliance	In Compliance
25	Implementation of key control policies	In Compliance	In Compliance

V. MEDICAL AND MENTAL HEALTH CARE POLICIES***CJ Requirement C26***

The DPD shall ensure the appropriate identification of, and response to, prisoner's medical and/or mental health conditions.

Comments:

During our first and second quarterly reviews, we found that the DPD Directives 305.1, Detainee Intake Assessment; 305.5, Detainee Health Care; and 403.2, Infectious Disease Control Plan had not been reviewed and approved on an annual basis by a qualified medical and mental health professional. Effective February 5, 2010, the DPD revised and updated Directives 305.1, 305.5, and 403.2, integrating the use of the Livescan system at the detainee intake and assessment process. In addition, a qualified medical and mental health professional completed an extensive review, incorporating necessary revisions, and approved the aforementioned Directives. DPD is now in Phase 1 compliance with this paragraph.

Our first and second quarter assessments, and inspections of policy implementation in the field, revealed that the staff was not consistent in their implementation of DPD Directives 305.1, 305.5, and 403.2. We found DPD out of Phase 2 compliance with this CJ paragraph following those visits. During this review period, we inspected a random sample of 375 detainee folders from the five Districts/Precincts with holding cells, and found the DPD 64.7% compliant with

the implementation requirements of this CJ paragraph. This is a marked improvement from the second reporting period when the compliance rate was 44.7 %.

Though we have seen advancements in staff adhering to procedures, we nonetheless continue to identify clerical errors, incomplete or missing documentation of medical referral and Medication Logs, missing signatures, missing documentation of required supervisory reviews, and the lack of a documented exchange of health information between consecutive shifts. Our inspections of detainee file folders and observations of staff in the Districts/Precincts reveal that staff is still not following through on the implementation of proper procedures in accordance with the DPD Directives.

The revisions to applicable Directives mentioned above has moved the DPD into Phase 1 compliance for this reporting period; however, full compliance with the requirements of this CJ paragraph and DPD Directives is dependent upon correct and complete implementation and documentation of detainee health assessments, with appropriate responses to detainees' medical and mental health needs.¹²⁰ DPD remains not in Phase 2 compliance for this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C27

The DOD shall develop a comprehensive medical and mental health screening program (CMMHSP) that shall be approved in writing by qualified medical and mental health professionals. This program shall be submitted for review and approval of the DOJ within three months of the effective date of this Agreement. The DPD shall implement the program within three months of DOJ's review and approval. Thereafter, the program shall be reviewed and approved by qualified medical and mental health professionals at least every year and prior to any revisions to the programs. At a minimum, the comprehensive medical and mental health screening program shall include prisoner screening procedures and medical protocols.

Comments:

Our first and second quarterly assessments of DPD Directives 305.5- through 305.5-9, effective May 9, 2005, along with the forms and Logs that comprise the Comprehensive Medical and Mental Health Screening Program (CMMHSP), found the DPD to be in compliance with the requirements of this paragraph; however, we were unable to determine whether the Directives were reviewed and approved by a qualified medical and mental health care professional as required.

During the last quarter, we met with CRIB staff, and together we reviewed all Directives and supplementary documentation required for compliance with CMMHSP. Concurrently, CRIB initiated revisions to Directive 305.1 relating to the Medical and Mental Health Screening Process. Effective February 5, 2010, the DPD has revised and updated their Directives 305.1 and 305.5. A qualified medical and mental health professional completed an extensive review, made revisions, and approved the Directives listed above. The DPD, at a minimum,

¹²⁰ See CJ 30, 31, and 32.

implemented a comprehensive detainee screening process with medical protocols. We, therefore, find the DPD in Phase 1 and Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C28

The prisoner screening procedure, at a minimum, shall;

- a. enable the DPD to identify individuals with medical or mental health conditions, including infectious diseases, chronic conditions, including disabilities, ambulatory impairments, mental health conditions, and drug/alcohol withdrawal;*
- b. identify persons who are at risk of committing suicide, persons who have been on heightened observation for suicide risk at any time during a past incarceration and persons who have any medical contraindications for the use of chemical sprays,*
- c. require that the DPD follow a standard intake procedure for each individuals entering DPD custody;*
- d. require that intake screening be conducted within two hours of intake and through a verbal exchange between the DPD and prisoners; and*
- e. incorporate all health information pertaining to a prisoner acquired by the arresting or transporting officers.*

Comments:

Our first and second quarterly assessments of DPD Directives 305.1, Detainee Intake/Assessment, and 403.2, Infectious Disease Control, effective May 9, 2005, found that they contain the required detainee screening procedures. The DPD revised Directives 305.1 and 403.2, effective February 5, 2010, and therefore maintains its Phase 1 compliance status with this paragraph during this quarter.

During our first and second quarterly assessments, we found deficiencies in the staff's ability to consistently implement the requirements of this CJ paragraph, and thus, we determined that the DPD was not in Phase 2 compliance with this paragraph.

To assess this requirement for this reporting period, we reviewed a random sample of 375 detainee folders from the five Districts/Precincts with holding cells. Our review identified clerical errors, missing signatures of Police Detention Officers and supervisors, incomplete or incorrect completion of medical and mental health assessment forms, incomplete information from the arresting officer on the Detainee Input Sheet (Medical and Mental Issues), and the failure to complete the intake screens within the prescribed two-hour window.

Our inspection of practices relating to the requirements of this paragraph found that Police Detention Officers were inconsistent in recording all of the information required on the Detainee Information Form 651(DIF). We also examined DPD Form 659a, Platoon Daily Detainee Summary, and found that DPD achieved 91% compliance in sharing health information between consecutive shifts. This represents a significant improvement over the 82.9% compliance rate achieved last quarter, but is still short of the requirement. Our inspection found many

deficiencies with proper documentation of detainee health information on the Platoon Daily Detainee Summary. We also continued to see discrepancies between the information contained on the DIF and the Detainee Sheet 667 relating to medical and mental health issues; the incorrect completion of Medical Treatment/Medication Logs, wherein medication dosages and required signatures were not included; Medical Referral Forms 660 missing from detainee folders; and cases where detainees who should have been referred to DRH in accordance with DPD Directive were not referred. DPD remains out of Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C29

The medical protocols, at a minimum, shall;

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

Comments:

During our second reporting period, we met with CRIB staff and reviewed Directives and supplementary documentation required for compliance with this requirement. As a result of our discussions, CRIB prepared revisions to Directive 305.1. The Directive was updated and approved by a qualified medical and mental health profession, and issued with an effective date of February 5, 2010. Based on the revisions and the approval by the qualified medical and mental health professional, we find DPD to be in Phase 1 compliance with the requirements of this paragraph.

Requirements C30, C31, and C32 require implementation of the specific medical protocols dictated in this paragraph for acquiring and reporting medical information during the detention screening of detainees. DPD has not fully developed and implemented the medical protocols consistent with paragraph C29.

During this reporting period, we reviewed the implementation of this Directive at each of the Districts/Precincts that maintain holding cells. Our assessments found instances where staff deviated from the policy in the following areas:

- Referral of detainees in need of medical or mental health care to DRH;
- Required red medical alert stickers missing from detainee file folders;
- Medical referrals being completed incorrectly;
- Medication Logs missing the required dosing information,;
- Medical referral forms missing from detainees' file folders;
- Medical information not being placed in confidentiality envelopes, as required; and

- Supervisors' signature missing on forms regarding the health information of detainees requiring medical care.

During our inspections, we observed one detainee who had an injury to his hand. He was bleeding, and we determined that he needed to be referred to DRH for immediate care for his wound. We notified the PDO and the supervisor, neither of whom had responded to the detainee's medical needs previously. When we reviewed the detainee's file folder, we noted that the detainee's medical information, taken at the time of intake, acknowledged the detainee's wound, but showed that he had not been referred to DRH. The medical assessment prepared by the PDO indicated that no action was taken on the detainee's medical needs. When we interviewed the PDO and the supervisor, they gave conflicting accounts regarding medical services provided to the detainee. Both said that the detainee was treated on the scene by emergency medical technicians, and that the detainee was referred to DRH. There was, however, no documentation in the detainee's file folder that indicated that any of these actions took place. In this instance, the information taken on the Detainee Input Sheet (DIS) correctly noted that the detainee had an injury, yet the detainee was not transported to DRH. Neither the arresting officer nor the holding cell staff took the appropriate action as required by the DPD Directive.

DPD remains out of Phase 2 compliance with the requirement of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C30

The DPD shall develop and implement policy regarding infectious disease control (IDC) in consultation with medical health professionals. The policy shall be reviewed and approved in writing by qualified medical health professionals at least every year after implementation and prior to any revisions to the policy. At a minimum, the policy shall;

- establish appropriate housing for prisoners believed to have infectious diseases; and*
- mandate measures the DPD shall take to prevent the spread of infectious diseases, including proper handling and disposal of bio-hazardous material.*

Comments:

During our second quarterly assessment, we met with CRIB staff and reviewed Directives and supplementary documentation required for compliance with this paragraph. CRIB staff subsequently prepared revisions to DPD Directive 403.2, Infectious Disease Control Plan. The Directive was reviewed, updated, and approved by a qualified medical and mental health professional, and issued with an effective date of February 5, 2010. DPD is in Phase 1 compliance with this paragraph.

During our first site visit, we visited all five DPD facilities with holding cells and the Detroit Receiving Hospital cells. We reported our findings in our previous report, which included poor levels of sanitation in all five DPD facilities. The DRH sanitary conditions were satisfactory.

In our second site visit, we again inspected each of the holding cell areas in the facilities. Our findings revealed poor sanitation conditions in three locations; one location was marginal, and one location satisfactory. The Detroit Receiving Hospital cells continued to be satisfactory.

Our inspection during this reporting period of the five Districts/Precincts with holding cells found that the Personal Protective Equipment (PPE) Kits in each facility contained most of the items listed on the PPE Kit inventory list that is outlined in Directive 403.2-4.3. All of the PPE Kits in all holding cell facilities contained the required inventory checklist. As we examined the contents of the PPE Kits, however, staff informed us that they did not conduct the inspections of the PPE Kits at the start of each shift, as required by Directive 403-2-4.4. When we interviewed one of the Cell Block Supervisors (CBS) regarding the annual training they are required to attend as required by the Directive, we were advised they were not aware of the requirement to conduct the inspections of the PPE Kits because they had not been provided training to do so.

Our inspections also found that first aid kits in four of the five facilities were not properly stocked. We found only one facility that had a first aid kit that was complete; it had been recently purchased.

Our inspection found that sanitation conditions, while improved, are still not at an acceptable level. We continue to find the following inconsistencies:

- No soap dispenser or broken soap dispensers at the staff counter and sink in the processing area;
- Debris on the floor and between equipment and furniture in the medical supply rooms and in supervisors' offices; and
- A buildup of crusted dirt in stainless steels toilet fixtures that has accumulated over a lengthy time (weeks or months, not days).

We believe that DPD had devoted a significant amount of time and effort to come into Phase 2 compliance with this paragraph. Many of the cells were freshly painted, and the floors were recently washed and polished. There was marked improvement in four of the five holding cell facilities; however, the Twelfth Precinct did not improve or even maintain the level of sanitation noted in the last reporting period; it regressed. (Refer to C39-42 – Environmental Health and Safety.)

One of the poor practices we observed at the facilities concerns the meal service and the garbage from the meal service. Currently, when a detainee is finished eating a meal, staff advise the detainee to throw all empty juice/beverage containers, sandwich wrappers, trash, and uneaten food into the cell block corridors. Staff sweeps up the garbage after every meal. Crumbs, juice, and some other types of garbage inevitably remain on the floors. Over time, these leftovers build up, causing scum to form and resulting in unsanitary conditions in the cell block corridors. To improve sanitary conditions in the holding cell areas, we recommend that staff collect the excess food, garbage, and packaging in a garbage bag after every meal, to keep the floors clean of excess debris.

Based on insufficiency in the implementation of a DPD IDC Policy, and on our observations of conditions, the DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C31

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

- a. require that prisoner's health information is recorded at intake and thereafter immediately readily available to all relevant medical and transporting personnel in a manner consistent with the relevant federal and state confidentiality statutes;*
- b. require that prisoner health information is continually updated to incorporate any additional relevant information acquired during his or her detention;*
- c. require that relevant prisoner health information is documented and communicated between consecutive shifts, such as whether a prisoner is taking medication or has a medical condition; and*
- d. require that prisoner health information travel with prisoners who transferred to another facility.*

Comments:

During the second reporting period, we met with CRIB staff and reviewed Directives and supplementary documentation required for compliance with this paragraph. Effective February 5, 2010, the DPD revised and updated Directive 305.5, Detainee Health Care. A qualified medical and mental health professional completed an extensive review, incorporating necessary revisions, and approved the aforementioned Directives. We determine DPD to be in Phase 1 compliance with this paragraph.

DPD Form 661, Mental Health High Risk Log, is used to track observations of any detainee who is placed in an observation cell for mental health reasons. Any notations regarding the 15-minute watch are to be maintained in that Log. During our site visit, we examined the 52 Logs that were submitted between January 1, and March 31, 2010. We found that the 15-minute entries were maintained in all cases; but the date, time, and reason for removal from the cell was recorded in only 22 of the cases. This results in a 42.3% compliance rate.

The reason for the watch in 25 of the 52 cases was suicide-related – i.e., a past history, attempts, or current ideations. None of those 25 was placed in a constant watch status, a requirement in the DPD policy. Instead, they were simply maintained in the 15-minute watch status.

We also reviewed DPD Log 661a, Medical Health High Risk Log. This form is used when a detainee is placed in an observation cell for medical reasons. A 15-minute watch is also required for these detainees. There were forms submitted for a total of 12 cases, all during the month of March, 2010. There were no forms submitted for January, or February, 2010. Of the 12 Logs submitted in March, documentation was missing in six cases. The errors included missing dates, times, names of the officer in charge authorizing the watch, and reasons for the detainee's removal from the cell. DPD is at a 50% compliance rate with this requirement.

We reviewed the Platoon Daily Detainee Summary Logs (PDDS), DPD Form 659a, for this reporting period. The documentation revealed that the DPD achieved 91% compliance, as

opposed to the 82.9% compliance rate it achieved last quarter. The PDDS is required so that relevant detainee health information is documented and communicated between consecutive shifts, such as whether a detainee is taking medication or has a medical condition.

During this reporting period, our onsite review of the DPD 659a Logs for the District/Precinct maintaining holding cell facilities revealed that the Twelfth District left a detainee, who was on medication for a health condition, off of a Log for four consecutive shifts. In another example, we found the health information for a detainee in the Northeastern District missing from the Log for three consecutive shifts. These findings indicate that there is still an inconsistency in sharing relevant health information between shifts as required by this paragraph. The sharing of vital health information on detainees is critical to ensure that the detainees' health needs are met and that staff safety is ensured. This information needs to be documented, updated, and communicated between the initial shift receiving the detainee and the subsequent shifts until the detainee is released. (Refer to C35-38 - Prisoner Safety Policies.)

Our onsite review of detainee file folders disclosed myriad deficiencies in the documentation of important health information, clerical errors, incomplete or missing documentation for medical referral and Medication Logs, missing signatures, missing documentation of required supervisory reviews, and the lack of a documented exchange of health information between consecutive shifts. Based on these findings, DPD remains out of Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C32

The DPD shall develop a prescription medication policy in consultation with qualified medical and mental health professionals that ensures prisoners are provided prescription medication as directed. The policy shall be approved in writing by qualified medical and mental health professionals and shall be submitted for review and approval of the DOJ within three months of the effective date of this Agreement. The DPD shall implement the policy within three months of the DOJ's review and approval. Thereafter, the policy shall be reviewed and approved in writing by qualified medical and mental health professionals at least annually and prior to any revisions to the program. At a minimum, the policy shall:

- a. indicate when the DPD shall convey prisoners taking prescription medication to the DRH or other treating hospital for evaluation;*
- b. require the DPD distribute to prisoners only medications that have been prescribed at the DRH or other treating hospitals;*
- c. require that the DPD distribute medications as prescribed and not rely on inmates to identify their need for medication;*
- d. require that all prisoner medications be stored in a secure location near the holding cells and travel with prisoners that are transferred;*
- e. require the DPD to record relevant information regarding the administration of prescription medication on an auditable form;*

- f. require that injected medications are administered as prescribed and in a safe and hygienic manner; and*
- g. require that unused medications prescribed at the DRH or other treating hospitals are provided to prisoners upon their release.*

Comments:

Our previous reviews of DPD Directive 305.5, Detainee Health Care, effective May 9, 2005, determined that it was not in compliance with this paragraph. DPD was unable to provide documentation verifying that the Directives pertaining to prescription medication policies were developed in consultation with, and reviewed annually, by a medical and mental health professional.

During our second reporting period, we met with CRIB staff and reviewed Directives and supplementary documentation required for compliance. CRIB prepared revisions to Directive 305.5, Detainee Healthcare. As a result of that effort, we placed the Department in pending Phase 1 compliance status.

The DPD Directive was subsequently reviewed, updated, and approved by a qualified medical and mental health profession, and issued with an effective date of February 5, 2010. Consequently, we have placed DPD in Phase 1 compliance with this paragraph.

During our two previous quarterly inspections of the five Precincts/Districts with holding cells, we found multiple Medication Logs missing essential detainee and staff information. Detainee dosages, dosing times, and signatures were missing. The names of the persons administering the medications and prescription release information were also missing.

During this reporting period, January 1, through March 31, 2010, our review of 375 detainee file folders again revealed that they continue to be missing essential detainee and staff information. As previously reported, the file folders were also missing multiple Medication Logs.

We found that DPD was not obtaining medications from the pharmacies in a timely manner, resulting in detainees missing their scheduled dosing of medications. Several detainees on medications did not have a Medication Log, which could contribute to medication errors. We also found that documentation of pertinent health information for detainees had been left blank in some of the Logs. In one facility, Shift 1 did not pick up detainee medications from the pharmacy, placing that burden on Shift 2. As a result, several detainees at that facility did not receive their medications according to the physician's orders.

When we asked for the keys to inventory the medication cabinet in the Northeastern District, the PDO/CBS did not know where the keys were, and did not have a second set of keys. It took almost one hour to locate the keys to the cabinet. There is an absence of direction for key control in Directive 305.5-6.3. While there is no requirement that 305.5-6.3 have that type of direction, best practices are such that key control for medication cabinets should be included in the Directive system. In our subsequent inspection of the medication cabinet, we found medications for an individual that was no longer being held in the facility.¹²¹ The District was unable to provide any additional information regarding the detainee, and we did not find a detainee file folder for this person or any documentation of the person's release.

¹²¹ These medications included Amlodipine Besylate (blood pressure medication), Gabapentin (anti-seizure medication), and Clonidine HCL (hypertension medications).

In the Southwestern District, we found that the CBS did not follow the established procedure regarding where Medication Logs are to be kept. The CBS placed the Medication Logs directly into the detainee file folders, keeping that information from the centralized Medication Log. This practice can result in dosing errors, particularly if a shift misses recording dosing information on the Platoon Daily Summary. Directive 305.5-6.2 does not state where the Medication Logs should be kept; however best practices dictate that this information should be stated in the policy so that all five facilities with holding cells follow the same procedures. DPD remains out of Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C33

The DPD shall provide appropriate clothing, such as paper gowns or suicide smocks, to all prisoners placed under suicide precautions.

Comments:

Our previous quarterly reviews determined that DPD Policy Directive 305.1, Detainee Intake Assessment, effective May 9, 2005, had not been reviewed and approved on an annual basis by a qualified medical and mental health professional.

During our second reporting period, we met with CRIB staff and reviewed Directive 305.1, as well as the additional documentation required for compliance with this paragraph. A qualified medical and mental health professional completed the annual review, incorporated the necessary revisions, and approved the Directive. The revised 305.1, Detainee Intake Assessment, was issued with an effective date of February 5, 2010. DPD is now in Phase 1 compliance with this paragraph.

During this reporting period, we found that, generally speaking, the detention staff were knowledgeable about their responsibilities and duties in addressing high-risk detainees with mental health issues. However, at one location, a detainee was returned from DRH at 8:00 a.m. and placed on a 15-minute cell check. In our review of the detainee's Mental Health High Risk Log, however, we determined that the detainee had not been checked by PDOs for one-and-one-half hours. This not only placed a detainee at risk for serious harm, but is also a violation of the Directive and this requirement; consequently, we determine DPD to be out of Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C34

The DPD shall remove or make inaccessible all suicide hazards in holding cells including exposed pipes, radiators and overhead bars. DPD does not have a policy regarding this paragraph of the COC CJ.

Comments:

During our first and second quarterly site visits, we conducted comprehensive inspections of each of the five Districts/Precincts with holding cells and the Detroit Receiving Hospital cells. We verified that the DPD was in full compliance with the requirements of this paragraph.

During our most recent inspection of the five Districts/Precincts with holding cells and the Detroit Receiving Hospital cells, we found the DPD in continued Phase 1 and Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 – Implementation
26	Prisoners' medical/mental health conditions	In Compliance	Not in Compliance
27	Medical/mental health screening program	In Compliance	In Compliance
28	Medical/mental health screening procedures	In Compliance	Not in Compliance
29	Medical protocols	In Compliance	Not in Compliance
30	Infectious disease policy required	In Compliance	Not in Compliance
31	Prisoner health information protocol required	In Compliance	Not in Compliance
32	Prescription medication policy required	In Compliance	Not in Compliance
33	Clothing-suicide prevention	In Compliance	Not in Compliance
34	Removal of suicide hazards	In Compliance	In Compliance

VI. PRISONER SAFETY POLICIES**CJ Requirement C35**

The DPD shall ensure a reasonable level of safety of staff and prisoners through the use of appropriate security administration procedures.

Comments:

In both our First and Second Quarterly Reports, we found the DPD in Phase 1, but not Phase 2, compliance with this paragraph.

DPD Directive 305.4, Holding Cell Areas, effective February 1, 2008, addresses policy requirements relating to the safety of staff and prisoners/detainees. The Directive is supplemented by related DPD Directives 305.1, Detainee Intake; 305.2, Detainee Registration; 305.3, Detainee Personal Property; 305.5, Detainee Health Care; 305.7, Transportation of Detainees, all effective May 9, 2005; and 305.8, Detainee Food Service and Hygiene, effective February 9, 2006.

Our review finds these Directives in compliance with the requirements of this CJ paragraph. As noted above, the DPD is in Phase 1 compliance. However, the DPD has not yet achieved effective implementation of the policy requirements due to staff and inmate safety measures that do not meet the required threshold as further articulated in C36, C37, and C38.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C36

The DPD shall develop and implement a prisoner security screening program for all buildings containing holding cells. At a minimum, the program shall:

- a. establish protocols based upon objective, behavior-based criteria for identifying suspected crime partners, vulnerable, assaultive or special management prisoners who should be housed in observation cells or single-occupancy cells; and*
- b. require that security screening information is documented and communicated between consecutive shifts.*

Comments:

In both our First and Second Quarterly Reports, we found the DPD in Phase 1, but not Phase 2, compliance with this paragraph. The DPD has still not achieved full compliance during this reporting period.

DPD Directive 305.1, Detainee Intake, effective May 9, 2005, sets forth a prisoner security screening program that meets the requirements of this paragraph; however our review of associated Logs revealed significant discrepancies. The DPD designed and implemented the Platoon Daily Detainee Summary (Form 659a) to ensure the effective communication of screening information between consecutive shifts. Our review of these forms from each of the five Districts/Precincts for this reporting period noted an improvement over our previous findings. However, we find the DPD not in Phase 2 compliance due to the oncoming shifts' failure to document receipt for the forms appropriately.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C37

The DPD shall develop and implement procedures for the performance, documentation and review of routine cell checks in all holding cells to ensure safe housing. At a minimum, the procedures should:

- a. require that cell checks on the general population are performed at least twice per hour and that cell checks of prisoners in observation cells and DRH holding cells are performed every 15 minutes, unless constant supervision is required; and*

- b. require detention officers to document relevant information regarding the performance of cell checks in an auditable log.*

Comments:

In both our First and Second Quarterly Reports, we found the DPD in Phase 1 compliance with this paragraph. In the first reporting period, we found the DPD in pending Phase 2 compliance; in our second reporting period, we found the DPD not in Phase 2 compliance.

DPD Directive 305.4, Holding Cell Areas, Sections 4.2 and 4.3, effective February 1, 2008, establishes the duties of the Cell Block Supervisors (CBS) and Detention Officers relating to well-being checks. Supervisors are required to walk through the holding cell areas four times per shift to check on the well-being of the detainees. These inspections are documented in the Desk Blotter. Detention Officers are required to make similar visual checks every 30 minutes (or every 15 minutes for high risk detainees). Their observations are documented on the Detention Cell Check Log (DPD 659).

At the Detroit Receiving Hospital, 15-minute well-being checks are entered on the DPD 659 form when holding cells are occupied. General population well-being checks are entered on the DPD 659 Form every 30 minutes at the Districts/Precincts. Detainees held in observation cells are monitored every 15 minutes on either the DPD 661 (Mental Health High Risk Monitoring Log) or the DPD 661a (Medical Health High Risk Monitoring Log).

Our review of DPD 659 Forms for the period of January 1, through March 31, 2010 reflected a 94% compliance rate. This compares to 98.8% during the last quarter. The decrease is attributed to the failure of a supervisor to sign/initial for his/her required checks.

The Mental Health High Risk Log (DPD 661) is used when a detainee is placed in an observation cell for mental health reasons, and a 15-minute watch is maintained. Even if a detainee is under constant supervision (which we have seen only once), notations are made on the Log every 15 minutes. Forms were submitted on a total of 52 cases for the period of January 1, through March 31, 2010. While the 15-minute entries were made, the date, time, and reason for removal from the cell were recorded in only 22 of the 52 cases, resulting in a 42.3% compliance rate. The reason for the watch in 25 of the 52 cases was suicide-related – a past history, attempts, or current ideations – yet none of them resulted in a constant watch. Even though DPD policy (Directive 305.1-7.4, effective May 9, 2006) calls for a constant watch on a suicidal detainee, actual practice is a 15-minute watch.

The Medical Health High Risk Log (DPD 661a) is used when a detainee is placed in an observation cell for medical reasons, and a 15-minute watch is maintained. Forms were submitted on a total of 12 cases, all during the month of March, 2010. There were no forms submitted for January, or February, 2010 from any of the Districts/Precincts. Documentation was missing in six of the cases to reflect the name of the Officer in Charge authorizing the watch or the date, time, and reason for the individual's removal from the watch. This results in a 50% compliance rate.

It should be noted that DPD staff continue to use the 661 and 661a forms interchangeably, even to the point of using both forms on one detainee throughout the duration of his watch. The DPD is in the process of developing one form that will replace the 661 and 661a documents. This should help to alleviate some of the confusion.

Of special concern during our inspection was our firsthand observation of fictitious 15-minute well-being checks on two detainees held in observation cells at two Districts/Precincts. In one case, the last entry on the Mental Health High Risk Log (DPD 661) was made at 10:00 hours. Nothing further was posted until 10:50 hours, when the officer made entries for 10:15, 10:30, and 10:45 hours. This appears to be in contradiction with C37b, which requires “detention officers to document relevant information regarding the performance of cellblock checks in an auditable log.”

As was previously reported, the DPD should revise its Directives to reflect current practice so as to maintain Phase 1 compliance. DPD has not achieved Phase 2 compliance due to the significant discrepancies noted on DPD 661 and DPD 661a forms.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C38

The DPD shall record in a written policy and implement a procedure that requires detention officers to provide continual direct or on site remote observation of all observation cells while they are occupied.

Comments:

In both our First and Second Quarterly Reports, we found the DPD in Phase 1, but not Phase 2, compliance with this paragraph. That status continues for the current reporting period.

DPD Directive 305.4, Holding Cell Areas, Section 4.3, effective February 1, 2008, is in compliance with the requirements relating to direct and/or onsite remote observation of occupied observation cells. However, Directive 305.1-3.8, effective May 9, 2005, specifies that constant supervision is required when a detoxification/safety cell (observation cell) is used to house a suicidal detainee. Directives 305.1-3.16 authorize the use of any single cell as an observation cell to house a suicidal detainee, and it requires constant supervision.

As previously noted, the DPD continues to be out of compliance with its own policies in that detainees on suicide watches are not placed on constant supervision. None of the DPD 661 Forms we reviewed during this reporting period reflected “constant supervision”; instead, the 15-minute watch block was checked. In addition, the matter of general population detainees being housed in observation (detoxification/safety) cells is still unresolved. As we noted in our Second Quarterly Report, DPD policy does not provide for such use of those cells; therefore, modification of Directive 305.1 is required. Until such time as these two issues are resolved, we will continue to find the DPD out of compliance with regard to practice.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 – Implementation
35	Security procedures to assure safety	In Compliance	Not in Compliance

36	Prisoner security screening program	In Compliance	Not in Compliance
37	Procedures for cell checks required	In Compliance	Not in Compliance
38	On-site remove observation of cells	In Compliance	Not in Compliance

VII. ENVIRONMENTAL HEALTH AND SAFETY POLICIES

CJ Requirement C39

The DPD shall ensure that all holding cells are cleaned immediately and thereafter are maintained in a clean and sanitary manner.

Comments:

In both our First and Second Quarterly Reports, we found the DPD in Phase 1, but not Phase 2, compliance with this paragraph.

DPD Directive 305.4, Holding Cell Areas, Section 5, effective February 1, 2008, establishes sanitation and cleaning procedures for the District/Precinct holding cells. In our last report, we provided a list of positive observations from our inspection of the Twelfth Precinct for the other Districts/Precincts to use as a benchmark. It is obvious that the Twelfth Precinct has invested a great deal of time and effort into raising the bar in this area. Cells were painted and the buildup of wax and dirt on floors was scraped clean. All of the security camera lenses and HVAC vents were free of toilet paper and toothpaste blockage. However, although the stainless steel toilet/sink units were cleaner than previously noted, they are still not uniformly cleaned within and between facilities. Further, the Twelfth Precinct did not improve or even maintain the level of sanitation noted in the last reporting period; rather, it regressed. There was a buildup of dirt on the floors and stainless fixtures that was not apparent previously. Accordingly, DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C40

The DPD shall design and implement a cleaning policy for all holding cells. The policy shall require routine cleaning and supervisory inspection of the holding cells and nearby areas.

Comments:

In both our First and Second Quarterly Reports, we found the DPD in Phase 1, but not Phase 2, compliance with this paragraph. That status continues in this reporting period.

DPD Directive 305.4, Holding Cell Areas, Section 5, effective February 1, 2008, establishes cleaning and inspection standards. Cell Block Supervisors are required to conduct inspections at the beginning of their shifts and to correct any noted discrepancies. Holding cell areas must be cleaned daily and documented in the Holding Cell Cleaning Log (DPD 701). Detention officers must clean cells immediately after they are vacated.

Our review of the DPD 701 Forms for January 1, through March 31, 2010 reflected a compliance rate of 95%, which represents a decrease from the last quarter's 98% figure, but still >94%.

Sanitation appears to be satisfactory, on paper, but our inspection revealed that conditions, while improved, are still unacceptable. Representative problems included the following:

- No soap dispenser or broken soap dispenser at the staff counter and sink in the processing area.
- Debris on the floor and between equipment and furniture in the medical supplies rooms and supervisors' offices.
- A buildup of crusted dirt in stainless steel toilet fixtures that has accumulated over a lengthy time (weeks or months, not days).

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C41

The DPD shall design and implement a maintenance policy for all holding cells that requires timely performance of routine maintenance and the documentation of all maintenance requests and responses in an auditable log.

Comments:

In both our First and Second Quarterly Reports, we found the DPD in Phase 1, but not Phase 2, compliance with this paragraph. There is no change for this reporting period.

DPD Directive 305.4, Holding Cell Areas, Section 6.6, effective February 1, 2008, establishes procedures for the maintenance of the holding cells. The Cell Block Supervisor is responsible for conducting a weekly maintenance inspection and for documenting discrepancies in the Holding Cell Maintenance Log (DPD 702). Repair orders are required to be submitted by e-mail to the Maintenance Department.

Our review of DPD 702 Forms (Weekly Cell Maintenance Log) showed a 72.9% compliance rate. While the percentage is up from the 61.1% recorded during the last quarter, it still reflects the lack of utility of the form. This is exemplified by examining the status of cameras throughout the holding cells. During our inspection, we found the following conditions, but noted that they were not reflected in the relevant DPD 702 Logs:

- Twelfth Precinct: The video system was locked out. No cameras functioned. Staff were unsure how long the system had been down.
- Sixth Precinct: One of the two observation cell cameras was unusable; it projected a completely black image. Records did not reflect how long the camera was out of commission.
- Southwest District: All cameras functioned properly.
- Eastern District: Only one camera functioned. According to staff, the rest of the cameras have not functioned for one-and-one-half to two years.
- Northeast District: Three out of 26 cameras did not work. It took the Cell Block Supervisor ten minutes to turn the Line View System on so that it could be used. When questioned, he acknowledged that he never uses the cameras.

CRIB staff indicated that they are attempting to develop a meaningful maintenance tracking system. The Northeast District completes a monthly Building Assessment Report. Although it is not sanctioned by the DPD, it has far greater practical value than the DPD 702 Log. It may serve as a starting point for the creation of a useful maintenance tracking system.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C42

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

Comments:

We found the DPD in full Phase 1 and Phase 2 compliance with this paragraph in both our First and Second Quarterly Reports. The Department remains in full compliance for this reporting period.

DPD Directive 305.4, Holding Cell Areas, Section 6.6, effective February 1, 2008, established policy regarding heating and ventilation (temperature ranges) within the holding cells. During our inspection of the facilities, we found the temperature in each cell block well within established limits (between 66 and 80 degrees). Our interviews with Cell Block Supervisors revealed that they checked the temperature upon assuming the shift. Three of the five CBSs enter the temperature reading into their electronic blotter to memorialize the information. Based on our review of the above-referenced Directive and our observations of practice, the DPD is in full compliance with the requirements of this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C43

The DPD shall repair all broken or malfunctioning lighting, toilets, sinks and windows in holding cells and observation cells.

Comments:

In both our First and Second Quarterly Reports, we found the DPD in Phase 1, but not Phase 2, compliance with this paragraph.

DPD Directive 305.4, Holding Cell Areas, Section 6.6, effective February 1, 2008, sets forth Departmental policy with regard to the repairs as required. As we discussed in C41, the DPD has developed no effective maintenance/repair tracking system. Accordingly, while the DPD remains in Phase 1 compliance, Phase 2 compliance is dependent upon the implementation of an effective maintenance tracking system.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C44

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

Comments:

We found DPD in full compliance with regard to policy and practice in both our First and Second Quarterly Reports.

We conducted an inspection of the various District/Precinct holding cells, and found that supplemental lighting has been retrofitted at each location. The DPD Facilities Management Staff conducted light level tests between October 5-30, 2009 in the five Districts/Precincts with holding cells, and at the DRH. In each case, the light levels in the cells and adjacent areas exceeded 20-foot candles at desk level. The DPD is in continued full compliance with the requirements of this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C45

The DPD shall provide all prisoners with reasonable access to toilets and potable water 24 hours-a-day.

Comments:

We found the DPD in full compliance with regard to policy and practice in both our First and Second Quarterly Reports.

Directive 305.4, Holding Cell Areas, Section 7, effective February 1, 2008, requires that detainees have access to toilets and potable drinking water 24 hours per day. Our inspection of the District/Precinct holding cells determined that all prisoners had access to toilets and potable water at all times. Based on the published Directive and our observed conditions of the physical plant in the District/Precinct holding cells, the DPD is in full compliance with the requirements of this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C46

The DPD shall ensure that all Hepa-Aire purifiers comply with the Michigan Occupational Safety and Health Agency standards.

Comments:

We found the DPD in full compliance with regard to policy and practice in both our First and Second Quarterly Reports.

The DPD staff advised, and our inspections of the District/Precinct holding cells confirmed, the removal of all Hepa-Aire purifiers. The DPD is in full compliance with the requirements of this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 – Implementation
39	Clean and maintain holding cells	In Compliance	Not in Compliance
40	Holding cell cleaning policy required	In Compliance	Not in Compliance
41	Holding cell maintenance policy required	In Compliance	Not in Compliance
42	Provide adequate heating and ventilation	In Compliance	In Compliance
43	Repair broken/malfunctioning cell elements	In Compliance	Not in Compliance
44	Insure sufficient cell lighting	In Compliance	In Compliance
45	Provide reasonable access to toilets and water	In Compliance	In Compliance
46	Hepa-Aire Purifiers comply with standards	In Compliance	In Compliance

VIII. POLICIES CONCERNING PERSONS WITH DISABILITIES**CJ Requirement C47**

The DPD shall ensure that persons with disabilities are provided with reasonable accommodations

Comments:

The DPD developed a Comprehensive Medical and Mental Health Screening Program (CMMHSP), effective May 9, 2005. Policy 305.1, Detainee Intake and Assessment and Policy 305.5, Detainee Health Care, were updated and approved in writing by a qualified medical/mental health professional on February 5, 2010.

In both our First and Second Quarterly Reports, we found the DPD in Phase 1 compliance with this paragraph. There is no change for this reporting period.

According to the above-referenced policies, detainees who require the use of a wheelchair are to be transported and housed at the Northeastern District. The Northeastern District is equipped with two commodes that are compliant with the Americans with Disabilities Act (ADA). During our onsite assessment, we interviewed staff at all five Districts regarding detainees who required the use of a wheelchair. The holding cell staff were aware of the Directives and procedures relating to the transfer of all detainees in need of wheelchair accessibility to the Northeastern District.

We inspected the Northeastern District to assess compliance with the requirements relating to persons with disabilities. Our inspection of the two cells that have been equipped and designated for the holding of persons with disabilities found that the cells were clean, properly equipped, and in good working order. During our visit, there were no detainees who required the use of a wheelchair who were currently housed in the facility.

We also inspected all five Districts and Precincts with holdings cells and found that they all had Telecommunications Device for the Deaf (TDD) equipment. Our previous inspections found the DPD in compliance with Directives prescribing the use of the TDD equipment; however our findings during this visit differed. We interviewed one of the Cell Block Supervisors regarding the TDD equipment, and found that he was not aware that the District had the device until he asked one of his officers. Furthermore, the staff at four of the five Districts/Precincts were unable to make the equipment function. At the fifth location, there was one officer who knew how to operate the equipment, but the rest of the staff were unfamiliar with it. It is obvious that TDD equipment is not being consistently and appropriately used to assist detainees who are hearing impaired. Accordingly, the DPD must rectify this shortcoming within the next reporting period in order to avoid a non-compliant finding.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C48

The DPD shall develop and implement a policy concerning the detention of individuals with disabilities in consultation with qualified medical and mental health professionals. The policy shall be approved in writing by qualified medical and mental health professionals. Thereafter, the program shall be reviewed and approved in writing by qualified medical and mental health professionals at least every year and prior to any revisions to the program.

Comments:

We found the DPD in full compliance in both our First and Second Quarterly Reports. DPD Directive 305.1, Detainee Intake/Assessment, effective May 9, 2005 and revised July 15, 2009, was developed in consultation with a qualified medical and mental health professional from the Detroit Department of Health and Wellness Promotion (DHWP). The policy was last reviewed and approved, effective February 5, 2010. The DPD continues to be in Phase 1 compliance with this requirement.

During our inspection for this quarter, we visited the five Districts/Precincts with holding cells and found a number of disparities between practice and policy regarding the TDD equipment. Accordingly, the DPD must rectify these disparities within the next reporting period in order to avoid a non-compliant finding. (See CJ47)

Compliance Status:

Phase 1: In Compliance

Phase 2: Not In Compliance

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

IX. FOOD SERVICE POLICIES

CJ Requirement C49

The DPD shall ensure food is stored and served in a sanitary manner and in compliance with state and local health codes.

Comments:

DPD Directive 305.8, Detainee Food Service, effective May 9, 2005, requires that detainee meals are stored properly and served in a sanitary manner in accordance with state and local health codes. This Directive was developed in consultation with a dietician and sanitation specialist from the Detroit Department of Health and Wellness Promotion (DHWP). The policy was last reviewed and signed by DHWP on February 4, 2009. We found no documentation yet of a 2010 annual review of this Directive by a registered dietician and sanitation specialist from the DHWP. Accordingly, the DPD must insure the required review is completed during the next reporting period to avoid a non compliance finding.

We visited and inspected the five holding cell area sites, and found the refrigerators adequate to ensure safe storage of food products. Our review of the Refrigeration Log 655 found 98.2% compliance. This compares to the 98% compliance rate in our Second Quarterly Report.

Additionally, we observed the distribution of food to detainees at three of the Precincts/Districts. The Police Detention Officers (PDOs)' distribution demonstrated that the meal services delivery was in compliance with the requirement of this paragraph and DPD Directives.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C50

The DPD shall develop and implement a food service policy that shall be approved in writing by a qualified sanitarian. At a minimum, the food service policy shall:

- a. require that the meal plan is initially approved in writing by a qualified dietician and , hereafter, is reviewed and approved in writing by a qualified dietician at least every year, or prior to any revisions to the program;*
- b. require that all food is stored and handled in a sanitary manner;*
- c. ensure that all prisoners are provided with an alternative meal if they are unable to eat the standard meal for religious or dietary reasons; and*
- d. ensure that food service is provided to all prisoners who are held over six hours.*

Comments:

In our First Quarterly Report, we found the DPD in compliance with regard to DPD Directive 305.8, Detainee Food Service and Hygiene Items, effective May 9, 2005. The DPD is required to provide us with documentation that a registered dietician and sanitation specialist from the Detroit Department of Health and Wellness Promotion (DHWP) has completed an annual review and approved Directive 305.8. We found no documentation of a 2010 annual review of this Directive as required. Accordingly, the DPD must insure the required review is completed during the next reporting period to avoid a non compliance finding.

We reviewed Detainee Meal and Hygiene Items DPD Logs (663) for each of the Precincts/Districts for this reporting period. The DPD achieved 98% compliance with this requirement, compared to 100% last quarter. The Logs were submitted for the entire reporting period for each District/Precinct, and were completed fully with only 2% of required signatures not in place. It should be noted, however, that some forms were pre-printed with an “S” for “Standard Meal” in each block, even in those that were left blank.

Additionally, we reviewed DPD Log 655, Refrigeration Log. The DPD achieved 98.2% compliance with this requirement, compared to 98% last quarter.

During our quarterly site visit, we inspected all five Precincts/Districts refrigerators to make sure that food was stored properly. The refrigerator temperatures and expiration dates on the food was acceptable. We also observed several of the Districts/Precincts PDOs distributing food to detainees, and found that this was completed in a sanitary manner. The DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 – Implementation
49	Ensure sanitary food storage and service	In Compliance	In Compliance
50	Food service policies and practices	In Compliance	In Compliance

X. PERSONAL HYGIENE POLICIES***CJ Requirement C51***

The DPD shall ensure that personal hygiene items should include; soap, toothbrushes, toothpaste, toilet paper, a comb, deodorant, and feminine hygiene products. The DPD shall implement this provision within one month of effective date of this Agreement.

Comments:

We found the DPD in full compliance with this requirement in both our First and Second Quarterly Reports. The Department maintains that status. DPD Directive 305.8, Detainee Food Service and Hygiene Items, effective May 9, 2005, is in compliance with the requirements of this paragraph. In addition, the DPD developed and uses the Daily Detainee Meal and Hygiene Items Log (DPD 663) to document that hygiene items are provided to each detainee on a daily basis.

Our review of the Detainee Meal and Hygiene Logs from each of the Districts/Precincts with holding cells found 98% compliance for this reporting period, compared to 100% last quarter.

The Logs were fully completed with the required signatures in place. During our visit, we also observed Police Detention Officers distributing Hygiene Kits to detainees during meal service. Additionally, we observed in one of the Districts, a PDO asking detainees if they were in need of hygiene items. We find DPD in full Phase 2 compliance with this paragraph for this reporting period.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 – Implementation
51	Make available personal hygiene items	In Compliance	In Compliance

XI. USE OF FORCE AND RESTRAINTS POLICIES

CJ Requirement C52

The DPD shall require that any use of force on prisoners in holding cells complies with the DPD's use of force policies and procedures.

Comments:

We found the DPD in Phase 1 compliance in our First and Second Quarterly Reports; however, we found the DPD in deferred Phase 2 compliance in our First Quarterly Report and not in compliance in our Second Quarterly Report.

DPD Directives 305.4, Holding Cell Areas, Section 6.2, effective February 1, 2008, and 304.2, Use of Force, effective June 27, 2006, set forth the required use of force guidance.

We reviewed eight use of force events that occurred (or, the investigation of the event was completed) during this reporting period: one in the Detroit Receiving Hospital; one in the Eastern District; three in the Twelfth Precinct; and four in the Northeast District. Our analysis revealed two instances of questionable uses of force. The investigator requested the video, but never viewed it. Nonetheless the relevant officer was exonerated of any wrongdoing.

It is noteworthy that video was reviewed in only one of the eight cases. Of the seven other cases, investigators requested, but did not review video in three, and did not request or review in four. This failure to follow procedure makes it impossible to determine whether appropriate force was used. Accordingly, DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C53

The DPD shall revise and augment its policies regarding prisoners to require that:

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

Comments:

We found the DPD in Phase 1 compliance in our First and Second Quarterly Reports; however, we found the DPD in deferred Phase 2 compliance status during the first reporting period, and not in Phase 2 compliance during the second reporting period.

DPD Directive 305.4, Holding Cell Areas, Sections 6.2 and 6.3, effective February 1, 2008, establishes the required procedures for this paragraph. All Districts/Precincts that maintain holding cells are equipped with videotaping/digital recording equipment that is linked to an extensive camera system that monitors hallways and common areas as well as most, but not all, cells. Our interviews with detention staff during our initial inspection of District/Precinct holding cells revealed that there are no handheld video cameras to record a planned use of force in a cell. Staff explained that such incidents happened so infrequently that the procurement and maintenance of handheld video equipment was not warranted. However, during subsequent meetings with detention staff, we learned of DPD's plans to purchase handheld video equipment for the Districts/Precincts. We will report on the acquisition of this equipment when it occurs.

As was noted above (see C52), supervisors do not take advantage of existing fixed cameras when conducting an investigation. Accordingly, DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C54

The DPD shall not handcuff prisoners to benches for longer periods of time than are necessary.

Comments:

We found the DPD in Phase 1 compliance in our First and Second Quarterly Reports. We found the DPD in deferred Phase 2 compliance status during the first reporting period, and in Phase 2 compliance during the second reporting period.

DPD Directive 305.4, Holding Cell Areas, Section 6.1, effective February 1, 2008, provides that detainees will not be handcuffed to benches or fixed objects longer than is necessary (no longer than three hours). There are no records or Logs available to assist us in these compliance determinations; however, we observed no detainees handcuffed to fixed objects during any of our inspections of the holding cells. Three of the five Cell Block Supervisors we interviewed stated that detainees are never handcuffed to fixed objects in their Districts/Precincts. The remaining two CBSs adhere to the three-hour rule. The DPD is in full Phase 2 compliance with the requirements of this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 – Implementation
52	Use of force policies	In Compliance	Not in Compliance
53	Revise policy re use of force with prisoners	In Compliance	Not in Compliance
54	Handcuffing of prisoners to benches	In Compliance	In Compliance

XII. INCIDENT DOCUMENTATION, INVESTIGATION AND REVIEW

CJ Requirement C55

The DPD shall require that all uses of force, injuries to prisoners and in-custody deaths occurring in the DPD holding cells are investigated in compliance with the DPD's general incident investigation policies.

Comments:

We found the DPD in Phase 1 compliance and out of Phase 2 compliance in both our First and Second Quarterly Reports.

DPD Directive 305.4, Holding Cell Areas, Section 6.6, effective February 1, 2008, requires the appropriate thorough investigation of all uses of force, injuries to detainees, and in-custody deaths that occur in holding cells. We reviewed eight use of force and two detainee injury reports that occurred (or the investigation of the event was completed) during this reporting period. In addition to the use of force events listed above (see C52), two detainee injuries occurred at the Northeast District during this reporting period.

We found that the investigative packages were more thorough and complete than previous submissions, but that the discrepancies and omissions are still significant. They include the following:

- No signature by a supervisor.
- No supervisory review above the rank of lieutenant.
- No video requested, in five of ten cases.
- No video reviewed, in nine of ten cases.
- No photographs taken.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C56

The DPD shall require that all uses of force occurring in the DPD holding cells are reported and investigated in compliance with the DPD's use of force investigation policies.

Comments:

We found the DPD in Phase 1 compliance in our First and Second Quarterly Reports; however, we found the DPD in deferred compliance status during the first reporting period, and not in compliance during the second reporting period.

DPD Directive 305.4, Holding Cell Areas, Section 6.2, effective February 1, 2008, requires the reporting of all uses of force. Accordingly, the DPD is in Phase 1 compliance with this paragraph. However, the DPD has still not implemented this practice. (See C55.)

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C57

The DPD shall require that all injuries to prisoners occurring in DPD holding cells are reported and investigated in compliance with the DPD's prisoner injury investigation policies.

Comments:

We found the DPD in Phase 1, but not Phase 2, compliance in both our First and Second Quarterly Reports.

DPD Directive 305.4, Holding Cell Areas, Section 6.2, effective February 1, 2008, requires the reporting and investigation of all injuries. We reviewed two detainee injury events (suicide attempts) that occurred (or the investigation of the event was completed) during this reporting period. Both were in the Northeastern District. The problems we noted in C52, above, apply to these cases. No video was reviewed in either instance. In one case, the investigator requested video, but did not view it. This represents a violation of DPD Directive 305.4-6.5, Holding Cell Video Cameras, paragraph 2 (effective February 1, 2008), which states, "Supervisors are to review all incidents involving injuries to detainees or a member, uses of force and external complaints."

In another case, a supervisor and officer responded to a cell after being informed by detainees that a man was attempting to commit suicide by hanging himself from the bars. Neither officer had a key to the cell, so they had to wait for a third officer to respond so that they could enter the cell to assist the detainee. Once he was lifted down, he was moved to an observation. Our review of the file shows no record of him being placed on a constant supervision watch as DPD Directive 305.1-7.4 requires for a suicidal detainee, nor was a DPD 661 (Mental Health High Risk Log) initiated. Further, the DPD 659 form (Detention Cell Check Log) has no entry reflecting the suicide attempt. In fact, the only entries at the time of the incident are "OK."

The DPD remains out of Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 – Implementation
55	Use of force investigations	In Compliance	Not in Compliance
56	Use of force investigations	In Compliance	Not in Compliance
57	Injury to prisoner investigations	In Compliance	Not in Compliance

XIII. EXTERNAL COMPLAINTS***CJ Requirement C58***

The DPD shall ensure that it accepts and processes all external complaints regarding incidents occurring in holding cells consistent with the DPD's external complaint policies.

Comments:

We found the DPD in Phase 1 and Phase 2 compliance in both our First and Second Quarterly Reports.

DPD Directives 305.4, Holding Cell Areas, Section 6.2, effective February 1, 2008, and 102.6, Citizen Complaints, effective July 1, 2008, require the acceptance and processing of external complaints regarding incidents occurring in the holding cells. There were no external complaints received regarding incidents occurring in holding cells for this reporting period; therefore, the DPD is in continued full compliance with the requirements of this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C59

The DPD shall ensure that all external complaints it receives regarding incidents occurring in holding cells are investigated and reviewed consistent with the DPD's policies concerning external complaint investigations and review.

Comments:

We found the DPD in Phase 1 compliance in our First and Second Quarterly Reports; however, we found the DPD in Phase 2 compliance during the first reporting period, but not so during the second reporting period.

DPD Directives 305.4, Holding Cell Areas, Section 6.2, effective February 1, 2008, and 102.6, Citizen Complaints, effective July 1, 2008, require the investigation and review of all external complaints regarding incidents occurring in the holding cells. There were no external complaints received regarding incidents occurring in holding cells for this reporting period, therefore, the DPD is in continued non-compliance with this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
58	Receipt of external complaints	In Compliance	In Compliance
59	Investigation of external complaints	In Compliance	Not in Compliance

XIV. GENERAL POLICIES

CJ Requirement C60

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

Comments:

We found the DPD in both Phase 1 and Phase 2 compliance in both our First and Second Quarterly Reports. That status continues in this reporting period.

DPD Directive 404.1, Definitions, effective July 1, 2008 clearly explains frequently used terms, as required. The DPD has incorporated these terms in various Directives and other official documents throughout the term of this Agreement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C61

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

Comments:

We found the DPD in full compliance with regard to policy and practice in our First and Second Quarterly Reports.

DPD Directive 101.1 Written Directive System, effective July 1, 2008, sets forth the procedure for developing, publishing, distributing, and updating policy and procedures within the DPD. The Directive does not contain provisions for public input on proposed policy revisions. However, our review of the DPD website revealed that a system/format is in place for the public to comment on proposed/updated policies. Although at the time of our review, no proposed policies were posted for review, and no public commentary was noted, the website does provide a means for the public to do so. The DPD is in continued compliance with the requirements of this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

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

XV. MANAGEMENT AND SUPERVISION

CJ Requirement C62

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

Comments:

Our previous review of Directive 305.4, Holding Cell Areas, effective May 9, 2005, found that it comports with this requirement; consequently, we found DPD in Phase 1 compliance with this requirement. We also found the Department in Phase 2 compliance.

The Directive requires that DPD conduct monthly inspections to evaluate the operations of each District/Precinct (that has holding cells) and the DRH. The CRIB Audit Team staff conducts these inspections. During second quarterly review, we found that the appropriate evaluations were completed 100% of the time in all of the affected facilities, except for the DRH. As a result, we found the Department in Phase 2 compliance.

For this reporting period, we did not receive DPD 715 Forms for the evaluation of the operation of holding cells for our review. Accordingly, we were unable to determine compliance for this report. The DPD must insure the required DPD #715 Forms are provided for review during the next reporting period to avoid a non-compliance Phase 2 finding.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C63

The DPD shall operate the holding cells in compliance with DPD's comprehensive risk management plan including implementation of:

- a) the risk management database;*
- b) the performance evaluation system;*
- c) the auditing protocol;*
- d) regular and periodic review of all DPD policies; and regular meetings of the DPD management to share information and evaluate patterns of conduct by DPD that potentially increase the DPD's liability.*

Comments:

During our first and second quarterly compliance assessments, we determined that the DPD conducted the required audits consistent with standards articulated in the DPD 2008-2009 Audit

Protocol issued in August, 2008; and with the Generally Accepted Government Auditing Standards (GAGAS). We also reviewed the DPD Manual on Policies, which was written to address the requirements of the COC CJ paragraphs 14-72, and found that it needed additional work. We were unable to find the required documentation that Directives were being updated on an annual basis.

During this assessment, we met with the CRIB staff members who are responsible for the issues relating to C63. They advised us that there was no comprehensive risk management system in place that covered the operation of holding cells. The Management Awareness Systems (MAS) does not currently address risk management related to holding cell operations; it does include information related to DPD staff assigned to this area. (See U78-90 above.)

We also assessed the Audit Protocol issued in August, 2008, and the Generally Accepted Government Auditing Standards (GAGAS). We determined that they were reviewed, updated, and approved, effective February 5, 2010. Additionally, we found that Directive 305.1, Detainee Intake Assessment; Directive 305.5, Detainee Health Care; and Directive 403.2, Infectious Disease Control Plan; have all been reviewed, updated, and approved by a qualified medical and mental health professional, effective February 5, 2010. The revision and update for the three Directives addresses the use of the Livescan system in the detainee intake and assessment process.

The initiatives described above indicate that the DPD is taking steps forward to address the shortcomings noted in our previous reports, but these are inadequate to prompt a change in compliance status. We find DPD out of Phase 1 and Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: Not in Compliance

Phase 2: Not in Compliance

CJ Requirement C64

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

- a. the installation and continuous operations of video cameras in all processing areas of the DPD holding cells within one year of the effective date of this Agreement;*
- b. supervisors to review videotapes of all incidents involving injuries to a prisoner or an officer, uses of force and external complaints;*
- c. that the DPD retain and preserve videotapes for at least 90 days, or as long as necessary for incidents to be fully investigated; and*
- d. that the DPD conduct and document periodic random reviews of prisoners processing area camera videotapes for training and integrity purposes and conduct periodic random surveys of prisoners processing area video recording equipment to confirm that it is in proper working order.*

Comments:

During our previous inspections of holding cells, we found that the DPD was in Phase 1 compliance, but not yet in Phase 2 compliance, with this paragraph. We observed the operation

of video cameras in all processing areas. However, DPD did not provide us with documentation to confirm that video cameras were in continuous operation in all holding cell areas.

During our second quarterly inspection, we found operational cameras in all holding cells and evidence indicating the supervisory reviews of videotapes, but only when a use of force incident occurs; supervisors do not conduct random reviews of the videotapes, as required by this paragraph.

Cameras were operational in the processing areas of each District/Precinct, but at the Eastern District, we noted that 15 of the 19 cameras were not functioning. Staff advised us that these cameras have been out of order for several months; one camera has been off-line for over a year.

During this reporting period, we reviewed DPD Form 702 (Weekly Cell Maintenance Log). We received 19 out of the 70 Logs required per reporting period, resulting in a 72.9% compliance rate. (See CJ41.)

We also inspected the facilities, and found discrepancies between what we viewed and what was listed in the Logs. The Logs did not note that the cameras were not functioning. We found that in the Twelfth Precinct, the video cameras did not function; staff advised us that they were unsure how long the system had been down. In the Sixth Precinct, one of the two observation cell cameras was unusable due to a completely black image. The DPD records did not reflect how long this camera has been out of commission.

We reviewed eight use of force events during this reporting period. Our analysis revealed there was one case of excessive force, as confirmed by video, and one case of questionable use of force. Investigators reviewed video in only one of the eight cases. Of the other seven cases, video was requested but not reviewed in three cases, and it was not requested nor reviewed in four cases. (See C41, 52-59.)

DPD remains out of Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C65

The DPD shall conduct regularly scheduled semiannual audits, covering all DPD units and commands that investigate uses of force, injuries to prisoners and allegations of misconduct in holding cells, including;

- a. reviewing a statistically valid sample of command, IAD, and Homicide Section investigations;*
- b. evaluating whether the actions of the officer and the subject were captured correctly in the investigative report;*
- c. evaluating the preservation and analysis of the evidence;*
- d. examining whether there is consistency in use of force and injured prisoner investigations throughout the DPD;*

- e. *evaluating the appropriateness of the investigator's conclusions; and*
- f. *issuing a written report regarding the findings of the audit.*¹²²

Comments:

During our initial review for our First Quarterly Report we found that the DPD developed an Audit Protocol in accordance with the requirements of U92. The Protocol, effective August 31, 2008, establishes an audit schedule; describes the audit terms; specifies the roles and responsibilities of Audit Team members; describes the various audits, including the one required by this paragraph; and describes the reports that are to be conducted and produced.¹²³

The CRIB Audit Protocol that was issued in August, 2008, using the Generally Accepted Government Auditing Standards (GAGAS), was reviewed, updated, and approved, effective February 5, 2010. DPD remains in Phase 1 compliance with this paragraph.

The OCR Audit Team conducted the required Combined Uses of Force Investigations Audit for the period ending July 31, 2009. We found the audit to be a comprehensive, robust document in which several deficiencies were identified.

The CRIB Audit Team completed a new Combined Uses of Force Investigations Audit for the period ending January 31, 2010. Our review found that the Audit Team conducted a very thorough and comprehensive audit that investigated uses of force, injuries to prisoners, and allegations of misconduct in holding cells. The Audit Team identified several deficiencies and clearly outlined recommendations for corrective action. Accordingly, we find the DPD in full compliance with these requirements.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C66

The DPD shall create a Holding Cell Compliance Committee that is responsible for assuring compliance with requirements of this Agreement. The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate compliance with fire detection, suppression and evacuation program, including:

- a. *testing a sample of smoke detectors and sprinklers;*

¹²² Amended to reflect the below stipulated language contained in the Court Order of April 15, 2009:

The audits required by paragraphs 65 to 71 in this Agreement shall be submitted on a semiannual basis with the first and second semiannual periods ending on January 31 and August 31, 2004. Subsequent semiannual periods shall end on January 31, 2005, and every six months thereafter. Each of these audits may be conducted on an annual rather than a semiannual basis when the Monitor concludes that the most recently submitted audit for the same topic is compliant, and the remaining requirements of this paragraph have been met for the prior audit of that topic. The DPD shall issue all audit reports to the Chief of Police and also provide copies to each precinct or specialized unit commander. The commander of each precinct and specialized unit shall review all audit reports regarding employees under their command and, if appropriate, shall take nondisciplinary corrective action or disciplinary action.

¹²³ The Audit Protocol, effective August 31, 2008, governs the audits discussed in this report; however, a revised Audit Protocol, effective February 5, 2010, will govern the conduct of future audits.

- b. *testing the back-up power systems;*
- c. *reviewing a sample of fire equipment testing and maintenance records; and*
- d. *issuing a written report regarding the findings of the audit.*

Comments:

During our first reporting period, we received documentation that the DPD has established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph. The Audit Protocol, utilizing Generally Accepted Government Auditing Standards (GAGAS), effective August 31, 2008, establishes the procedures governing the conduct of these audits.¹²⁴

During the second quarterly review, CRIB conducted its annual review of the Audit Protocol. The Audit Protocol was reviewed, updated, and approved, effective February 5, 2010. DPD remains in Phase 1 compliance with this paragraph.

We previously reviewed the Fire Safety Practices and Policies audit conducted by the HCCC and the OCR Audit Team for the period ending July 31, 2009. We found it to be a comprehensive, robust document.

The HCCC and the CRIB Audit Team completed the Fire Safety Practices and Policies audit for the period ending January 31, 2010. Overall, the Audit Team determined that the DPD met the requirements of COC CJ paragraphs 14-18 and 20-21, but did not meet the paragraph requirement for COC CJ 19.

During our visits to the various Precincts/District with holding cells during this reporting period, we also separately examined the policies and practices related to the Fire Safety Practices and Policies and reported on our findings in C14-22.

We found the DPD to be in full compliance with the requirements of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C67

The Holding Cell Compliance Committee shall conduct regularly scheduled audits in all buildings containing holdings cells to evaluate emergency preparedness, including;

- a. *reviewing a sample of key and fire equipment maintenance and inventory records; interviewing selected detention officers about their participation in fire drills and on their responsibilities under emergency preparedness program and testing their ability to identify keys necessary to unlock all holding cell doors; and*
- b. *issuing a written report regarding the findings of the audit.*

¹²⁴ The Audit Protocol, effective August 31, 2008, governs the audits discussed in this report; however, a revised Audit Protocol, effective August 31, 2009, will govern the conduct of future audits.

Comments:

During our first reporting period, we received documentation that the DPD has established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph. The Audit Protocol, using Generally Accepted Government Auditing Standards (GAGAS), effective August 31, 2008, establishes the procedures governing the conduct of these audits.¹²⁵

During our second quarterly reporting period, CRIB conducted its annual review of the Audit Protocol. The Audit Protocol was reviewed, updated, and approved, effective February 5, 2010. DPD remains in Phase 1 compliance with this paragraph.

The HCCC and the OCR Audit Team conducted the Comprehensive Emergency Preparedness Program audit for the period ending July 31, 2009. We were unable to determine compliance from the documents available to us for the last report; therefore, we deferred our compliance determination.

During this reporting period, the HCCC and the CRIB Audit Team completed the required Emergency Preparedness Program semi-annual audit for the period ending January 31, 2010. The Audit Teams stated that they have met the requirements for performance and documentation of the requirements of this paragraph, but did not meet the requirements for C24a.

During our visits to the various Precincts/District with holding cells, we also independently examined the policies and practices related to the Comprehensive Emergency Preparedness Program and reported on our findings in C23-25.

At this time, we find the DPD in continued compliance with the requirements of this CJ paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C68

The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate the medical/mental health programs and policies, including:

- a. reviewing a sampling of hospitals referral forms in comparison to prisoner intake forms to evaluate the accuracy of the intake screening and whether appropriate action was taken;*
- b. observing intake screening interviews to assess thoroughness;*
- c. reviewing a sampling of the prescription medication log to ensure that medications were administered as prescribed and that their distribution was accurately recorded; and*
- d. issuing a written report regarding the finding of the audit.*

¹²⁵ The Audit Protocol, effective August 31, 2008, governs the audits discussed in this report; however, a revised Audit Protocol, effective August 31, 2009, will govern the conduct of future audits.

Comments:

During our first reporting period, we received documentation that the DPD developed an Audit Protocol comporting with the requirements of this paragraph. The Protocol, effective August 31, 2008, established an audit schedule; described the audit terms; specified the roles and responsibilities of Audit Team members; described the various audits, including the one required by this paragraph; and described the reports that are to be conducted and produced.¹²⁶

The CRIB Audit Protocol that was issued in August, 2008, along with the Generally Accepted Government Auditing Standards (GAGAS), was reviewed, updated, and approved, effective February 5, 2010. DPD remains in Phase 1 compliance with this paragraph.

The HCCC and the OCR Audit Team conducted an audit on Medical and Mental Health Programs and Policies for the period ending July 31, 2009. We previously reviewed that audit, which we found contained a detailed accounting of the Audit Team's findings.

During this reporting period, the CRIB Audit Team completed its audit of the Medical and Mental Health Program and Policies for the period ending January 31, 2010. This audit was Command-specific and reflected specific deficiencies, with recommendations for corrective action and accountability, at the Command level. We found the Command-specific audits to be thorough in identifying the deficiencies and stating the steps that need to be taken for corrective action.

During our visits to the various Precincts/District with holding cells, we examined the policies and practices related to the Medical and Mental Health Program; as a result of those inspections, we find that DPD remains in full compliance with the requirements of this paragraph.¹²⁷

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C69

The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate detainee safety programs and policies, including;

- a. reviewing a sampling of security screening records, including written supervisory approvals, to ensure that prisoners are being properly screened and housed;*
- b. reviewing a sampling of the cell checks logs to ensure that checks are being accurately and regularly performed and that cell checks logs are receiving supervisory review and written approval; and*
- c. issuing a written report regarding the findings of the audit.*

¹²⁶ The Audit Protocol, effective August 31, 2008, governs the audits discussed in this report; however, a revised Audit Protocol, effective February 5, 2010, will govern the conduct of future audits.

¹²⁷ See C26-34.

Comments:

During our first reporting period, we received documentation that the DPD developed an Audit Protocol in accordance with the requirements of this paragraph. The Protocol, effective August 31, 2008, established an audit schedule; described the audit terms; specified the roles and responsibilities of Audit Team members; described the various audits, including the one required by this paragraph; and described the reports that are to be conducted and produced.¹²⁸

The CRIB Audit Protocol that was issued in August, 2008, along with the Generally Accepted Government Auditing Standards (GAGAS), was reviewed, updated, and approved, effective February 5, 2010. DPD remains in Phase 1 compliance with this paragraph.

The HCCC and the OCR Audit Team conducted audit on Detainee Safety Program and Policies for the period ending July 31, 2009. We previously reviewed that audit, which we found contained a detailed accounting of the Audit Team's findings.

During this reporting period, the CRIB Audit Team completed its audit of the Detainee Safety Program and Policies for the period ending January 31, 2010. This audit was Command-specific, and revealed specific deficiencies with recommendations for corrective action and accountability at the Command level. We found the Command-specific audits to be thorough in identifying the deficiencies and stating the steps that need to be taken for corrective action.

During our visits to the various Precincts/District with holding cells, we also independently reviewed the policies and practices related to the Detainee Safety Program, and reported our findings in C35-38.

The DPD remains in full compliance with the requirements of this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C70

The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate the environmental health and safety programs, including:

- a. inspecting holding cells and surrounding areas to ensure that they are clean and clear of debris and that the lighting, sinks, and toilets are operable;*
- b. reviewing a sampling of cleanings and maintenance logs to ensure they are properly maintained and reflected the scheduled performance of the requisite cleaning and maintenance tasks;*
- c. reviewing the systems in place for assuring that all prisoners have reasonable access to potable water and toilets 24 hours a day;*
- d. observing whether holding cells are free of any potential suicide hazards; and*

¹²⁸ The Audit Protocol, effective August 31, 2008, governs the audits discussed in this report; however, a revised Audit Protocol, effective February 5, 2010, will govern the conduct of future audits.

- e. *issuing a written report regarding the findings of the audit.*

Comments:

During our first quarterly visit, we received documentation that the DPD established an active Holding Cell Compliance Committee that collaborates with the CRIB Audit Team to conduct the audits required by this paragraph. The Audit Protocol, effective August 31, 2008, established the procedures governing the conduct of these audits.¹²⁹

The CRIB Audit Protocol that was issued in August, 2008, along with the Generally Accepted Government Auditing Standards (GAGAS), was reviewed, updated, and approved, effective February 5, 2010. DPD remains in Phase 1 compliance with this paragraph.

During our second quarterly review, we reviewed the various audits and described them as “comprehensive, robust documents that address the requirements articulated in the Judgment(s).” However, the Environmental Health and Safety Program audit was not included in our review; therefore, we deferred our compliance determination.

During this quarterly assessment, we reviewed the completed Environmental Health and Safety Program audit for the period January 31, 2010. This audit is Command-specific and more focused on identifying the deficiencies within command with maintains holding cells and the DRH. We found the Command-specific audits to be thorough in identifying the deficiencies and stating the steps that need to be taken for corrective action.

During our visits to the various Precincts/Districts with holding cells, we also independently examined the policies and practices related to the Environmental Health and Safety Program.¹³⁰ Based on the completed Environmental Health and Safety Program audit and our examination of the related policies and practices, we find that DPD is now in now in Phase 2 compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C71

The Holding cell Compliance Committee shall conduct regularly scheduled semiannual audits of all building containing holding cells to evaluate the food service program, including:

- a. *reviewing a statistically valid sample of food service documentation to evaluate whether prisoners who are held over six hours receive regular and adequate meals;*
- b. *assuring that food is handled in a sanitary manner; and*
- c. *issuing a written report regarding the findings of the audit.*

¹²⁹ The Audit Protocol, effective August 31, 2008, governs the audits discussed in this report; however, a revised Audit Protocol, effective February 5, 2010, will govern the conduct of future audits.

¹³⁰ See C39-46.

Comments:

The DPD has established an active Holding Cell Compliance Committee that collaborates with the OCR Audit Team to conduct the audits required by this paragraph. The Audit Protocol, effective August 31, 2008, establishes the procedures governing the conduct of these audits.¹³¹

The CRIB Audit Protocol that was issued in August, 2008, along with the Generally Accepted Government Auditing Standards (GAGAS), was reviewed, updated, and approved, effective February 5, 2010. DPD remains in Phase 1 compliance with this paragraph.

We have reviewed the various audits and described them in our previous report as “comprehensive, robust documents that address the requirements articulated in the Judgment(s).” The Audit Team conducted the required annual audit in January, 2009, which was found to be in compliance with this paragraph.

During this report period, the HCCC and the CRIB Audit Team completed the Food Service Program audit for the period of January 31, 2010. This Audit is Command-specific and should result in a more focused identification of deficiencies, required corrective action, and accountability at the Command level. We found that the audits are thorough in that they require corrective action and accountability at the Command level.

During our visits to the various Precincts/Districts with holding cells, we also independently examined the policies and practices related to the Food Service Program.¹³² The DPD is in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: In Compliance

CJ Requirement C72

The audits required by paragraphs 65 to 71 in this Agreement shall be submitted on a semiannual basis with the first and second semiannual periods ending on January 31 and August 31, 2004. Subsequent semiannual periods shall end on January 31, 2005, and every six months thereafter. Each of these audits may be conducted on an annual rather than a semiannual basis when the Monitor concludes that the most recently submitted audit for the same topic is compliant and the remaining requirements of this paragraph have been met for the prior audit of that topic. The DPD shall issue all audit reports to the Chief of Police and also provide copies to each precinct or specialized unit commander. The commander of each precinct and specialized unit shall review all audit reports regarding employees under their command and, if appropriate, shall take non-disciplinary corrective action or disciplinary action¹³³

¹³¹ The Audit Protocol, effective August 31, 2008, governs the audits discussed in this report; however, a revised Audit Protocol, effective February 5, 2010, will govern the conduct of future audits.

¹³² See C49-50.

¹³³ Consent Judgment amendment, April 15, 2009.

Comments:

During our first quarterly site visit, the DPD provided us with an Audit Protocol in accordance with the requirements of U92. The Protocol, effective August 31, 2008, establishes an audit schedule; describes the audit terms; specifies the roles and responsibilities of Audit Team members; describes the various audits, including the one required by this paragraph; and describes the reports that are to be conducted and produced.¹³⁴ Audits are conducted consistent with Generally Accepted Government Auditing Standards (GAGAS). The Audit Protocol requires the reporting of the various audit results to the Chief of Police, and the various specified Commanders. It also requires that Commanders take appropriate disciplinary or non-disciplinary action.

The CRIB Audit Protocol and the Generally Accepted Government Auditing Standards (GAGAS) were reviewed, updated, and approved, effective February 5, 2010. DPD remains in Phase 1 compliance with this paragraph.

The CRIB prepares written reports for the Chief and specified Commanders; however, based on our review of various reports and field observations during our site visits, we were not satisfied that these reports were receiving sufficient attention. Our interviews with CRIB staff confirmed that they also perceived the lack of attention as a continuing issue. CRIB conducted a review of the audit process, and concluded the problem may have been that the audits were Department-wide rather than Command specific. CRIB changed the audit process to focus on individual Commands. These Command-specific audits are expected to result in clearer Command accountability and increased responsiveness to issues that are identified through the audit process.

CRIB completed the required audits for the period ending January 31, 2010. During this reporting period, we reviewed the effectiveness of the revised process for assuring appropriate corrective action was taken in response to the deficiencies identified during the audits. We received the Command-specific Corrective Action Plans (CAP) from the five Districts/Precincts and DRH for all of the audits except two (DRH, Environmental Health and Safety; and Southwest District, Detainee Food Service and Personal Hygiene Practices). In addition, we did not receive CAPs for the following semiannual audits: Fire Safety Practices and Policies; Allegations of Misconduct in Holding Cells and Uses of Force in Holding Cells Combined; and Comprehensive Emergency Preparedness Program.

Our review of the Command-specific CAPs found missing signatures on employee reprimands and no consistency in the format of a CAP. Some Commands use an inter-office memorandum, while others use a Correction Action Plan Form. We also found it difficult to ascertain the course of action taken by the Commander in correcting the findings in the audits.

We continue to recognize the significant and good work performed by DPD Audit Team and the HCCC during the course of the Consent Judgments. We reviewed the various audits, and described them in our previous report as “comprehensive, robust documents that address the requirements articulated in the Judgment.” We strongly recommend that the Commanders of the Districts/Precincts with holding cells and the DRH staff demonstrate an improved effort in writing more comprehensive responses to the CAPs that outline specifically what corrective

¹³⁴ The Audit Protocol, effective August 31, 2008, governs the audits discussed in this report; however, a revised Audit Protocol, effective February 5, 2010, will govern the conduct of future audits.

actions are being taken, and also document who will be held accountable/responsible for making those corrections. We would also like to see a standardized Correction Action Plan template created to assist the Commanders in more comprehensively addressing the deficiencies identified in the Command-specific audits.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

¶	Requirements	Phase 1 – Policy	Phase 2 – Implementation
62	Evaluation of holding cell operation required	In Compliance	In Compliance
63	Operate cells in compliance with risk plan	Not in Compliance	Not in Compliance
64	Augment policy regarding video cameras	In Compliance	Not in Compliance
65	Quarterly audits required	In Compliance	In Compliance
66	Fire safety audits required	In Compliance	In Compliance
67	Emergency preparedness audits required	In Compliance	In Compliance
68	Medical/mental health program audit required	In Compliance	In Compliance
69	Detainee safety audits required	In Compliance	In Compliance
70	Environmental health/safety audits required	In Compliance	In Compliance
71	Food service program audits required	In Compliance	In Compliance
72	Audit results to Chief and Commanders	In Compliance	Not in Compliance

XVI. TRAINING

CJ Requirement C73

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

Comments:

Our first review found that while appropriate Directives and lesson plans existed; the DPD had no policy requiring the training of detention officers. The DPD developed Special Order No. 10-02, approved December 30, 2009, in compliance with this paragraph. This Special Order specifically provides that before “performing duties relative to detainees in DPD holding cells, a DPD member must have attended and successfully completed the Detention Officer Course.” The Order also requires that “Sworn members of the DPD assigned to perform detention duties, Senior Detention Facility Officers (SDFO), Detention Facility Officers (DFO) and Holding Cell Compliance Committee members must attend the annual Detention Officer training course.” Additionally, on September 24, 2009, Teletype 09-3481 was issued, which declared that “[E]ffective immediately, only those members that have attended and completed the annual Prisoner Detention Officer Training shall be assigned to perform prisoner detention duties.”

The DPD trained 262 officers during the previous year in the Detention Officer Course but could not advise how many officers actually served in detention duties during this time. We conducted a survey to determine the comprehensiveness of training afforded detention officers, and the

Department's compliance with its policies requiring that officers who handle detention duties have been afforded detention training. We randomly selected two days during the previous quarter, and DPD identified the officers who handled detention duties in the Precincts/Districts with detention facilities. We then checked to see if the officers who were identified had received detention training. Our survey revealed that three (14%) of 22 supervisors, and 21 (24%) of 89 officers, who worked in detention on the selected days were untrained.

SUPERVISORS

<i>District/Precinct</i>	#		#
	<i>Served</i>	<i># Trained</i>	<i>Untrained</i>
12	6	6	0
6	5	5	0
ED	3	1	2
NED	4	4	0
SWD	4	3	1
TOTAL	22	19	3

DETENTION OFFICERS

<i>District/Precinct</i>	#		#
	<i>Served</i>	<i># Trained</i>	<i>Untrained</i>
12	12	9	3
6	13	11	2
CD	16	7	9
ED	17	14	3
NED	16	13	2
SW	15	13	2
TOTAL	89	67	21

DPD is not in compliance with requirement C73.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C74

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

Comments:

DPD Special Order No 10-02, Training, effective December 30, 2009, requires that the Training Section "maintain a record of all training participated in by each individual DPD officer, Senior

Detention Facility Officer, and Detention Facility Officer.” The DPD is in Phase 1 compliance with the requirements of this paragraph.

During our previous review, we met with the Department’s Training Director, who acknowledged that the process to develop an individual training records system has been difficult for the DPD. As noted in U108, the DPD has made progress in capturing and automating this information. Since the effective date of the Consent Judgments, all years except 2003, 2004, and 2008 have been entered into the Michigan MITN system.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C75

The DPD shall provide all detention officers, supervisors of detention officer and members of the Holding Cell Compliance Committee with annual training in emergency preparedness. Such training shall include drills and substantive training in the following topics:

- a. Emergency response plans and notification responsibilities;*
- b. Fire drills and use of fire extinguishers and other fire suppression equipment;*
- c. Key control drills and key control policies and procedures; and*
- d. Responding to emergency situations, including scenarios detention officers likely will experience.*

Comments:

DPD Special Order No. 10-02, Training, effective December 30, 2009, addresses the requirements of this CJ paragraph. The DPD is in Phase 1 compliance with this paragraph.

As noted in C73, we learned that during the past year the DPD trained 262 officers in the Detention Officer Course, but our survey revealed that substantial numbers of untrained officers were handling detention duties. We could not, therefore, verify that all, or >94%, of DPD detention personnel had received the required training.

DPD is not in Phase 2 compliance with this paragraph.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C76

The DPD shall provide all detention officers, supervisors and members of the Holding Cell Compliance Committee with annual training in the medical/mental health screening programs and policies. Such training shall include and address the following topics:

- a. prisoner intake procedures and medical and mental health protocols, including protocols for transferring or housing prisoners with infectious diseases, disabilities and/or requiring increased monitoring;*

- b. *recording, updating and transferring prisoner health information and medications*
- c. *the prescription medication policy, including instructions on the storage, recording and administration of medications; and*
- d. *examples of scenarios faced by detention officers illustrating proper intake screening and action in response to information regarding medical and mental health conditions.*

Comments:

DPD Special Order No. 10-02, Training, effective December 30, 2009, fully addresses the requirements of this CJ paragraph. The DPD is in Phase 1 compliance.

Our survey outlined above in C73 revealed that DPD is not in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C77

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

- a. *the security screening program, including protocols for identifying and promptly and properly housing suspected crime partners, vulnerable, assaultive or special management prisoners;*
- b. *protocols for performing, documenting and obtaining supervisory review of holding cell checks;*
- c. *protocols concerning prisoners in observation cells, including protocols for direct and continual supervision, for spotting potential suicide hazards and providing appropriate clothing; and*
- d. *examples of scenarios faced by detention officers illustrating appropriate security screening, segregation and monitoring techniques.*

Comments:

Newly issued DPD Special Order No. 10-02, Training, effective December 30, 2009, fully addresses the requirements of this CJ paragraph. The DPD is in Phase 1 compliance with this paragraph.

Our survey outlined above in C73 revealed that DPD is not in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

CJ Requirement C78

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

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

Comments:

Newly issued DPD Special Order No. 10-02, Training, effective December 30, 2009 fully addresses the requirements of this CJ paragraph.

Our survey outlined above in C73 revealed that DPD is not in compliance with this requirement.

Compliance Status:

Phase 1: In Compliance

Phase 2: Not in Compliance

¶	Requirements	Phase 1 - Policy	Phase 2 – Implementation
73	Pre-service/in-service training required	In Compliance	Not in Compliance
74	Maintenance of individual training records	In Compliance	Not in Compliance
75	Emergency preparedness training required	In Compliance	Not in Compliance
76	Medical/mental health training required	In Compliance	Not in Compliance
77	Detainee safety screening training required	In Compliance	Not in Compliance
78	Environmental health/safety training required	In Compliance	Not in Compliance

Critical Issues:

During the previous quarter, our Phase 1 compliance assessment found that the DPD was making excellent progress in updating many of the policies on the safety and health of detainees. During our January, 2010, site visit, we reviewed each COC paragraph with the CRIB Command staff, Audit Team personnel, and the Medical and Mental Health Authority, who are responsible for ensuring compliance with the terms of the Consent Judgment. This effort proved to be valuable, as DPD has achieved Phase 1 compliance with its Detainee Intake/Assessment, Detainee Health Care, and Infectious Disease Control Plan Directives during this reporting period.

Though there has been progress in moving into Phase 1 compliance, it is critical that the DPD have a process in place that alerts the Department when policies are about to expire. This will help to ensure that an annual review of the policies take place per the requirements of the Consent Judgment. We emphasize this action because during this review, Policy 305.8, Detainee Food Service, effective May 9, 2005, expired. The policy requires that detainee meals are stored properly and served in a sanitary manner in accordance with state and local health codes. The DPD was required to develop this policy in consultation with a dietician and sanitation specialist from the Detroit Department of Health and Wellness Promotion (DHWP), and an annual review is required by a dietician and sanitation specialist. The policy was last reviewed and signed by DHWP on February 4, 2009. Due to a lack of documentation confirming that an annual review was performed on Policy 305.8 by a registered dietician and sanitation specialist from the Detroit

Department of Health and Wellness Promotion (DHWP), we found DPD in pending Phase 1 compliance with COC CJ 49 and 50.

In our last report, we provided a list of positive observations from our inspection of the Twelfth Precinct for the other Districts/Precincts to use as a benchmark. It is obvious that this Precinct has invested a great deal of time and effort into raising the bar in this area. Cells were freshly painted, and the buildup of wax and dirt on floors was completely clean. All camera lenses and HVAC vents were free of toilet paper and toothpaste blockage. Although the stainless steel toilet/sink units were cleaner than previously noted, they are still not uniformly cleaned within and between facilities. However, the Twelfth Precinct did not improve or even maintain the level of sanitation noted in the last reporting period; rather, it regressed. There was a buildup of dirt on the floors and on stainless fixtures that was not apparent previously. Our site visit also raised concerns over PDOs' observation checks and documentation in several areas, including well-being documentation for detainees held in close observation. There is an inconsistency in the Districts/Precincts in the implementation of DPD policy (305.1-7.4), which calls for constant supervision (one-on-one); instead, detainees are routinely placed on 15-minute watches.

During our quarterly inspection and quarterly review of records, we noted instances of inappropriate documentation and disregard for policy that are indicative of the problem. The first example involved the falsification of 15-minute well-being checks on two detainees held in observations cells. The second example reflected excessive use of force on a detainee where the responsible officer was not truthful in his report, but was cited by the investigating supervisor for the inappropriate use of force, not the fabrication of the facts. The third example revealed that the concern for completion of required forms sometimes takes precedence over accuracy in recording facts. Well-being checks on the DPD 659 Log were routinely recorded in 30-minute increments as "OK," even as one of the detainees attempted to commit suicide.

During our current review of detainee file folders and inspections, we continued to find major problems with implementation. The deficiencies include clerical mistakes; documentation for medical referrals; Medication Logs filled out incorrectly or missing; appropriate staff signatures missing; supervisory reviews that did not take place; and the lack of health information being exchanged between consecutive shifts. There remain communication issues between shifts/platoons on critical health information on detainees; therefore, the DPD does not meet the requirements with policy (305.1 and 305.5).

The lack of requirements being met is particularly problematic with regard to the Platoon Daily Detainee Summary (PDDS). The purpose of the PDDS is to facilitate the transfer of critical detainee information from shift to shift; yet the primary reason that the DPD continues to be held out of compliance with regard to this form is the fact that supervisors neglect to sign for receipt of the document that was completed by the preceding shift. An example of technical, but not practical, compliance involves TDD equipment for the hearing impaired. The equipment is physically in place in the holding cell areas, but is not used because the staff does not know how to operate it.

In addition, our survey on detention training (see C73) revealed that substantial numbers of officers who are untrained in detention are actually serving in detention positions. The Department's policies require that officers shall not serve in detention duties until they are trained to do so. This problem is undoubtedly compounded by the fact that the Department does

not maintain a roster or list of employees authorized to handle detention duties. Such a roster or list would be an essential tool to support management decisions related to staffing.

If the DPD is to achieve Phase 2 compliance, the Department must renew its commitment to accurate, factual reporting. Documentation for the sake of documentation is a waste of time for all concerned; instead, the hard work performed by staff needs to have practical outcomes that benefit both the employees and detainees in the holding cells.

The issues described in this report may be associated with the ongoing need for policy revisions and training of holding cell staff, as well as the need for technical assistance. The Monitoring Team will continue to examine existing policies and procedures for consistency with the requirements of the COC Consent Judgments.

Next Steps:

We will conduct another broader survey of detention assignments to identify employees who have actually worked in detention, and we will compare the list developed with the list of those who have received detention training.

Appendix: History and Methods

An historical overview and methodological review will be repeated as an Appendix in all of our reports.

On October 5, 2009, the Honorable Julian Abele Cook, Jr., United States District Court Judge for the Eastern District of Michigan, Southern Division, issued an order appointing me to serve as the Independent Monitor of the Use of Force and Conditions of Confinement Consent Judgments resulting from the case of United States of America v. City of Detroit (Case no. 03-77758). I, along with my distinguished colleagues, am honored by the trust and confidence that the Court has vested in us.

Our assembled team consists of exceptional law enforcement, corrections, consulting, and research expertise. The full team conducted its first quarterly site visit from November 16 through November 20, 2009, and our second visit from January 25th through January 29th, 2010. The third visit, the one connected with this report, occurred between April 19th and April 23rd, 2010.

In preparation of our reports, the Monitoring Team undertook its task with an appreciation for the efforts made by the Detroit Police Department under the past monitor. Our efforts benefit from the experience of the Department and the many people who have worked diligently to bring the Department into compliance with the Consent Judgments. We also recognize the Department's recommitment to this undertaking evidenced by some significant developments that have taken place since our engagement in this process. The Detroit Police Department's staff, especially the men and women of the Civil Rights Integrity Bureau, has contributed greatly to our understanding of the Department as we complete our assessments. With regard to the requirements of the Consent Judgments, our plan for our quarterly reports is to consider, to the extent possible, the compliance status of the entire collection of requirements. This includes a total of 111 requirements in the Use of Force Judgment, and an additional 65 requirements in the Conditions of Confinement Judgment. These numbers do not include subsections. In later reports, we may append our protocols and instead focus special attention on particular areas of the Judgments.

As with our earlier reports, the body of our report is comprised of our assessments of compliance with the individual requirements of the Consent Judgments. We begin the report of our analyses with a narrative statement for each of the major areas of the Use of Force Judgment. In the Conditions of Confinement Judgment, there shall be only one introductory narrative statement at the beginning of that portion of our report.

The introductory narratives are followed by each of the requirements in the section, as specified in the Judgments. Each requirement is followed by comments regarding the current status of compliance, and then by a summary notation of Phase 1 and Phase 2 compliance. As the Department achieves and maintains Phase 1 and Phase 2 compliance, we will move a description of the requirement to the Appendix of the Report.

A statement of "Critical Issues" follows the reviews of the requirements in each major section of the Judgment. A brief statement of "Next Steps" follows in which we describe a plan of work for the next visit including a discussion of the data we plan to review. Finally, a table summarizes the compliance finding for that particular section of the Judgment.

The major task of the Monitor is to determine the status of the Detroit Police Department's compliance with the requirements of the Use of Force and Conditions of Confinement Consent Judgments. Our experience in previous monitorships reflects our commitment to the collection and analyses of data and to the reasonable interpretation of the requirements specified in the Consent Judgments.

To accomplish this, the Monitoring Team makes quarterly visits to Detroit to work with the Department's compliance team, known as the Civil Rights Integrity Bureau (CRIB), and other staff of the agency, in their field offices, on the streets, or at the offices that the Monitoring Team occupies when onsite in the City. These visits will be used by the Team to collect and evaluate material, prepare for work to be done between visits, and to inform the Parties and the Court with status information when meetings or hearings for that purpose are convened. Team members also interview key participants and observe Departmental practices. Throughout the process, we review agency policies and procedures, and collect and analyze data using appropriate sampling and analytic procedures. The results of the compliance examinations are reported quarterly to the Court and the Parties.

Our Team will determine compliance through an examination of policies and implementation of practices that support each requirement in the Consent Judgments. Compliance is measured by first determining if a policy or set of procedures has been established to support each Consent Judgment requirement. Having determined that an appropriate policy has been established, we then determine if that policy has been effectively implemented.

Based on this process, we report the degree of compliance with Consent Judgment requirements on two levels. We first report if policy compliance has been met. Compliance with policy requirements is known as **Phase 1 Compliance**. We also report the extent to which required policies have been implemented. Implementation-level compliance is reported as **Phase 2 Compliance**.

In general, to achieve full compliance requires that both Phase 1 and Phase 2 compliance are achieved; that is, an appropriate policy must be both adopted and effectively implemented. We recognize, however, that some areas of the Consent Judgments require substantial work and time to achieve implementation and we, therefore, believe that it is appropriate to recognize when substantial progress towards implementation has occurred. Accordingly, under some limited circumstances, a third level of compliance, "Pending Compliance" may be appropriate.

- **In Compliance** – This is reported when policy requirements are met (Phase 1) or effective implementation of a requirement has been achieved (Phase 2).
- **Pending Compliance** – This is reported when it cannot be said that compliance has been achieved, but substantial progress toward compliance has been made. A requirement will be given this status for only two successive quarters at which time the status shall be changed to "Not in Compliance," unless compliance has been achieved.
- **Not in Compliance** – This finding is reserved for circumstances where compliance has not been achieved and substantial progress has not been made.

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

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

This methodology supports a sound and rigorous review of the Department's compliance with the requirements of the Consent Judgments. We recognize, however, that the high demands of this methodology may not be fully realized in all elements of all reviews. There will be circumstances in which we will be unable to fully determine the compliance status of some requirement due to a lack of data, incomplete data, or other reasons which do not support completion of our work in a manner consistent with timely reporting. Under such circumstances we will opt not to compromise our methodology by forcing a conclusion regarding compliance levels. Instead, we will report a finding as "**Deferred.**" This finding is not intended to reflect negatively on the agency or to otherwise imply insufficient progress. It is intended to assure that the process is data-driven, but at all times, is conducted fairly. It is also expected that a more complete assessment of compliance in the area in question will be determined in the next report. Our compliance assessment methodology directs the monitoring Team in its work and underlies the findings presented in this report. We fully expect that this methodology will govern our work throughout our tenure in this project. Any consideration of revision or change of this methodology will, of course, be presented to the Parties and the Court.

An additional point is critical. We shall point out again that our methodology for determining compliance differs significantly from that of the previous monitor. Accordingly no particular inferences should be drawn from narratives from the previous monitor when compared to our own work.

APPENDIX A: Acronyms

The following is a listing of acronyms frequently used in the Quarterly Reports.

ACRONYM	DEFINITION
AT	Audit Team
BOPC	Board of Police Commissioners
CBS	Cell Block Supervisor
CCR	Citizen Complaint Report
CDDT	Curriculum Design and Development Team
CEPP	Comprehensive Emergency Preparedness Program
CFD	Critical Firearm Discharge
CI	Chief Investigator
City	City of Detroit
CJ	Consent Judgment
CLBR	Command Level Board of Review
CLFRT	Command Level Force Review Team
CLO	Compliance Liaison Officer
CLI	Command Level Investigation
CME	Confidential Medical Envelope
CMMHSP	Comprehensive Medical and Mental Health Screening Program
CO	Commanding Officer
COC CJ	Conditions of Confinement Consent Judgment
CRIB	Civil Rights Integrity Bureau
DCCL	Detention Cell Check Log
DDHWP	Detroit Department of Health and Wellness Program
DDMHIL	Daily Detainee Meal and Hygiene Items Log
DFD	Detroit Fire Department
DFF	Detainee File Folders
DFO/PDO	Detention Facility Officer

DIF	Detainee Intake Form
DOJ	Department of Justice
DPD	Detroit Police Department
DRH	Detroit Receiving Hospital
EPP	Emergency Preparedness Program
ERP	Emergency Response Plan
FI	Force Investigation (interchangeable with FIS)
FIS	Force Investigation Selection
FSP	Fire Safety Program
FSPP	Fire Safety Practices and Policies
GAS	Government Auditing Standards
HCCC	Holding Cell Compliance Committee
IA	Internal Affairs
IAD	Internal Affairs Division
IMAS	Interim Management Awareness System
ITS	Information Technology Services
JIST	Joint Incident Shooting Team
MAS	Management Awareness System
MCOLES	Michigan Commission on Law Enforcement Standards
MITN	MCCOLES Information and Tracking System
OCI	Office of the Chief Investigator
OCR	Office of Civil Rights
OIC	Officer in Charge
PDDSL	Platoon Daily Detainee Summary Log
PDO	Police Detention Officer
PEERS	Performance Evaluation and Enhancement Review Session
PFC	Policy Focus Committee
PI	Performance Indicator
PSA	Public Service Announcement
RFP	Request for Proposals
RMB	Risk Management Bureau

SIR	Supervisor's Investigation Report
SME	Subject Matter Expert
SMT	Senior Management Team
SOP	Standard Operating Procedure(s)
TA	Technical Assistance
UOF CJ	Use of Force and Arrest and Witness Detention Consent Judgment
UOF	Use(s) of Force
USAO	United States Attorney's Office
WCPO	Wayne County Prosecutor's Office
WCJ	Wayne County Jail